



## **CITY COUNCIL REGULAR MEETING AGENDA SEPTEMBER 21, 2021**

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

**NOTICE: IN ORDER TO MINIMIZE THE SPREAD OF THE COVID-19 VIRUS, THIS MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-08-21, WHICH SUSPENDED CERTAIN REQUIREMENTS OF THE BROWN ACT.**

**WE ENCOURAGE ALL MEMBERS OF THE PUBLIC TO PARTICIPATE IN THE MEETING VIA TELECONFERENCE BY CALLING (605) 468-8002, ACCESS CODE NUMBER 156811#. ANY MEMBER OF THE PUBLIC PARTICIPATING VIA TELECONFERENCE WILL BE GIVEN THE OPPORTUNITY TO PROVIDE PUBLIC COMMENT.**

**ADDITIONALLY, THE MEETING WILL BE STREAMED ON YOUTUBE LIVE**  
[https://www.youtube.com/channel/UCB\\_ZmQZiHElh-ECEPZ2VwZg](https://www.youtube.com/channel/UCB_ZmQZiHElh-ECEPZ2VwZg)

**PERSONS WHO ATTEND THE MEETING ARE ASKED TO FOLLOW THE CURRENT STATE OF CALIFORNIA PUBLIC HEALTH GUIDANCE.**

*(Some Councilmembers may be participating in the meeting remotely via teleconferencing consistent with the Governor's Executive Order N-08-21.)*

Notice is hereby given that the City Council will hold a Regular Meeting on September 21, 2021, at the City Council Chambers, 663 Main Street, Livingston, California or conducted pursuant to the provisions of the Governor's Executive Order N-08-21. Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons requesting accommodation 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 by email if requested. Public comments can be

submitted via email at [citycouncil@livingstoncity.com](mailto:citycouncil@livingstoncity.com). ***Comments must be received by 2:00 p.m.*** on the day of the City Council meeting. You will need to provide: Meeting date, item number, name, email and comment (please limit to 300 words or 3 minutes). Please include: **PUBLIC COMMENT** in the subject for the email.

## **CLOSED SESSION**

1. Call to Order
2. Roll Call

### **CLOSED SESSION**

*A "Closed" or "Executive" Session of the City Council or the Successor Agency to the Redevelopment Agency of the City of Livingston 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.*

3. Conference with Labor Negotiator  
(Government Code Section 54957.6)  
Labor Negotiator: Vanessa Portillo, Interim City Manager  
Employee Organizations:  
OE3 - Police Supervisory Employees Association  
OE3- Livingston Police Officer Association  
OE3- Management/Confidential Bargaining Unit  
OE3- Clerical Bargaining Unit  
AFSCME- Public Works and Park Unit
4. Conference with Legal Counsel – Potential Litigation- Significant Exposure to Litigation  
(Government Code Section 54956.9(d) (2))  
Number of Cases: 2

## **REGULAR MEETING**

### **CALL TO ORDER**

**Next Resolution No.: 2021-64**  
**Next Ordinance No.: 643**

Pledge of Allegiance.

Moment of Silence – First Responders and Military Members.

Roll Call.

Closed Session Announcements.

Changes to the Agenda.

## **CITIZEN COMMENTS**

**MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE CITY COUNCIL WILL BE GIVEN THE SAME TIME ALLOTMENT FOR COMMENTS (3 MINUTES) AS NORMALLY ALLOWED FOR MEETINGS SUBJECT TO THE PROVISIONS OF EXECUTIVE ORDER N-08-21**

*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.*

## **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.

## **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.*

1. **WAIVING OF READING OF ORDINANCE AND RESOLUTIONS**  
City Council Waive the Reading in Full of Ordinances and Resolutions on Agenda and Adopt by Reading the Title only, Unless Otherwise Requested by the Mayor or a Council Member.
2. **RATIFY CHECK WARRANTS**  
Ratify Warrant Register Dated September 16, 2021.
3. **RATIFY CONTRACT WITH ROLFE CONTRUCTION**  
Resolution Ratifying the Contract Execution with Rolfe Construction for the Sidewalk Repair on Main and D Street.
4. **AWARD A CONTRACT TO VSS INTERNATIONAL, INC.**  
Resolution to Accept BID and Award a Contract to VSS International, Inc. for the 2021 Slurry Seals Project and Authorizing the Interim City Manager to Execute the Agreement.

5. **SECOND READING AND ADOPTION OF ORDINANCE**  
Second Reading and Adoption of Ordinance of the City Council of the City of Livingston Establishing New Rates for Solid Waste Service (Garbage Service) Fee (Continued from August 17, 2021 City Council Meeting).
6. **SECOND READING AND ADOPTION OF ORDINANCE**  
Second Reading and Final Adoption of Ordinance Amending the City of Livingston Zoning Map, to Change the Approximate 4 Acre Site from Highway Service Commercial to High Density Residential, Rezone 2021-01.
7. **APPROVE CITY HALL LOBBY REMODEL**  
Resolution Approving the City Hall Lobby Remodel.
8. **APPROVE ANNUAL LOCAL TRANSPORTATION FUND CLAIM**  
Resolution Approving the Annual Local Transportation Fund (LTF) Claim to be filed with the Merced County Association of Governments (MCAG) for Fiscal Year 2021-2022.
9. **APPROVE DECLARATION OF CERTAIN PROPERTY AS SURPLUS**  
Resolution Approving the Declaration of Certain Property as Surplus and Authorizing its Disposal.
10. **APPROVE AWARD OF AGREEMENT FOR PLANNING SERVICES**  
Resolution Approving Award of Agreement for Planning Services to J. B. Anderson Land Use Planning.

#### **PUBLIC HEARINGS**

11. Resolution to Approve the Villages at Main Apartment Community; Site Plan and Design Review 2019-04; and associated Environmental Documents for the Construction of a 480 Unit Multi-Family Housing Development Southeast of the Intersection of Peach Ave and Main St, Adjacent to and South of the Livingston High School Playing Fields; APN#: 047-280-020 and -029.
12. Ordinance of the City Council of the City of Livingston Adopting a New Rate Schedule for Water Service (Continued from August 17, 2021 City Council Meeting).
13. Resolution and Ordinance of the City Council of the City of Livingston Adopting a New Rate Schedule for Domestic Wastewater Service (Sewer Service) – (Continued from August 17, 2021 City Council Meeting).

#### **COUNCIL DIRECTION ON FUTURE AGENDA ITEMS**

#### **ADJOURNMENT**



# STAFF REPORT

**AGENDA ITEM:** Warrant Register dated September 16, 2021

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Nancy Fuentes, Accounting Technician

**REVIEWED BY:** Vanessa Portillo, Interim City Manager

**RECOMMENDATION:**

Ratify the warrant register dated September 16, 2021

**DISCUSSION:**

Government Code sections 37208(b) and 37209 provide that accounts payable warrants or checks drawn in payment of demands certified or approved by the finance director as conforming to a budget approved by ordinance or resolution of the legislative body need not be audited by the legislative body prior to payment.

In addition, Government Code section 37208(a) provides that payroll warrants or checks need not be audited by the legislative body prior to payment. Payrolls shall be presented to the legislative body for ratification and approval at the first meeting after delivery of the payroll warrants or checks. The sum total of any payroll checks issued within the week prior to the date of the check register is also noted on the accompanying check register.

The following checks have been certified to be in accordance with the City's approved budget. The checks have been issued and the check register is presented to the City Council for ratification:

**August 31, 2021 – September 16, 2021**

<b>GENERAL WARRANTS.....</b>	<b>\$</b>	<b>427,095.60</b>	<b>5238*-5320</b>
<i>*Skipped number sequence due to voided item.</i>			
<b>PAYROLL/WIRE WARRANTS.....</b>	<b>\$</b>	<b>12,757.80</b>	<b>1728*-1745</b>
<i>*Skipped number sequence due to voided item.</i>			
<b>TOTAL WARRANTS.....</b>	<b>\$</b>	<b>439,853.40</b>	

**ATTACHMENTS:**

Warrant Register (summarized by date and check number)

# Accounts Payable

## Checks by Date - Summary by Check Date

User: nfuentes  
 Printed: 9/16/2021 4:53 PM



**City of Livingston**  
 1416 C Street  
 Livingston, CA 95334

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
5238	251	ABS Direct, Inc.	09/10/2021	0.00	824.77
5239	755	Diana Aguilar	09/10/2021	0.00	150.00
5240	290	All-Phase Electric Supply Co.	09/10/2021	0.00	193.63
5241	754	Ruby Arciaga	09/10/2021	0.00	150.00
5242	580	AZCO Supply, Inc.	09/10/2021	0.00	1,855.46
5243	628	Badger Meter, Inc.	09/10/2021	VOID	1,402.89
5244	193	BSK Associates	09/10/2021	0.00	1,235.00
5245	1	Cen-Cal Tire World	09/10/2021	0.00	130.00
5246	291	City of Livingston c/o L & L District Irrigati	09/10/2021	0.00	13,447.37
5247	384	Cooling Shedd Air Conditioning Co.	09/10/2021	0.00	498.46
5248	756	Danny Cortez	09/10/2021	0.00	384.50
5249	757	Anita Dhillon	09/10/2021	0.00	327.00
5250	420	Frantz Wholesale Nursery, LLC.	09/10/2021	0.00	1,227.87
5251	758	Raymond Freitas	09/10/2021	0.00	419.50
5252	188	Frontier	09/10/2021	0.00	674.34
5253	262	Gilton Solid Waste	09/10/2021	0.00	95,856.78
5254	358	Hilmar Ready Mix Rockery Nursery, LLC	09/10/2021	0.00	484.88
5255	501	Hunt & Sons, Inc.	09/10/2021	0.00	7,416.36
5256	458	IEH- Aquatic Research	09/10/2021	0.00	232.00
5257	388	Interstate Battery System of Fresno	09/10/2021	0.00	323.93
5258	749	Atten: Todd Jantz Jantz Electrical	09/10/2021	0.00	151.50
5259	623	Line X	09/10/2021	0.00	996.99
5260	759	Maria Elena Magana	09/10/2021	0.00	150.00
5261	404	Merced County Clerk	09/10/2021	VOID	50.00
5262	576	Mid Cal Pipeline & Utilities, Inc.	09/10/2021	0.00	107,050.94
5263	389	Mid Valley IT	09/10/2021	0.00	1,107.12
5264	180	Mission Linen Service	09/10/2021	0.00	659.40
5265	199	Northstar Chemical	09/10/2021	0.00	1,829.95
5266	302	Office Depot, Inc.	09/10/2021	0.00	32.98
5267	203	PG&E	09/10/2021	0.00	679.92
5268	605	Razzari Auto Centers	09/10/2021	0.00	49,494.92
5269	691	Seegers Printing	09/10/2021	0.00	135.32
5270	308	Sprint	09/10/2021	0.00	210.40
5271	310	Totlcom, Inc.	09/10/2021	0.00	527.41
5272	422	U.S. Bank Corporate Payment Systems	09/10/2021	0.00	14,335.15
5273	367	Verizon Wireless	09/10/2021	0.00	1,188.65
5274	393	State of California	09/10/2021	0.00	635.83
<b>Total for 9/10/2021:</b>				<b>1,452.89</b>	<b>305,018.33</b>
5275	253	AT&T	09/16/2021	0.00	234.34
5276	168	Calaveras Materials, Inc.	09/16/2021	0.00	1,002.38
5277	760	Ruth Carrillo	09/16/2021	0.00	150.00
5278	272	Charter Communications	09/16/2021	0.00	273.52
5279	259	Collins & Schoettler Planning Consultants	09/16/2021	0.00	8,951.25
5280	447	Conco West, Inc	09/16/2021	0.00	10,638.38
5281	463	CopWare, Inc.	09/16/2021	0.00	615.00

Check No	Vendor No	Vendor Name	Check Date	Void Checks	Check Amount
5282	283	CoreLogic Solutions, LLC	09/16/2021	0.00	200.00
5283	258	Ewing	09/16/2021	0.00	792.68
5284	641	Ferguson Enterprises LCC #686	09/16/2021	0.00	542.41
5285	188	Frontier	09/16/2021	0.00	281.21
5286	551	Griswold Industries	09/16/2021	0.00	1,032.68
5287	474	Hansford Economic Consulting LLC	09/16/2021	0.00	453.75
5288	501	Hunt & Sons, Inc.	09/16/2021	0.00	1,317.46
5289	296	Image Source	09/16/2021	0.00	1,314.86
5290	318	La Rue Communications	09/16/2021	0.00	1,061.00
5291	268	Language Line Services, Inc.	09/16/2021	0.00	297.98
5292	461	LEAF	09/16/2021	0.00	741.59
5293	615	McClatchy Company LLC	09/16/2021	0.00	2,643.44
5294	761	Merced Toyota	09/16/2021	0.00	55.00
5295	389	Mid Valley IT	09/16/2021	0.00	7,575.00
5296	180	Mission Linen Service	09/16/2021	0.00	215.08
5297	199	Northstar Chemical	09/16/2021	0.00	1,067.47
5298	302	Office Depot, Inc.	09/16/2021	0.00	524.31
5299	205	Paramount Pest Services	09/16/2021	0.00	51.00
5300	203	PG&E	09/16/2021	0.00	106.34
5301	605	Razzari Auto Centers	09/16/2021	0.00	1,167.39
5302	306	Ricoh USA, Inc.	09/16/2021	0.00	502.14
5303	208	Saenz Pest Control, Inc.	09/16/2021	0.00	125.00
5304	561	Safe-T-Lite of Modesto, Inc.	09/16/2021	0.00	144.96
5305	407	San Joaquin Valley Air Pollution Control D	09/16/2021	0.00	433.00
5306	764	Sew Creative, Inc.	09/16/2021	0.00	450.00
5307	439	Sharpening Shop	09/16/2021	0.00	262.26
5308	309	St. Francis Electric	09/16/2021	0.00	835.00
5309	572	Stockton Wood Shavings	09/16/2021	0.00	871.41
5310	762	Sunworks Power and Electric	09/16/2021	0.00	7,300.00
5311	440	Target Specialty Products	09/16/2021	0.00	1,402.89
5312	311	TBA Auto Parts	09/16/2021	0.00	247.72
5313	530	Telstar Instruments	09/16/2021	0.00	2,309.18
5314	284	Trans Union LLC	09/16/2021	0.00	434.18
5315	313	U.S. Bank Equipment Finance	09/16/2021	0.00	650.77
5316	249	United Site Services	09/16/2021	0.00	861.71
5317	366	USA Blue Book	09/16/2021	0.00	617.33
5318	367	Verizon Wireless	09/16/2021	0.00	304.28
5319	287	West Coast Code Consultants, Inc.	09/16/2021	0.00	31,063.32
5320	765	White Brenner LLP	09/16/2021	0.00	29,956.60
Total for 9/16/2021:				0.00	122,077.27
Report Total (83 checks):				1,452.89	427,095.60

# STAFF REPORT

**AGENDA ITEM:** Adopt a Resolution Ratifying the Contract Execution with Rolfe Construction for the Sidewalk Repair on Main and D Street

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Vanessa Portillo, Interim City Manager

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## **RECOMMENDATION**

Staff recommends that the City Council adopt a Resolution ratifying the contract execution with Rolfe Construction for the sidewalk repair on Main and D Street.

## **BACKGROUND**

The City's sidewalk on Main and D Street required immediate repair as it had become a health and safety hazard for pedestrians. The City contracted work with Rolfe Construction to complete the sidewalk repair.

## **DISCUSSION**

The City requested quotes from four (4) contractors and two (2) proposals were received as follows:

<b>CONTRACTOR</b>	<b>PROPOSAL AMOUNT</b>
Rolfe Construction	\$27,458
TBS Contractors	\$35,436

Rolfe Construction submitted the lowest responsible proposal at approximately \$27.5 thousand. Sidewalk rehabilitation work has started since the unattended sidewalk became a health and safety hazard for pedestrians. Funds have been budgeted in the Fiscal Year (FY) 2021/22 Budget from the Transportation Development Act Fund.

## **FISCAL IMPACT**

Funds in the Transportation Development Act Fund (Fund 1201) have been budgeted in FY 2021/22 to cover the repair of the sidewalk.

## **ATTACHMENTS**

1. Resolution of the City Council of the City of Livingston Ratifying the Contract Execution with Rolfe Construction for the Sidewalk Repair on Main and D Street
2. Proposal: Rolfe Construction



**RESOLUTION NO. 2021-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON RATIFYING  
THE CONTRACT EXECUTION WITH ROLFE CONSTRUCTION FOR THE SIDEWALK  
REPAIR ON MAIN AND D STREET**

**WHEREAS**, the City's sidewalk on Main and D Street required immediate repair as it had become and health and safety hazard for pedestrians; and

**WHEREAS**, The City requested quotes from four (4) contractors and two (2) proposals were received; and

**WHEREAS**, Rolfe Construction submitted the lowest responsible proposal at approximately \$27.5 thousand; and

**WHEREAS**, sidewalk rehabilitation work was authorized as it was deemed a health and safety hazard for pedestrians; and

**WHEREAS**, Funds in the Transportation Development Act (Fund 1201) have been budgeted for this project in the Fiscal Year 2021/22 Budget; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIVINGSTON, THAT:**

1. The above recitals are true and correct.
2. The City Manager of the City of Livingston is authorized to execute the contract agreement and any and all documents necessary to effectuate the work on behalf of the City.
3. This resolution is effective immediately upon adoption.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Juan Aguilar Jr., 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 21<sup>st</sup> day of September, 2021.

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Leticia Vasquez-Zurita, City Clerk  
of the City of Livingston



Date: 9/13/2021  
 Proposal #01

Rolfe Construction Company Inc  
 3573 Southern Pacific Ave.  
 Atwater, CA 95301  
 P: 209.358.5548  
 F: 209.357.2916  
 mail@rolfeconstruction.biz

To

Vanessa L. Portillo  
 Interim City Manager  
 City of Livingston  
 (209) 394-5550  
 vportillo@livingstoncity.com

# PROPOSAL

Job #:	Job	Payment Terms	Due Date
	Livingston – SW Repairs @ Main & D Streets	UPON COMPLETION	UPON COMPLETION

Quantity	Description	Unit Price	Line Total
1 LS	Labor	\$15,808.00	\$15,808.00
1 LS	Material	\$9,750.00	\$9,750.00
1 LS	Equipment	\$1,900.00	\$1,900.00
<b>Total</b>			<b>\$27,458.00</b>

*Thank you for your business!*

Owner: _____ Signature: _____ Print: _____ Date: _____
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## STAFF REPORT

**AGENDA ITEM:** RESOLUTION TO ACCEPT BID AND AWARD A CONTRACT TO VSS INTERNATIONAL, INC. FOR THE 2021 SLURRY SEALS PROJECT AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT

**MEETING DATE:** SEPTEMBER 21, 2021

**PREPARED BY:** MARIO GOUVEIA, CITY ENGINEER

**REVIEWED BY:** VANESSA PORTILLO, INTERIM CITY MANAGER

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### **RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 2021-\_\_\_\_, accepting the low bid from VSS International, Inc. in the amount of \$183,956.63 for the 2021 Slurry Seals Project and authorizing the Interim City Manager to sign the Agreement on behalf of the City of Livingston.

### **BACKGROUND:**

The major work consists of furnishing and applying slurry seal and replacing pavement striping and markings on various streets in the City of Livingston.

The project was advertised on August 2, 2021 and bids were opened August 24, 2021.

### **DISCUSSION:**

The City received three (3) bids that were opened and read aloud at 2:00 p.m. on August 24, 2021 at the City of Livingston City Hall, this being the advertised bid opening date and time. The lowest responsible bid was submitted by VSS International, Inc. in the amount of \$183,956.63. The bid results were as listed:

<u>Contractor</u>		<u>Total Bid</u>
VSS International, Inc.	\$	183,956.63
Pavement Coatings Co.	\$	221,548.00
Graham Contractors, Inc.	\$	229,863.50
Engineer's Estimate	\$	221,122.00

### **FISCAL IMPACT:**

The 2021 Slurry Seals Project will be funded with Measure V and SB1 Funding.

### **ATTACHMENTS:**

1. Resolution No. 2021-\_\_\_\_
2. Abstract of Bids

**RESOLUTION NO. 2021-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
ACCEPTING BID AND AWARDING CONTRACT TO VSS INTERNATIONAL FOR THE 2021  
SLURRY SEALS PROJECT AND AUTHORIZING THE INTERIM CITY MANAGER TO  
EXECUTE THE AGREEMENT**

**WHEREAS**, the Invitation to Bid for the 2021 SLURRY SEALS PROJECT in the City of Livingston was listed in the Merced Sunstar on August 2, 2021; and

**WHEREAS**, the project will consist of furnishing and applying slurry seal and replacing pavement striping and markings on various streets in the City of Livingston; and

**WHEREAS**, the following bids for the project were publicly opened and read aloud at the Livingston City Hall on August 24, 2021 at 2:00 p.m.

<u>Contractor</u>		<u>Total Bid</u>
VSS International, Inc.	\$	183,956.63
Pavement Coatings Co.	\$	221,548.00
Graham Contractors, Inc.	\$	229,863.50

**WHEREAS**, the Engineer's Estimate was \$221,122.00.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council hereby adopts Resolution 2021-\_\_ upon the recommendation of the City Engineer that the 2021 SLURRY SEALS PROJECT be awarded to VSS INTERNATIONAL, INC. in the amount of One Hundred Eighty-Three Thousand Nine Hundred Fifty-Six Dollars and Sixty-Three Cents (\$183,956.63).

**BE IT FURTHER RESOLVED**, that the City Council of the City of Livingston authorizes the Interim City Manager to execute the Agreement.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:

NOTES:

ABSENT:

ABSTAIN:

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Juan Aguilar Jr., 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 21<sup>st</sup> day of September, 2021.

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Leticia Vasquez-Zurita, City Clerk  
of the City of Livingston

**ABSTRACT OF BIDS FOR  
CITY OF LIVINGSTON  
2021 Slurry Seals Project  
Bid Opening: August 24, 2021 at 2 p.m.**

Item No.	Item Description	Quantity and Unit	Engineer's Estimate		VSS International, Inc. 3785 Channel Drive West Sac, CA 95691		Pavement Coatings Co. 2150 Bell Ave. Suite 125 Sacramento, CA 95838		Graham Contractors, Inc. 860 Lonus Street San Jose, CA 95126	
			Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Mobilization	1 LS	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
2	Traffic Control Plan	1 LS	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,500.00	7,000.00	7,000.00
3	Furnish and Apply Slurry Seal	450 TN	290.00	130,500.00	275.56	124,002.00	305.00	137,250.00	340.00	153,000.00
4	Apply Single 4-Inch Thermoplastic Striping	755 LF	6.00	4,530.00	2.14	1,615.70	2.40	1,812.00	2.10	1,585.50
5	Apply Double 4-Inch Thermoplastic Striping	11,156 LF	2.50	27,890.00	1.93	21,531.08	3.00	33,468.00	2.75	30,679.00
6	Apply Paint Markings	83 SF	4.00	332.00	5.35	444.05	26.00	2,158.00	23.00	1,909.00
7	Apply Thermoplastic Markings	3,670 SF	11.00	40,370.00	5.14	18,863.80	8.00	29,360.00	7.00	25,690.00
<b>BID TOTAL</b>				<b>\$221,122.00</b>		<b>\$183,956.63</b>		<b>\$221,548.00</b>		<b>\$229,863.50</b>

*Subcontractors Listed:* Sierra Traffic Markings, Inc.    Crisp Company

Crisp Company

# STAFF REPORT

**AGENDA ITEM:** SECOND READING AND ADOPTION OF ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON ESTABLISHING NEW RATES FOR SOLID WASTE SERVICE FEE (CONTINUED FROM AUGUST 17, 2021 CITY COUNCIL MEETING)

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Vanessa L. Portillo, Finance Director  
Catherine Hansford, Consultant

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## RECOMMENDATION:

Staff recommends that the City Council take one the following action:

1. Adopt Ordinance No. \_\_\_\_, establishing rates for Solid Waste Service Fees.
2. Postpone the Solid Waste Rate implementation.

## BACKGROUND:

In 1996, California voters approved Proposition 218, the “Right to Vote on Taxes Act,” which added Articles XI11C and XI11D to the California Constitution. Since its adoption, various court cases in 2005 and 2006, most notably *Bighorn-Desert View Water Agency v. Verjil*; *Richmond v. Shasta Community Services District*; and the *Howard Jarvis Taxpayers Association v. City of Fresno*, extended the application of Proposition 218 from general taxes and assessments to utility user fees provided by public agencies (i.e., sewer, water and waste collection, etc.).

The City contracted the services of Hansford Economic Consulting (HEC) in 2014 and retained its services again in 2019 to prepare the rate study for its Water, Sewer, and Solid Waste units. However, no action was taken in response to earlier studies. For reference, the previous rate increases were adopted by the City in 2014.

In December 2020, staff contacted HEC to prepare an updated rate study. HEC presented its findings and report to the Utilities Stakeholders Committee and City Council on meetings held on March 30 and April 6 respectively. On April 20, City Council approved staff’s recommendation to continue with the Proposition 218 process.

The City held three (3) public workshops (May 25<sup>th</sup>, June 3<sup>rd</sup>, and June 7<sup>th</sup> of 2021) regarding the proposed solid waste rate increase; one workshop was conducted in English, one in Spanish, and one in Punjabi.

Although there is an argument that Solid Waste service fees (“Solid Waste Service Fees” or “Service Fees”) within the City of Livingston are not subject to Proposition 218 because the services are provided by a private solid waste hauler and not the City, the City Council and the City Manager have decided to follow the process detailed by Proposition 218 in order to promote transparency and involvement by City property owners and customers.



Proposition 218 (Article XIII D of the California Constitution) required notification to affected property owners at least forty-five (45) days prior to the scheduled hearing. Staff sent property owners and affected tenants such notice.

The Proposition 218 hearing was held June 15, 2021. At the hearing, the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the Solid Waste Service Fees/Rates. Upon close of the hearing, the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Solid Waste Service Fees/Rates from a majority of the affected property owners and tenants directly liable for the payment of the Solid Waste Service Fees/Rates.

The City Council adopted Resolution No. \_\_\_ and waived the first Reading of Ordinance No. \_\_\_, establishing rates for Solid Waste Service Fees by the vote of 3-1 with one Council Member absent.

At this August 17, 2021 meeting, the Council is being asked to hold the second reading and adopt Ordinance No. \_\_\_. The Ordinance will be in effect 30 days after its adoption. The Resolution adopted by the Council on June 15, 2021 set rates contingent on Ordinance No. \_\_\_ being adopted and into effect so that the rates would be effective at the same time. The second reading and adoption of Ordinance No. \_\_\_\_\_ was postponed to the September 21, 2021 Regular Council Meeting.

It is important to note that the current rate study document does not address the organic mandates from the State through Senate Bill (SB) 1383. At the time the study was developed, the solid waste provider did not have any tangible implementation costs to provide to the City or future rates associated with the measure. As more information related to SB-1383 is available, the solid waste provider has shared that a separate organic rate may have to be passed on to its customers. The rate study does not include additional rate increases due to organic waste mandates besides administrative costs for consulting services. A revised fee study should take into account the impacts of SB-1383 to the solid waste rates.

## **ANALYSIS**

***REASON FOR INCREASE IN RATES.*** The solid waste rates increase is proposed to:

1. Provide a reliable, safe operating Solid Waste Handling system.
2. Fully fund the operating costs of the system leaving more funding available for other essential City services.

A summary comparison of current and proposed Solid Waste rates by customer group is shown in the table below:

**Calculated Five-Year Solid Waste Rate Schedule**

Service Type	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
	<i>Rate Increase ---&gt;</i>		5.5%	5.5%	5.5%	5.5%
<i>Rates do not include charges for special services that are scheduled between the customer and provider such as off schedule pick up, container maintenance, and delivery charges.</i>						
<b>Single Family Residential</b>			<i>Once per week pickup</i>			
96 gal. cart	\$25.16	\$26.54	\$28.00	\$29.54	\$31.17	\$32.88
Add'l cart	\$5.97	\$6.30	\$6.64	\$7.01	\$7.40	\$7.80
96 gal. cart greenwaste	\$1.33	\$1.40	\$1.48	\$1.56	\$1.65	\$1.74
Add'l greenwaste cart	\$5.97	\$6.30	\$6.64	\$7.01	\$7.40	\$7.80
<b>Multi-Family, Commercial, and Organic</b>			<i>Once per week pickup</i>			
1 cubic yard container	\$47.36	\$49.96	\$52.71	\$55.61	\$58.67	\$61.90
2 cubic yards container	\$94.41	\$99.60	\$105.08	\$110.86	\$116.96	\$123.39
3 cubic yards container	\$139.86	\$147.55	\$155.67	\$164.23	\$173.26	\$182.79
4 cubic yards container	\$179.04	\$188.89	\$199.28	\$210.24	\$221.80	\$234.00
6 cubic yards container	\$251.71	\$265.55	\$280.16	\$295.57	\$311.82	\$328.97
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	\$71.41	\$75.34	\$79.48	\$83.85	\$88.46	\$93.33
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$513.10	\$541.32	\$571.09	\$602.50	\$635.64
4 cubic yards container	n/a	\$650.83	\$686.62	\$724.39	\$764.23	\$806.26
<b>Multi-Family, Commercial, and Organic</b>			<i>Twice per week pickup</i>			
1 cubic yard container	\$93.90	\$99.06	\$104.51	\$110.26	\$116.33	\$122.72
2 cubic yards container	\$187.14	\$197.43	\$208.29	\$219.75	\$231.83	\$244.58
3 cubic yards container	\$264.56	\$279.11	\$294.46	\$310.66	\$327.74	\$345.77
4 cubic yards container	\$348.86	\$368.05	\$388.29	\$409.65	\$432.18	\$455.95
6 cubic yards container	\$490.40	\$517.37	\$545.83	\$575.85	\$607.52	\$640.93
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	n/a	\$150.65	\$158.94	\$167.68	\$176.90	\$186.63
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$988.83	\$1,043.21	\$1,100.59	\$1,161.12	\$1,224.98
4 cubic yards container	n/a	\$1,245.84	\$1,314.36	\$1,386.65	\$1,462.91	\$1,543.37
<b>Multi-Family, Commercial, and Organic</b>			<i>Three times per week pickup</i>			
1 cubic yard container	n/a	\$148.00	\$156.14	\$164.73	\$173.79	\$183.35
2 cubic yards container	n/a	\$297.64	\$314.01	\$331.28	\$349.50	\$368.72
3 cubic yards container	\$398.63	\$420.55	\$443.69	\$468.09	\$493.83	\$520.99
4 cubic yards container	\$545.64	\$575.65	\$607.31	\$640.71	\$675.95	\$713.13
6 cubic yards container	\$750.40	\$791.67	\$835.21	\$881.15	\$929.61	\$980.74
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	n/a	\$225.98	\$238.41	\$251.53	\$265.36	\$279.95
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$1,484.74	\$1,566.40	\$1,652.55	\$1,743.44	\$1,839.33
4 cubic yards container	n/a	\$1,979.65	\$2,088.53	\$2,203.40	\$2,324.59	\$2,452.44

Source: City of Livingston and HEC.

sum

**FISCAL IMPACT**

Adopting the recommended rates will provide sufficient levels of funding (revenues) to cover ongoing operational costs outlined in utility rate study.

**ATTACHMENTS**

1. Ordinance No.     , Establishing Rates for Solid Waste Service Fees.  
3796270.1

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
ESTABLISHING RATES FOR SOLID WASTE SERVICE FEES**

**WHEREAS**, in 1996, California voters approved Proposition 218, the “Right to Vote on Taxes Act,” which added Articles XI11C and XIID to the California Constitution; and

**WHEREAS**, various court cases in 2005 and 2006, most notably *Bighorn-Desert View Water Agency v. Verjil*; *Richmond v. Shasta Community Services District*; and the *Howard Jarvis Taxpayers Association v. City of Fresno*, extended the application of Proposition 218 from general taxes and assessments to utility user fees (i.e., sewer, water, and waste collection, etc.); and

**WHEREAS**, although there is an argument that solid waste collection service fees (“Solid Waste Service Fees” or “Service Fees”) within the City of Livingston are not subject to Proposition 218 because the services are provided by a private solid waste hauler and not the City, the City Council and the City Manager have decided to follow the process detailed by Proposition 218 in order to promote transparency and involvement by City property owners and customers. Accordingly, the City does not waive its right to conduct Solid Waste Service Fee increases without following the Proposition 218 procedures; and

**WHEREAS**, the City of Livingston determined to undertake a rate study to analyze the revenue requirements and the rate structure that should be adopted to proportionately allocate the costs of providing solid waste service to its solid waste customers. The rate study was prepared by Hansford Economic Consulting Inc., and has been on file at Livingston City Hall since the notices to property owners and customers were sent out on April 30, 2021; and

**WHEREAS**, the City must generate revenues in an amount sufficient to cover the City’s ongoing costs of the City’s solid waste system’s (the “System”) operations, maintenance, and capital facilities; and

**WHEREAS**, the rate study determined that increases to the schedule of rates for the City’s solid waste service fees, (“Service Fees”) are necessary for a five (5) year period to generate revenues sufficient to cover the City’s ongoing costs of the System’s operations, maintenance, and capital facilities; and

**WHEREAS**, the revenues derived from the proposed Service Fees will not exceed the funds required to provide the solid waste services and shall be used exclusively for the System; and

**WHEREAS**, the amount of the proposed Service Fees will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

**WHEREAS**, the proposed Service Fees will not be imposed on a parcel unless the solid waste services are actually used by, or immediately available to, the owner of the parcel; and

**WHEREAS**, California Constitution article XIII D, section 6 (“Article XIII D”) requires that prior to imposing any increase to the Service Fees, the City shall provide written notice (the “Notice”) by mail of the proposed increases to the Service Fees to the record owner of each parcel upon which the rate increases to the Service Fees are proposed for imposition, and any tenant directly liable for payment of such Service Fees, the amount of the rates for the Service Fees proposed to be imposed on each parcel, the basis upon which the rates for the Service Fees were calculated, the reason for the rate increases to the Service Fees, and the date time and location of a public hearing (the “Hearing”) on the proposed rate increases to the Service Fees; and

**WHEREAS**, pursuant to Article XIII D, such Notice is required to be provided to the affected property owners and any tenant directly liable for the payment of the Service Fees not less than forty-five (45) days prior to the Hearing on the proposed rates; and

**WHEREAS**, on April 30, 2021 the City provided the Notice to the affected property owners and tenants of the proposed rate increases to the Service Fees in compliance with Article XIII D; and

**WHEREAS**, the Hearing was held June 15, 2021; and

**WHEREAS**, at the Hearing, the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the Service Fees; and

**WHEREAS**, upon close of the Hearing, the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Service Fees from a majority of the affected property owners and tenants directly liable for the payment of the Service Fees; and

**WHEREAS**, Livingston Municipal Code section 8-2-43 requires that “monthly customer collection charges for single-family units, multi-family units, commercial units, industrial units, institutional units, and Government units shall be set by Resolution of the City Council;” and

**WHEREAS**, this Ordinance and Resolution No. 2021-39 shall supersede all other previous resolutions and ordinances that may conflict with, or be contrary to, this Ordinance and Resolution No. 2021-39 respecting the rates for Service Fees described more particularly herein.

**THE CITY COUNCIL OF THE CITY OF LIVINGSTON DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS**

The foregoing recitals are true and correct and made a part of this Ordinance.

**SECTION 2. SOLID WASTE SERVICE FEE ADJUSTMENT**

The City Council of the City of Livingston does hereby approve the Solid Waste Service Fees set forth in the attached **Exhibit A**. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Service Fees set forth herein.

**SECTION 3. CEQA**

The approval of this Ordinance is not a project within the meaning of the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). Further, pursuant to CEQA Guidelines section 15273 and Public Resources Code § 21080(b)(8), this Ordinance is not subject to CEQA because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies for certain purposes, including for the purpose of meeting operating expenses. This Ordinance does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If the Solid Waste Service Fees are used for any project that would have such effect, the City will undertake the required CEQA review for that particular project.

**SECTION 4. SEVERABILITY**

If any provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

**SECTION 5. EFFECTIVE DATE**

This Ordinance shall become effective thirty (30) days after its final passage and adoption.

Introduced: June 15, 2021

Passed and Adopted:

\_\_\_\_\_  
JUAN AGUILAR, JR., Mayor  
of the City of Livingston

ATTEST:

State of California )  
County of Merced )  
City of Livingston )

I, hereby certify that the foregoing Ordinance was duly introduced at a Regular Meeting of the City Council of the City of Livingston on June 15, 2021, and was regularly passed and adopted by the City Council of the City of Livingston this \_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
LETICIA VASQUEZ-ZURITA,  
City Clerk of the City of Livingston

# EXHIBIT A

**Table 26  
Calculated Five-Year Solid Waste Rates**

Service Type	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
	<i>Rate Increase ---&gt;</i>	<i>5.5%</i>	<i>5.5%</i>	<i>5.5%</i>	<i>5.5%</i>	<i>5.5%</i>
<i>Rates do not include charges for special services that are scheduled between the customer and provider such as off schedule pick up, container maintenance, and delivery charges.</i>						
<b>Single Family Residential</b>						
			<i>Once per week pickup</i>			
96 gal. cart	\$25.16	\$26.54	\$28.00	\$29.54	\$31.17	\$32.88
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<b>Multi-Family, Commercial, and Organic</b>						
			<i>Once per week pickup</i>			
1 cubic yard container	\$47.36	\$49.96	\$52.71	\$55.61	\$58.67	\$61.90
2 cubic yards container	\$94.41	\$99.60	\$105.08	\$110.86	\$116.96	\$123.39
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<b>Recycle Bins</b>						
4 & 6 cubic yard containers	\$71.41	\$75.34	\$79.48	\$83.85	\$88.46	\$93.33
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$513.10	\$541.32	\$571.09	\$602.50	\$635.64
4 cubic yards container	n/a	\$650.83	\$686.62	\$724.39	\$764.23	\$806.26
<b>Multi-Family, Commercial, and Organic</b>						
			<i>Twice per week pickup</i>			
1 cubic yard container	\$93.90	\$99.06	\$104.51	\$110.26	\$116.33	\$122.72
2 cubic yards container	\$187.14	\$197.43	\$208.29	\$219.75	\$231.83	\$244.58
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6 cubic yards container	\$490.40	\$517.37	\$545.83	\$575.85	\$607.52	\$640.93
<b>Recycle Bins</b>						
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<b>Commercial Compacting</b>						
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<b>Multi-Family, Commercial, and Organic</b>						
			<i>Three times per week pickup</i>			
1 cubic yard container	n/a	\$148.00	\$156.14	\$164.73	\$173.79	\$183.35
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6 cubic yards container	\$750.40	\$791.67	\$835.21	\$881.15	\$929.61	\$980.74
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	n/a	\$225.98	\$238.41	\$251.53	\$265.36	\$279.95
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$1,484.74	\$1,566.40	\$1,652.55	\$1,743.44	\$1,839.33
4 cubic yards container	n/a	\$1,979.65	\$2,088.53	\$2,203.40	\$2,324.59	\$2,452.44

Source: City of Livingston and HEC.

sum

## STAFF REPORT

**AGENDA ITEM:** Second Reading and Final Adoption of Ordinance No. \_\_\_\_, Amending the City of Livingston Zoning Map, to Change the Approximate 4 Acre site from Highway Service Commercial to High Density Residential, Rezone 2021-01.

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Randy Hatch, Contract City Planner

**REVIEWED BY:** Vanessa Portillo, Interim City Manager

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### **RECOMMENDATION:**

City Council waive the second reading and adopt Ordinance No \_\_\_\_, to Rezone the approximate 4 acre site at 915 B Street from Highway Service Commercial (C-3) to High Density Residential (R-3) (Rezone 2021-01).

### **BACKGROUND AND DISCUSSION:**

This request was first considered by the Council at a Public Hearing held on September 7, 2021. The proposal concerns the proposed Tierrasanta Villas Apartment Project. During the September 7, 2021 meeting this Project received CEQA clearance, the General Plan was amended, and a Site Plan / Design Review was approved for this 80 unit affordable apartment Project. The Introduction and First Reading of an Ordinance rezoning the property was also accomplished. This Second Reading and Final Adoption of the Ordinance will complete this rezoning.

### **ATTACHMENTS:**

1. Ordinance No. \_\_\_\_
2. Location Map and Zoning Map.



ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LIVINGSTON**

**WHEREAS**, the owner Tierrasanta Villas L.P., and applicant, Visionary Home Builders of California Inc., have submitted an application to the City of Livingston to Rezone an approximate 4 acre property located at 915 "B" Street, Livingston, Ca. (APN # 022-010-026) from the Highway Service Commercial (C-3) Zoning designation to the High Density Residential (R-3) Zoning designation; and

**WHEREAS**, this property has a General Plan designation of High Density Residential; and

**WHEREAS**, this proposed Rezoning, and the entire Tierrasanta Villas Apartments are a "Project: within the meaning of the California Environmental Quality Act (CEQA); and

**WHEREAS**, the City of Livingston has caused to be prepared an Initial Study / Mitigated Negative Declaration (IS / MND) addressing the potential environmental effects of this Project in accordance with the requirements of CEQA; and

**WHEREAS**, a Notice of Intent to Adopt the Mitigated Negative Declaration was published on May 11, 2021 in the Merced Sun-Star, posted with the Merced County Clerk, and circulated for public and agency review and comment in accordance with the requirements of CEQA from May 11, 2021 through June 10, 2021; and

**WHEREAS**, no comments were received during the public and agency review period and therefore the Draft IS/MND has been retitled the Final IS/MND, which is hereby incorporated by reference: and

**WHEREAS**, a Mitigation Monitoring/Reporting Program for the project has been prepared, which is hereby incorporated by reference, and

**WHEREAS**, the City Council has reviewed and independently considered the analysis and conclusions of the Final IS/MND, and the proposed change in Zoning designation; and

**WHEREAS**, the City Council has reviewed and considered any and all comments on the Final IS/MND and the proposed change in Zoning designation made at the public hearing; and

**WHEREAS**, the City Council has held a public hearing on the proposed project on September 7, 2021, which has been noticed by posting, a newspaper ad, and a mailing to adjacent properties within 300 feet of the site.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LIVINGSTON, CALIFORNIA, DOES ORDAIN** as follows:

**SECTION 1. Recitals.** The foregoing recitals are true and correct and made part of this Ordinance.

**SECTION 2. Findings.** The City Council hereby finds as follows:

- A. **CEQA Compliance.** The City has prepared an Initial Environmental Study consistent with CEQA which found the project could have significant impacts on the environment, however measures have been identified and incorporated into the project's conditions of approval that will mitigate these impacts to a level that is considered less than significant. Accordingly the City has prepared a Mitigated Negative Declaration and a Mitigation Monitoring / Reporting Program for the Project which the Council has adopted.
- B. **General Plan Consistency.** The amendment made to the Livingston zoning map pursuant to this Ordinance is consistent with the adopted 1999 General Plan, as amended. This Rezoning does not cause any conflict with the City's General Plan.
- C. The uses proposed will not be detrimental to the present and planned uses in the area.

**SECTION 3. No Mandatory Duty of Care.** This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or parties within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise provided by law.

**SECTION 4. Severability.** If any provision of this ordinance or this application thereof to any person or circumstance is held invalid, such is invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of the ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of this invalidity of any particular portion thereof.

**SECTION 5. Effective Date.** This ordinance shall take effect and be in full force and effect thirty (30) days after its final passage and adoption.

Introduced: September 7, 2021  
Passed and Adopted: \_\_\_\_\_

\_\_\_\_\_  
Juan Aguilar Jr., Mayor  
of the City of Livingston

ATTEST:

State of California)  
County of Merced)  
City of Livingston)

I hereby certify that the foregoing Ordinance was duly introduced at a Regular Meeting of the City Council of the City of Livingston on the 7<sup>th</sup> day of September 2021, and passed and adopted at the Regular Meeting of the City Council of the City of Livingston this \_\_\_\_ day of \_\_\_\_, 2021, by the following vote:

AYES:

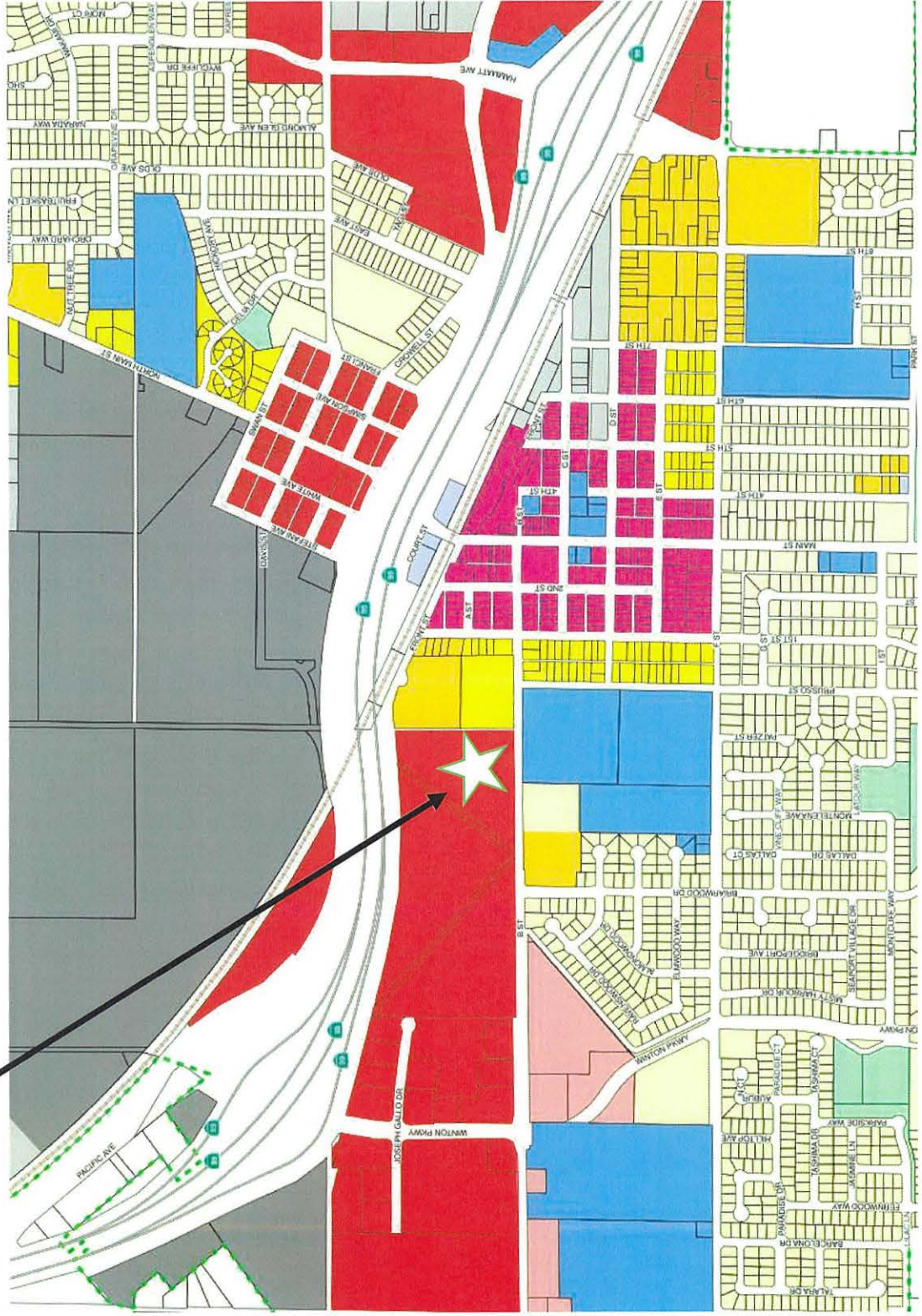
NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leticia Vasquez-Zurita, City Clerk  
of the City of Livingston

**TIERRASANTA VILLAS APARTMENTS  
B STREET, LIVINGSTON, CA  
APN#: 022-010-026**



## STAFF REPORT

**AGENDA ITEM:** Adopt a Resolution Approving the City Hall Lobby Remodel

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Vanessa Portillo, Interim City Manager

---

### **RECOMMENDATION**

Staff recommends that the City Council adopt a Resolution approving the City Hall Lobby remodel and related budget amendment.

### **BACKGROUND**

The City's City Hall lobby area will be expanded to accommodate City departments with high customer foot traffic.

### **DISCUSSION**

In an effort to enhance the customer service experience for residents and potential customers, the lobby area will be expanded to accommodate personnel representatives from the City's Recreation and Building Department.

The City Hall Lobby currently has three (3) customer service counter stations. Two (2) stations are dedicated to utility transactions, while the third station is shared between Recreation, Planning, and Building Permit services. It is proposed to create one (1) additional customer service counter station along with two (2) workstations for Recreation and Building Permit departments. The City Hall Lobby expansion will provide easier access to residents and customers to Recreation and Building Permit services.

The City requested quotes from four (4) contractors and one (1) proposal was received. David G. Alexander Inc. submitted the lowest responsible proposal at approximately \$27 thousand. Funds have been budgeted in the Fiscal Year (FY) 2021/22 Budget from the Municipal Facilities Impact Fees Fund.

### **FISCAL IMPACT**

Funds in the Municipal Facilities Impact Fees (Fund 2002) have been budgeted for this project in the Fiscal Year 2021/22 Budget.

### **ATTACHMENTS**

1. Resolution of the City Council of the City of Livingston Approving City Hall Lobby Remodel and Related Budget Amendment
2. Quote: David G. Alexander Inc. Quote

**RESOLUTION NO. 2021-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
APPROVING THE CITY HALL LOBBY REMODEL**

**WHEREAS**, the City's City Hall lobby area will be expanded to accommodate City departments with high customer foot traffic; and

**WHEREAS**, The City Hall Lobby expansion will provide easier access to residents and customers to Recreation and Building Permit services; and

**WHEREAS**, The City requested quotes from four (4) contractors and one (1) proposal was received; and

**WHEREAS**, David G. Alexander Inc. submitted the lowest responsible proposal at approximately \$27 thousand; and

**WHEREAS**, Funds in the Municipal Facilities Impact Fees (Fund 2002) have been budgeted for this project in the Fiscal Year 2021/22 Budget; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LIVINGSTON, THAT:**

1. The above recitals are true and correct.
2. The City Manager of the City of Livingston is authorized to execute the remodel agreement and any and all documents necessary to effectuate the work on behalf of the City.
3. This resolution is effective immediately upon adoption.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

---

Juan Aguilar Jr., 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 21<sup>st</sup> day of September, 2021.

---

Leticia Vasquez-Zurita, City Clerk  
of the City of Livingston

**BUDGET PROPOSAL**      **DATE: 9/5/21**

DAVID G. ALEXANDER INC.  
2503 WINDY CT.  
MERCED CA. 95340  
(209) 978 4608  
CA. LIC # 586621 (B)

To: City of Livingston  
Address: 1416 C street  
City, State, ZIP: Livingston Ca 95334  
Job No: 2021-3458  
Project name: Office /lobby Remodel

**Lobby remodel / Add new offices to include the following:**

- A. All required demo of doors, wall, soffit and tile flooring.
- B. Electrical modifications, add outlets, two light fixtures, adjust switching.
- C. Cap waste and water lines as needed at old drinking fountain location.
- D. Build a new full height lobby wall / office wall in conference room with drywall finish to match Existing conditions.
- E. Insulate new walls for sound.
- G. Install a 40x50 service window in new lobby wall.
- H. Install a new service counter on the interior of new lobby wall.
- I. Modify the cabinets in the conference room to accommodate the new wall location.
- J. Install new flooring in the affected remodel area.
- K. Includes all necessary labor, materials, clean up, dust proofing, hauling and disposal.

**NOTES:**

- 1. Work to be completed on nights / weekends.
- 2. Flooring to match as close as possible in the affected remodel area.
- 3. Plans, engineering (If needed) and permits have an allowance of \$3,000.00 included with in this proposal.
- 4. Additional cost may arise if existing soffit is full of utilities (Or lower the ceiling in this new counter area.)
- 5. City to provide paint color for new office and lobby areas.
- 6. Standard wage rate.

**TERMS:** PAYMENTS TO BE MADE AS WORK PROGRESSES TO THE VALUE OF ONE HUNDRED (100) PERCENT OF ALL WORK COMPLETED. THE ENTIRE AMOUNT OF THE CONTRACT TO BE PAID WITHIN SEVEN (7) DAYS AFTER COMPLETION. ALL WORK TO BE COMPLETED IN FOURTEEN (14) DAYS, START DATE IS TO BE DETERMINED BY OWNER / CONTRACTOR AGREEMENT. IT IS UNDERSTOOD AND AGREED THAT ALEXANDER CONSTRUCTION SHALL NOT BE HELD LIABLE FOR DELAYS DUE TO SPECIALTY CONTRACTORS NOT INCLUDED IN THIS CONTRACT, HIRED BY THE OWNER TO PERFORM WORK ON THIS PROJECT. ALL CHANGES TO BE EXECUTED WITH A SIGNED CHANGE ORDER. ALL CHANGE TO BE BILLED TO THE OWNER AT COST PLUS 20% OVERHEAD AND PROFIT.

We propose to furnish material and labor, complete in accordance with above specifications, for the

Sum of:    Twenty six thousand, seven hundred      Dollars    \$ 26,747.00  
                  forty seven dollars

Payments to be made as follows:    100% at completion.

Contractor's signature:    DAVID G. ALEXANDER INC.

Acceptance of proposal The above price, specifications and conditions are satisfactory and are hereby Accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Owner's signature: \_\_\_\_\_ Date: \_\_\_\_\_



# 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 2021-2022.

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Happy Bains, Sr. Accountant

**REVIEWED BY:** Vanessa Portillo, City Manager

---

**RECOMMENDATION:**

Staff recommends that the Council adopt Resolution No. 2021-\_\_\_, approving the Annual Local Transportation Fund (LTF) claim and file claim with the Merced County Association of Governments for Fiscal Year 2021-2022 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 2021-2022. The amount available to claim by the City of Livingston is \$14,836.

**DISCUSSION:**

The City shall submit a claim form and authorized resolution to MCAG by September 30, 2021, in order to claim the funds for Fiscal Year 2021-2022. 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 to repave Stefani Ave between Davis Street and Campbell Blvd.

**FISCAL IMPACT:**

Submittal of the LTF Claim ensures compliance with MCAG guidelines to be eligible for LTF funds. LTF funds are included in the FY2021-2022 revenue projections.

**ATTACHMENTS:**

1. Resolution No. 2021-
2. Claim Form

**RESOLUTION NO. 2021-**

**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 2021-2022**

**WHEREAS**, under the Transportation Development Act (TDA) of 1971, Local Transportation Fund (LTF) monies are available to cities and counties for public transportation, construction and maintenance of local streets and roads, and for pedestrian or bicycle facilities under certain circumstances; 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 \$15,730 for Fiscal Year 2021-2022; 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 2021-2022 in the amount of \$15,730.

**BE IT FURTHER RESOLVED** it is deemed in the best interest of the City of Livingston that the City Manager and the Finance Director be authorized to sign the LTF claim form for Fiscal Year 2021-2022, and to submit said claim to MCAG for processing.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

JUAN AGUILAR, JR., 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 21<sup>st</sup> day of September, 2021.

---

LETICIA VASQUEZ-ZURITA, City Clerk  
of the City of Livingston

**LOCAL TRANSPORTATION FUND CLAIM  
FY 2021-2022**

Claimant:

Type of Claim:

Amount of Claim:

- |                                     |  |                  |
|-------------------------------------|--|------------------|
| <input checked="" type="checkbox"/> | <b>STREETS &amp; ROADS</b>                                 | \$ <u>15,730</u> |
| <input type="checkbox"/>            | <b>PEDESTRIAN &amp; BICYCLE FACILITIES</b>                 | \$ _____         |
| <input type="checkbox"/>            | <b>OTHER</b> (indicate purpose & TDA Section number _____) | \$ _____         |
| <input type="checkbox"/>            | <b>TOTAL</b>   | \$ _____         |

*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

Vanessa Portillo  
\_\_\_\_\_  
Print or type name

Interim City Manager  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Chief Financial Officer

**LTF STREETS & ROADS CLAIM 2021-2022**

Claimant: City of Livingston

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

Repaving Stefani Ave between Davis Street and Campbell Blvd

This project will primarily consist of repaving Stefani Ave between Davis Street and Campbell Blvd

**Project Cost by Funding Source**

LTF            \$15,730 (Fiscal Year 2021-2022)

General Fund \$ \_\_\_\_\_

Other            \$20,000 (Future LTF Claims)

**TOTAL**            **\$35,730**

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

Vanessa Portillo

Type or print name

# STAFF REPORT

**AGENDA ITEM:** Adopt a Resolution Approving the Declaration of Certain Property as Surplus and Authorizing its Disposal.

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Erica Valencia – Accountant I

**REVIEWED BY:** Vanesa Portillo, Interim City Manager

---

## **RECOMMENDATION**

Staff recommends that the City Council adopt a Resolution declaring certain property as surplus and authorizing its disposal according to the City of Livingston Municipal Code, Title 1 Administrative, Chapter 12: Surplus Property.

## **BACKGROUND**

From time to time as vehicles, equipment and other personal property of the city reach the end of their useful lives, the property is removed from service and dispose according to the City of Livingston Municipal Code, Title 1 Administrative, Chapter 12: Surplus Property.

The items attached on the surplus list include miscellaneous furniture and computer equipment deemed obsolete or to have reached its useful life.

## **DISCUSSION**

Each City department has conducted a thorough review of inventory of equipment and supplies. Each department has determined that the equipment and property in the attached list (Exhibit A) is obsolete or to have reached its useful life. The equipment listed has either been or will be replaced.

## **FISCAL IMPACT**

Replacement equipment funds are budgeted in each department's budget as equipment reaches its useful life or becomes obsolete.

## **ATTACHMENTS**

1. Resolution
2. Exhibit A – Proposed surplus items

**RESOLUTION NO. 2021-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
APPROVING THE DECLARATION OF CERTAIN PROPERTY AS SURPLUS AND  
AUTHORIZING ITS DISPOSAL.**

**WHEREAS**, the City of Livingston has identified the end of the useful lives of equipment and other personal property of the City; and

**WHEREAS**, All City departments have conducted a review of inventory of equipment and supplies to identify property that is no longer useable; and

**WHEREAS**, Staff recommends declaring the listed property (EXHIBIT A) as surplus and authorizing its disposal; and

**WHEREAS**, The City of Livingston will dispose the surplus items according to the City of Livingston Municipal Code, Title 1 Administrative, Chapter 12: Surplus Property; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Livingston does hereby resolve, find and order as follows:

1. The above recitals are true and correct.
2. The City Manager of the City of Livingston is authorized to execute the disposal of surplus property.
3. This resolution is effective immediately upon adoption.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

---

Juan Aguilar Jr., 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 21<sup>th</sup> day of September, 2021.

---

Leticia Vasquez-Zurita, City Clerk  
of the City of Livingston

Exhibit A

QTY	Item	Description	Model #	Serial #	City Inventory Tag	Department	Notes
<b>Electronics</b>							
1	Battery Back-up	APC Battery back-up	SUA2200RMXL 3U	GA0912000007		Police Department	
3	Computer	Antec, tower computer				Police Department, Records office	
1	Computer Monitor	View Sonic VX2240W	VS11869	QRB091300933	2263	Planning	
1	Computer Tower	Dell OptiPlex 3040 Desktop, Intel CORE i5	D11S	8THF8C2	2124	Planning	
1	Computer Tower	Dell OptiPlex 3040 Desktop, Intel CORE i5	D11S	DJ6VPS2	2144	Planning	Express Service Code 29458584326
1	Laptop	Dell Pro Windows		7VTRM72	2165	Planning	Express Service Code 17170323230
1	Laptop	Compact Presario, laptop	P1700NC106X430DC122C	2V25JCZL4NM		Police Department, Records office	
1	Laptop	Toshiba Satellite	P35-S611Z	25246080K		Police Department, Records office	
1	Microwave	Kenmore Microwave	106TASW00894	69-161X2686-000894		Police Department, Records office	
1	Monitor	Computer monitor	EA192M-BK	17134869TA		Police Department, Records office	
1	Monitor	View Sonic VA926G	VS13642	S8A112042560		Police Department, Records office	
1	Monitor	View Sonic VA926G	VS13642	S8A112042557		Police Department, Records office	
1	Monitor	View Sonic VA926G	VS13642	S8A112042642		Police Department, Records office	
1	Monitor	View Sonic VA926G	VS13642	S8A112042553		Police Department, Records office	
1	Power Strip	Isobar master touch plus				Police Department, Records office	
1	Power Supply	GEIST Inc.	STP064-15	150130157		Police Department	
1	Printer	EPSON WF-3640	C481E	SEYY808210		Planning	Broken
1	Printer	HP laser Jet	P4014N	JPDF010005		Police Department, Records office	
2	Server	OID SBS Server Ventec				Police Department, Records office	
1	Server	IO Safe disaster ready digital solutions				Police Department, Records office	
1	Server	Dell poweredge 1950 Server (COL-VMHOST2)	EM001	CR245G1		Police Department, Records office	
1	Server	Dell poweredge 2950 Server (COL-PD-RMS)	EMS01	76YMPG1		Police Department, Records office	
1	Server	(COBAN)		200Z0338		Police Department, Records office	
1	Server	Dell Power Edge R520, WGServer	E19S	4N926W1		Police Department, Records office	
1	Server	Server Verint	Udiology 3000 Series	ULT3011890301		Police Department, Records office	
1	Server	Dell Power Edge 2950 (COL-PD-APPSERVER)	EMS01	B6YMPG1		Police Department, Records office	
1	Server	Dell Power Edge 2950 (COL-PD-MAIL)	EMS01	96YMPG1		Police Department, Records office	
1	Switch	Black Trip Like KVM - Switch	B0042-008	9922ACPCB777200004		Police Department	
1	Switch	Cisco ASA	5505	JMX1325Z0YF		Police Department, Records office	
1	TV	Colby 15" TFT LED	1526	1021377-2002842	2146	Planning	
1	TV	Sharop P. TV	LC-20SH3U	607900949		Police Department, Records office	
1	Typewriter	IBM Wheelwriter 6		6747-11-6058076	1027	Planning	Some keys skip occasionally
<b>Vehicles</b>							
1	Forklift	Mitsubishi Heavy Industries, LTD	ENG.KA2397	F17A-54318A		Public Works	No longer in use, replaced with newer model
1	Golf Cart					Public Works	No longer in use
1	Truck	Dodge Ram P/U 2003	1132295	107HA16K83J531983		Public Works	Will not pass smog next time due to oil escaping and blowing it out the exhaust. 74114 mileage
1	Truck	Dodge Dakota P/U 1997	994601	1B7FL26P4VS280910		Public Works	No longer in use, incapable of towing most of our equipment.
1	Truck	2003 Dodge Ram 1500	Lic #1132975	Vin		Public Works	77964 mileage
<b>Furniture and Miscellaneous</b>							
1	Chair	Office chair				Police Department, Break room	
7	Chairs	Office Chairs				Police Department, Patrol room	Broken
1	Desk			1875		Public Works	No longer in use
3	Desks	Office Desks				Police Department, Patrol room	Broken
1	File Cabinet	Black file cabinet				Public Works	



Exhibit A

1	Table			Public Works	No longer in use
1	Daihatsu	1995 hi-jet	JDA00058000309623	Public Works	All Depts.
1	Disck Plow	Mower		Public Works	
1	Flail Mower			Public Works	Tractor attachment no longer in use
1	Flat Bed Tool Box	Utility Box		Public Works	
1	Flat Bet	Zieman 2310		Public Works	No longer in Use, needs lots of maintenance
1	Lawnmower	SCAG Tiger Cat 2014	G3100042	Public Works	No longer in use, replaced with bigger mower
1	Lawnmower	SCAG Tiger Club 2004	C1601066	Public Works	No longer in use, replaced with bigger mower
1	Mini Melter			Public Works	2 mini smelters, too small to operate
1	Mower			Public Works	Old Tractor mower Attachment
1	Plow			Public Works	
1	Push Behind Blower	TMC		Public Works	
1	Rackmount	Keyboard door	RK-ID	Police Department	
1	Scraper			Public Works	Tractor attachment no longer in use
1	Seed Spreader			Public Works	Mule attachment no longer in use
1	Seed Spreader	Spreader for fertilizer		Public Works	
1	Server rack	Black server rack		Police Department	
1	Snake	Sewer Clinton Snake		Public Works	Not running, replaced with new Model
1	TMC	BPBL24V	24900073	Public Works	No longer in use
1	TMC	BPBL24V	24900042	Public Works	No longer in use
1	Utility Box	Graffiti Removal Unit		Public Works	No longer in use

## STAFF REPORT

**AGENDA ITEM:** Adopt a Resolution Approving Award of Agreement for Planning Services to J. B. Anderson Land Use Planning

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Vanessa Portillo, Interim City Manager

---

### **RECOMMENDATION**

Staff recommends that the City Council adopt a Resolution approving award of agreement for planning services to J.B. Anderson Land Use Planning and authorize the City Manager to sign the Professional Services Agreement contract.

### **BACKGROUND**

The contract for planning services with Collins & Schottler Planning expires in November 2021. The City of Livingston's Municipal Code Title 1: Administrative, Chapter 11: Purchase Policies and Procedures, Section 1-1-10: Exempt from Bidding, exempts the City from bidding requirements for the contract of professional or specialized skills such as planning services.

A proposal from J.B. Anderson Planning was received and deemed qualified to provide planning services to the City.

### **DISCUSSION**

J.B. Anderson is a full-service Land Use and Environmental Planning firm. Established in 1993, J.B. Anderson has provided general planning services for several public agencies and municipalities throughout the Central Valley. J.B. Anderson provides short and long-range Land Use Planning and Environmental services on projects ranging from Public Works Improvements, Conditional Use Permits, Multi Acre Master or Community Plans, to General Plan Updates. Additionally, J.B. Anderson has represented the City as its Planning Consultant.

J.B. Anderson will provide general planning services to the City and work on specific Land Use Applications. The agreement with J.B. Anderson Planning, should Council approve it, is for an initial three-year period starting in October 2021. Included in the agreement is the option for two (2) additional one-year extensions. These extensions can be initiated by staff upon mutual agreement by the City and the consultant.

### **FISCAL IMPACT**

Funds have been appropriated in the current budget for the Planning Department to cover the cost of these services. In addition, the hourly rate for planning services is lower than the current contract at \$91 per hour (compared to \$105 per hour).

### **ATTACHMENTS**

1. Resolution Approving Award of Agreement for Planning Services to J. B. Anderson Land Use Planning
2. J.B. Anderson Proposal

**RESOLUTION NO. 2021-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
APPROVING THE AWARD OF AGREEMENT FOR PLANNING SERVICES TO J.B.  
ANDERSON LAND USE PLANNING**

**WHEREAS**, the City of Livingston's (the "City") Planning Services are provided by contracted services; and

**WHEREAS**, the contract for planning services with Collins & Schottler Planning expires in November 2021; and

**WHEREAS**, City of Livingston's Municipal Code Title 1: Administrative, Chapter 11: Purchase Policies and Procedures, Section 1-1-10: Exempt from Bidding, exempts the City from bidding requirements for the contract of professional or specialized skills such as planning services; and

**WHEREAS**, proposal from J.B. Anderson Planning was received and deemed qualified to provide planning services to the City; and

**WHEREAS**, the agreement with J.B. Anderson Planning is for an initial three-year period starting in October 2021; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Livingston does hereby resolve, find and order as follows:

1. The above recitals are true and correct.
2. The City Manager of the City of Livingston is authorized to execute the Agreement and any and all documents necessary to effectuate the Agreement on behalf of the City.
3. This resolution is effective immediately upon adoption.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

---

Juan Aguilar Jr., 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 21<sup>st</sup> day of September, 2021.

---

Leticia Vasquez-Zurita, City Clerk  
City Clerk of the City of Livingston

# CITY OF LIVINGSTON

## Community Development Department



### Proposal for General Planning Services

August 16, 2021



Submitted By:



139 South Stockton Ave.  
Ripon, CA 95366  
Phone: 209.599.8377

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<i>Section 3</i>	Scope of Work	4
<i>Section 4</i>	Statement of Qualifications	7

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## **SECTION 1      INTRODUCTION**

J.B. Anderson Land Use Planning is a full-service Land Use and Environmental Planning Firm Located in Ripon, California. Established in 1993, J.B. Anderson Land Use Planning has provided Land Use and Environmental Planning services in California through a host of Public Agencies and Municipalities. J.B. Anderson Land Use Planning Office is located at the following address: 139 S. Livingston Avenue, Ripon, California, 95366. All professional Land Use and Environmental Planning Services are provided from this office.

J.B. Anderson Land Use Planning (JBAP) has provided Land Use and Environmental Planning Services in various jurisdictions within the Central Valley and Sierra Nevada Foothills, including, Stanislaus, San Joaquin, Calaveras, Merced, Madera, Tuolumne, and Mariposa Counties. As a value-added component, our Firm offers clients a wide range of Land Use and Environmental Planning Services. We provide short and long-range Land Use Planning and Environmental services on Projects ranging from Public Works Improvements, Conditional Use Permits, to multi acre Master or Community Plans. Currently, our Firm is providing General Planning Services and staffing to the Cities of Waterford, Oakdale, and Lathrop.

Our firm supports a highly educated and experienced staff with experience in Land Use Planning, Land Management, and environmental review and compliance in accordance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). Continuity and knowledge earmark our work for a positive humanitarian approach to growth and development in each jurisdiction we have the opportunity to provide our expertise in.

Our Firm understands the City is requesting General Planning Services and staffing at City Hall two (2) days per week, providing Planning Services to the City and working on specific Land Use Applications at the direction of the City Manager. This Proposal is focused on this request and provides our Firm's Statement of Qualifications for the City's consideration.

For this Proposal, the contact information for J.B. Anderson Land Use Planning is as follows:

Project Manager:

John B. Anderson, President  
[john@jbandersonplanning.com](mailto:john@jbandersonplanning.com)  
139 S. Livingston Avenue  
Ripon, California 95366  
Telephone: (209) 599-8377

For the purposes of organization, this Proposal is presented in the following sections:

***Section 1, Introduction:***

This Section provides the City of Livingston Staff with a description of how this Proposal is organized, as well as to provide experience of the Project Manager and the J.B. Anderson Land Use Planning Team.

***Section 2, Project Understanding:***

This Section provides the City of Livingston Staff with a description of our Firm's understanding and recommended approach to General Planning Services.

***Section 3, Scope of Work:***

This Section provides the City of Livingston Staff with a description of the Scope of Work associated with General Planning Services.

***Section 4, Statement of Qualifications:***

This Section provides the City of Livingston Staff with a Statement of Qualifications, including Project Team resumes, and our Firm's qualifications of General Planning Services.



## **SECTION 2      PROJECT UNDERSTANDING**

Our Firm understands the City is requesting General Planning Services and staffing at City Hall, providing Planning services to the City and working on specific Land Use Applications at the direction of the City Manager. This Proposal is focused on this request, and also provides our Firm's Statement of Qualifications for the City's consideration.

JBA staff will provide professional planning services for the City of Livingston for a maximum of sixty-four (64) hours per month to include eight (8) days of planning service at Livingston City Hall per month. These days will be determined by the City Manager but are understood to include two days per week. JBA staff will be accessible and will return all messages within 24 hours. JBA staff will report directly to the City Manager and attend City Staff meetings as requested. It is our understanding that attendance at Planning Commission and City Council Meetings will not be required. The primary contact person will be John B. Anderson and/or as assigned by JBA. It will be JBA staff's responsibility to be well versed in all of the current functions of City business as to not confuse the public and our future planning applicants.

## **SECTION 3      SCOPE OF WORK**

The Scope of Work presented below provides the tasks necessary to provide General Planning Services to the City of Livingston.

### **Task 1**

#### **PRIMARY PLANNING AND GENERAL SERVICES**

JBA staff will provide professional planning services for the City of Livingston for a maximum of sixty-four (64) hours per month to include eight (8) days of planning service at Livingston City Hall per month. These days will be determined by the City Manager but are understood to include two days per week. JBA staff will be accessible and will return all messages within 24 hours. JBA staff will report directly to the City Manager and attend City Staff meetings as requested. It is our understanding that attendance at Planning Commission and City Council Meetings will not be required. The primary contact person will be John B. Anderson and/or as assigned by JBA. It will be JBA staff's responsibility to be well versed in all of the current functions of City business as to not confuse the public and our future planning applicants.

JBA staff will submit a monthly Planning Department Report to the City Manager to be used as a management tool to direct the work effort of JBA staff and to allow JBA's work effort to be assigned to top priorities as determined by the City Manager.

The monthly retainer costs to the City of Livingston for this service will be \$5,824.00 billed per month which will be billed at the beginning of each month. J.B. Anderson Land Use Planning shall prepare a monthly statement of work to reconcile the work hours performed on City tasks. This monthly retainer cost is based on a reduced flat rate of \$91.00 per hour.

**It is important to note that the Rate Schedule included in Exhibit B DOES NOT apply to this task, Primary Planning and General Services. Exhibit B ONLY applies to Tasks 2, 3, and 4, as defined below. As noted above, the monthly retainer costs included as part of Task 1 is based on a reduced rate of \$91.00 per hour.**

Should it be determined that additional General Planning Service time is necessary, JBA staff and the City Manager can negotiate the hours needed and the charges will be based on the reduced flat rate of \$91.00 per hour.

Extra work outside of the normal 64 hours per month, such as the preparation of CEQA Compliance Documents will be defined in a Scope of Work and agreed to in advance of any work being performed or billed.

At the City Manager option, work defined under this task may be transferred to tasks described below in Tasks 3 and 4. The monthly Planning Report will assist the City in defining any work shifts needed.

## *Task 2*

### ***SECONDARY PLANNING AND GENERAL SERVICES***

---

In addition to providing professional planning services for the City of Livingston, this task shall include types of higher-level work that JBA Staff will perform at the discretion of the City Manager. Such tasks include, but are not limited to: peer reviews, project management, guidance on various State mandates, research and analysis of options, and preparation of environmental documents. JBA's current hourly Fee Rates for Public Clients is attached as Exhibit B. These rates shall serve as the basis for budget negotiations.

## *Task 3*

### ***SPECIAL PROJECTS FOR THE CITY OF LIVINGSTON***

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JBA Staff shall prepare a detailed proposal and budget for any and all special projects as directed by the City Manager. JBA staff will negotiate with the City the hourly rates used in the budget for these projects depending on the complexity of the work to be performed. JBA's current hourly Fee Rates for Public Clients is attached as Exhibit B. These rates shall serve as the basis for budget negotiations.

## *Task 4*

### ***APPLICANT DRIVEN SPECIAL PROJECTS OF LARGE SCALE***

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In the event an applicant proposes a large complex project, JBA will staff the project with professional planners to represent the City of Livingston. The hourly rate used in the budget for these large projects shall be the Fee Rate for Public Clients attached as Exhibit B. JBA staff will prepare a separate Scope of Work and Budget to be shared with and approved by the City Manager and Project Proponent.

## ***ASSUMPTIONS***

- 1) City will provide office space, supplies and materials for the planning purposes including internet service. We assume all planning forms and documents are available electronically in a manner that can easily be accessed.
- 2) City to provide personnel for assistance for the publishing of public notices, filing documents, record keeping, public agency notifications, neighbor notifications, PC minutes, PC Resolutions, PC meeting set-up and take down and other duties as assigned. Having technical assistance is a critical consideration in the rates given to the City of Livingston above.
- 3) City staff shall be responsible for attending all Planning Commission and City Council Meetings, unless otherwise directed by the City Manager.
- 4) JBA Staff will prepare all staff reports and technical documents, as necessary, to the City for the publishing of agendas and posting of such. City staff will be responsible for the mailing and posting of all materials on the City web-site as agreed.
- 5) City staff shall be responsible for all record keeping and file management. In this regard, all files for active projects shall be kept in the City offices for public record keeping.

## **SECTION 4 STATEMENT OF QUALIFICATIONS**

J.B. Anderson Land Use Planning is a full-service Land Use and Environmental Planning Firm Located in Ripon, California. Established in 1993, J.B. Anderson Land Use Planning has provided Land Use and Environmental Planning services in California through a host of Public Agencies and Municipalities. J.B. Anderson Land Use Planning Office is located at the following address: 139 S. Livingston Avenue, Ripon, California, 95366. All professional Land Use and Environmental Planning Services are provided from this office.

J.B. Anderson Land Use Planning has provided Land Use and Environmental Planning Services in various jurisdictions within the Central Valley and Sierra Nevada Foothills, including, Stanislaus, San Joaquin, Calaveras, Merced, Madera, Tuolumne, and Mariposa Counties. As a value-added component, our Firm offers clients a wide range of Land Use and Environmental Planning Services. We provide short and long-range Land Use Planning and Environmental services on Projects ranging from Public Works Improvements, Conditional Use Permits, to multi acre Master or Community Plans.

Our firm supports a highly educated and experienced staff with experience in Land Use Planning, Land Management, and environmental review and compliance in accordance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). Continuity and knowledge earmark our work for a positive humanitarian approach to growth and development in each jurisdiction we have the opportunity to provide our expertise in.

### **SERVICES AND AREAS OF EXPERTISE**

#### **PUBLIC POLICY OF CURRENT AND ADVANCED PLANNING**

- Housing Elements
- AB 170 – Air Quality Elements
- AB 32 Compliance
- SB 375 Compliance
- Zoning Ordinance Amendments
- Specific Plans
- Community Plans
- Municipal Services Reviews
- Conditional Use Permits
- Variance Applications

#### **CONTACT STAFF SERVICES**

- Project Management and Staffing for Current and Advanced Planning Projects
- Staff Reports
- Public Outreach Programs
- Planning Commission/City Council Presentations

#### **ENVIRONMENTAL PLANNING**

- CEQA/NEPA Compliance Documents
- Technical Peer Review Assistance
- Air Quality Modeling and Permitting
- Green House Gas Emissions Evaluation

## **KEY PERSONNEL**

### **John B. Anderson – President**



Mr. Anderson holds a Bachelor of Science degree in National Resource Planning and B.A. in Geography with an emphasis in Cartography from Humboldt State University – Arcata, California. Mr. Anderson has extensive knowledge and understanding of the California Environmental Quality Act (CEQA), California Zoning and Development Laws, Surface Mining and Reclamation Act (SMARA), California Subdivision Map Act, Williamson Act, and California Government Code as well as over 29-years of experience in public and private sector planning. Mr. Anderson’s experience is with preparation of Budgets, Investigation of planning regulations for Applications of planning regulations for current planning projects and on-going monitoring of legislative issues.

#### **Employment History:**

1993 to Present	J.B. Anderson Land Use Planning - President
1990-1993	Anderson Homes - Forward Planner
1988-1990	Stanislaus County - Associate Planner
1984-1988	Tuolumne County - Planner III

#### **Special Experience:**

1990-1997	City of Ceres - Planning Commissioner (Chair for 2-terms)
1993-1997	City of Waterford - Planning Director
1997-1999	City of Livingston - Planning Director
2012-2015	City of Riverbank – Planning Director

## **Mark Niskanen – Vice President**



Mr. Niskanen holds a Bachelor's Degree from San Diego State University in Public Administration, with an emphasis in City and Regional Planning. With sixteen (16) years of professional planning experience in the Central Valley and Sierra Nevada Foothills, Mr. Niskanen is experienced and well versed in Federal, State, and Local Policies and Regulations related to land use development and environmental issues.

As Vice President, Mr. Niskanen is responsible for Project Management, and has worked on a variety of public agency land use and environmental planning projects. Currently, Mr. Niskanen serves as the Planning Manager for the City of Waterford and Contract Planner for the City of Oakdale. In this role, Mr. Niskanen is responsible for managing and processing Current and Advanced Planning Applications and Projects, including Cannabis related Use Permits, Specific Plan Amendments, and Annexations. Mr. Niskanen has also successfully prepared General Plan Housing Elements for the County of Mariposa, and Cities of Livingston, Riverbank, and Oakdale, all of which were adopted and certified by the California Department of Housing and Community Development. Mr. Niskanen has also prepared a variety of CEQA and NEPA documents, including Environmental Impact Reports, Negative Declarations, and NEPA compliance documents associated with Community Development Block Grant Projects.

### **Employment History:**

2002 to Present	J.B. Anderson Land Use Planning – Vice President
2001-2002	URS Corporation - Environmental Planner

### **Special Experience:**

2015-Present	City of Waterford - City Planner
2015-Present	City of Oakdale - City Planner
2002-2004	American Planning Association – California Chapter, Central Section Sub-Committee

## **David Niskanen – Associate Planner**



Mr. David Niskanen holds a Bachelor’s Degree from San Francisco State University in Urban Studies and Planning. While at San Francisco State University, David worked on a variety of projects, including a Secondary Housing Survey and Report of the City of San Francisco for the San Francisco Planning Department. David completed his internship with the City of Livingston and J. B. Anderson Land Use Planning and joined JBAP as an Assistant Planner at the end of 2013. In 2018, David was promoted to an Associate Planner at JBAP and is excited to continue his career as a planning professional.

As an Associate Planner, Mr. Niskanen is responsible for project management for land use and environmental planning projects for public and private sector clients, including zoning documents, CEQA projects, and land use entitlement processing. His other skills include air quality modeling using the California Emissions Estimator Model (CalEEMod), project organization and management. He also has experience working as a staff planner for the Cities of Lathrop and Waterford.

### **Employment History:**

2013 to Present            J. B. Anderson Land Use Planning – Associate Planner

### **Special Experience:**

2015 to Present            City of Lathrop and City of Waterford - Municipal Contract Planning  
General Plan Housing Elements – 5<sup>th</sup> Cycle



## **Roman Acosta – Assistant Planner**



Mr. Roman Acosta holds a Master’s Degree in Public Administration (MPA) with an emphasis in public policy and political theory from Northern Arizona University. In addition to his MPA degree, he holds two (2) Bachelor’s degrees from Syracuse University in Political Science and Philosophy. Through various internships, including one with a federal congressional representative, Mr. Acosta is experienced in local public policy, and various governmental regulations. On top of his seven (7) years in advanced education he has completed various classes through the University of California – Davis Extension Land Use and Natural

Resources Department including: Developing and Writing CEQA Documents; Redesigning the Zoning Ordinance; Writing for Engineer’s, Planners, and Policy Makers; Subdivision Map Act; and Vested Rights, Vesting Maps, and Development Agreements.

As an Assistant Planner, Mr. Acosta is responsible for many day-to-day planning related tasks. He has worked with a variety of public agencies, and has assisted in the preparation of policy documents including Housing Element for the County of Mariposa, City of Waterford, and the City of Los Banos. He provides support documentation and research analysis for his J.B. Anderson and Public Agency colleagues.

### **Employment History:**

2016 to Present                      J. B. Anderson Land Use Planning – Assistant Planner

### **Special Experience:**

2021 to Present                      City of Oakdale – Staff Planner

2016 to February 2019              City of Riverbank - Staff Planner on-call

## **REPRESENTATIVE PROJECT EXPERIENCE**

Per the Request for Proposal, the following provides a list and brief summary of our Firm's representative project experience as it relates to preparing CEQA compliance documents.

### **City of Oakdale - Contract Planning Services (Stanislaus County)**

J.B. Anderson Land Use Planning has been retained by the City of Oakdale to provide contract Land Use and Environmental Planning services. JBAP Staff is acting as an extension of City of Oakdale Staff, and provides oversight and daily tasks related to current and advanced planning projects. This includes the processing Land Use Applications (i.e. Use Permits, Tentative Maps), preparation of CEQA compliance documents, and preparing policy documents such as the Housing Element Update.

Contact: Mr. Bryan Whitemyer  
City Manager  
City of Oakdale  
280 N. Third Avenue  
Oakdale, California 95361  
(209) 845-3571  
bwhitemyer@ci.oakdale.ca.us

### **City of Lathrop - Contract Planning Services (San Joaquin County)**

J.B. Anderson Land Use Planning has been retained by the City of Lathrop to provide contract Land Use and Environmental Planning services. JBAP Staff is acting as an extension of City of Lathrop Staff, and provides oversight and daily tasks related to current and advanced planning projects. This includes the processing Land Use Applications (i.e. Use Permits, Tentative Maps), and preparation of CEQA compliance documents.

Contact: Mr. Stephen Salvatore  
City Manager  
City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330  
(209) 941-7220  
citymanager@ci.lathrop.ca.us

**City of Waterford - Contract Planning Services (Stanislaus County)**

Since 2014, J.B. Anderson Land Use Planning has been retained by the City of Waterford to provide contract Land Use and Environmental Planning services. JBAP Staff is acting as an extension of City of Waterford Staff, and provides oversight and daily tasks related to current and advanced planning projects. This includes the processing Land Use Applications (i.e. Use Permits, Tentative Maps), preparation of CEQA compliance documents, and preparing policy documents such as the Housing Elements Update.

Contact: Mr. Mike Pitcock  
City Manager  
City of Waterford  
101 E Street  
Waterford, California 95386  
(209) 874-2328 ext. 103  
mpitcock@cityofwaterford.org

**City of Riverbank - Contract Planning Services (Stanislaus County)**

From 2016 to 2019, J.B. Anderson Land Use Planning was retained by the City of Riverbank to provide contract Land Use and Environmental Planning services. JBAP Staff acted as an extension of City of Riverbank Staff and provided oversight and daily tasks related to current and advanced planning projects. JBAP services continues to be utilized for key projects like the Riverbank Industrial Complex, Housing, Downtown Specific Plan, The Bridges Specific Plan, etc.

Contact: Ms. Donna Kenney  
Planning and Building Manager  
City of Riverbank  
6707 3<sup>rd</sup> Street  
Riverbank, California 95367  
(209) 863-7124  
dkenney@riverbank.org

**City of Ripon – CEQA (Stanislaus County)**

J.B. Anderson Land Use Planning was obtained by the City of Ripon for the preparation of CEQA compliance documents and Annexation Plan for a project known as the Pereira Estates Subdivision consisting of an Annexation, Pre-Zone, Tentative Subdivision Map, and Development Agreement to allow for the development of forty-five (45) single-family residential lots, ranging in size from 5,501 - 14,007 square feet. As a part of the Applicant’s request, the property would be pre-zoned to R-1, R1-C, and R1-L which is consistent with the City of Ripon General Plan land use designation of High Low Density Residential (HLDR). JBAP prepared the Initial Study/Negative Declaration, the Mitigation Monitoring and Reporting Program, and will attend Public Hearings with the City’s Planning Commission and City Council. JBAP also prepared the Plan for Services for Pereira Estates which will be submitted with the City’s Annexation Application to the San Joaquin Local Agency Formation Commission (SJ LAFCO). Also, JBAP staff will attend the SJ LAFCO Public Hearing for the Project.

Contact: Mr. Ken Zuidervaart  
Director of Planning & Economic Development  
City of Ripon  
259 N. Wilma Avenue  
Ripon, California 95366  
(209) 599-0222  
kzuidervaart@cityofripon.org

**City of Los Banos - CEQA (Merced County)**

On behalf of the City of Los Banos, J.B. Anderson Land Use Planning has been retained to prepare an Initial Study/Negative Declaration in accordance with CEQA Statutes and Guidelines to evaluate a proposed General Plan Amendment, Area Plan, Pre-zone, Annexation, and Vesting Tentative Map for a project known as Presidential Estates, located in the City of Los Banos. The Initial Study included a Traffic Study, Noise Study, and the Indirect Source Review documents in compliance with the San Joaquin Valley Air Pollution Control District. The Initial Study is currently in the Public Review stage.

Contact: Ms. Stacy Souza Elms  
Community & Economic Development Director  
City of Los Banos  
520 J Street  
Los Banos, California 93635  
(209) 827-2433  
Stacy.souza@losbanos.org



**FEE RATE SCHEDULE for Public Clients**  
**February 2021**

<b>STAFF MEMBER</b>	<b>TITLE</b>	<b>HOURLY RATE</b>
John B. Anderson	President	\$185.00/Hour
Mark Niskanen	Vice President/Senior Planner	\$165.00/Hour
	Senior Planner	\$140.00/Hour
David Niskanen	Associate Planner	\$100.00/Hour
Roman Acosta	Assistant Planner	\$77.00/Hour
Lori Postma	Administrative Assistant	\$60.00/Hour

Note Terms of Payment: Client shall pay Consultant in full for all charges and expenses set forth in each invoice within thirty (30) days of the date of the invoice. If the Client fails to pay all amounts owed within this thirty (30) day period, the Client shall pay a late charge on the unpaid balance at the rate of twenty percent (20%) per annum. Rates are subject to change upon a thirty (30) day notice.

# STAFF REPORT

**AGENDA ITEM:** Public Hearing – Resolution to Approve the Villages at Main Apartment Community; Site Plan and Design Review 2019-04; and associated Environmental Documents for the construction of a 480 unit multi-family housing development southeast of the intersection of Peach Ave and Main St, adjacent to and south of the Livingston High School playing fields; APN#: 047-280-020 and -029.

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Randy Hatch, Contract City Planner

**REVIEWED BY:** Vanessa Portillo, Interim City Manager

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## **RECOMMENDATION:**

Adopt Resolution 2021-\_\_, certifying the Final EIR for the Villages at Main Project; approving Mitigation Monitoring / Reporting Program; and adopting a Statement of Overriding Considerations. Adopt Resolution 2021-\_\_, approving Site Plan / Design Review 2019-04 for the Villages at Main Project southeast of the intersection of Peach Ave and Main St, adjacent to and south of the Livingston High School playing fields; APN#: 047-280-020 and -029.

## **BACKGROUND AND DISCUSSION:**

**Project Summary:** The owners / applicant are proposing to develop the 17.3 acre property into a 480 unit residential apartment complex. This complex would consist of 20 three-story buildings, each with 24 units (8 units per floor) ranging from one to three bedrooms. The complex would also include a two-story community building with approximately 6,343 square feet of floor area. The main floor of the community building would have manager and leasing offices and a grand room with a kitchen for events along with a parcel center for delivered packages, janitor and utility rooms, and bathrooms. Rooms on the upper floor of the community building would include a lounge, a game room, an exercise room, a yoga studio, bathrooms and a storage room. The second level would also have two terraces. Behind the community room would be a patio, outdoor pool, and a spa. A total of 587 parking spaces, 453 which are covered, would be available for residents and visitors. Access to the Project would be provided from a 45-foot wide divided entrance from Main Street with a security gate (approximately 195 feet in from Main Street). Two 25-foot wide emergency access driveways (gated with a knox box) are provided both north and south of the main entrance. The complex will be built in phases as governed by market demand and project absorption. The Planning Commission is the recommending body for the Site Plan and Design Review with the City Council being the approving body. Therefore, this proposal must go before both bodies.

**Access and Utility Improvements:** Main Street north of the Project entrance will be widened from 60 feet of improvements to 85 feet with the dedication of 25 feet of the property for road improvements, an 8 foot wide bicycle lane, 5 foot wide sidewalk and 10 feet of landscaping (the remaining 2 feet of right-of-way will be added to the existing travel lane).. South of the main entrance, Main Street will be widened from the existing 85 foot right-of-way to 110 feet via a 25-foot dedication from the Project. The new street section will consist of four travel lanes (two in each direction), a 16-foot wide median / turn lane, 8-

foot wide bicycle lanes on both sides and sidewalk and landscaping also on both sides. All utilities will be provided from Main Street to the Project. Two landscape areas will be provided for the Project generally behind (east) of the community building in the center of the Project. The landscape area will also function as storm water retention areas.

**Building and Unit Configuration:** In addition to the community building, three types of buildings will be constructed on the property. All residential buildings will be three stories tall. There will be 7 Building Type A scattered on the site. Building type A contain all 84 one-bedroom units and also 84 two-bedroom units. The one-bedroom unit is 718 square feet in size with a 148 square foot patio / balcony. Building type B contains only two-bedroom units (120) in its 5 buildings also scattered on the site. Each two bedroom unit contains 977 square feet with a 124 square foot patio / balcony. Building type C contains 96 two-bedroom units and all of the Project's 96 three-bedroom units. There are a total of 8 Building type C on the property. Each three-bedroom unit is 1307 square feet in size with a 137 square foot patio / balcony. In total there are 84 one-bedroom units, 300 two-bedroom units, and 96 three-bedroom units. All units, in addition to their varying bedrooms contain a kitchen (all with a kitchen island), dining area, living room, laundry area, and each patio / balcony has a utility closet and a storage closet. The one-bedroom units have a single bathroom. The two- and three-bedroom units have two bathrooms.

**Elevations, Materials, and Colors:** All three building types and the community building have similar architecture and use the same color palette. The buildings have varying planes and projections to break up the building mass and provide visual variation. The buildings are finished in stucco with the upper floors being white "pure white" and the first floor in a contrasting "repose gray" or "jade dragon" color. Projecting columns that help support the hip roof are in a green color "jade dragon" with trim in an earth tone color "manor house". The contrasting "manor house" color is also used on the first floor of the elevations to break-up the "pure white" color. Windows are trimmed in the "manor house" color or the "pure white" color to contrast with the field color of the building's wall. The community building also uses these colors to provide contrast on the window trim and on the building's field colors. The Community building has a fireplace chimney in a "repose gray" color.

**Internal circulation and parking:** The proposed parking plan for The Villages shows a total of 587 parking spaces. A total of 453 (77%) of the spaces are covered. The minimum dimension of a regular parking space is 8.5 feet wide by 18 feet deep. Thirty-six of the parking spaces provided are handicapped accessible. These handicapped spaces are located throughout the Project. Access throughout the Project is provided by internal roadways that are lined with the 90 degree parking. These internal roadways are 25 feet wide allowing for two-way traffic and loop around the project site.

**Landscaping:** A preliminary Landscape plan has been submitted for this Project. In keeping with the City's drought tolerant landscape guidelines, turf areas are minimized. The preliminary landscape plan shows that turf area will 21.6% of all landscaped areas. A number of tree and shrub varieties are proposed throughout the Project site. The proposed trees and shrubs are low water use and adapted to our area.

## **ENVIRONMENTAL REVIEW:**

The construction of the apartment complex is a "project" subject to review under the California Environmental Quality Act (CEQA). Under the supervision of City staff, the applicant retained the services of an environmental consultant (BaseCamp Environmental) to prepare an environmental review document that meets CEQA requirements as they are administered by the City. BaseCamp prepared a Draft Environmental Impact Report (DEIR) which analyzed the Project in accordance with CEQA standards and significance criteria and determined whether the Project would result in "significant environmental effects" as defined. When significant effects could result from a Project, the EIR must identify and describe feasible mitigation measures that would avoid the significant effects or reduce them to a level that would be less than significant. All of the Project's significant environmental effects, and the

mitigation measures recommended to address them, are described in the DEIR for the Project.

The BaseCamp EIR was submitted to the City for administrative review and edited as directed by City staff. The resulting Draft EIR (DEIR), which represents the independent analysis and judgment of the City, was then circulated to various City departments and outside agencies and made available for public review and comment for 45 days, beginning March 10, 2021 and ending April 23, 2021.

The City received three written comments on the DEIR. In response to this input, the City prepared the Final EIR, which incorporates the DEIR by reference, displays a summary of the DEIR, and all the comments received on the DEIR, and provides the City's responses to those comments. None of the comments received required any revisions to the DEIR. The comments and information provided in the comments did not substantively change the analysis or conclusions of the DEIR.

Accordingly, staff has prepared a Resolution which certifies the Final EIR for the Project, incorporates all the proposed Mitigation Measures into the Project except one, and adopts the CEQA Findings made on the potentially significant environmental effects of the Project and mitigation of these effects. In accordance with CEQA, the City has prepared a Mitigation Monitoring / Reporting Plan which summarizes the potentially significant environmental effects of the project and the associated mitigation measures. The Mitigation Monitoring / Reporting Plan identifies who is responsible for implementing, and for monitoring implementation of, each of the mitigation measures. The Resolution provides for adoption of the Mitigation Monitoring / Reporting Plan along with Final EIR certification.

The DEIR found that most of the potential environmental effects of the Project did not occur or would have effects that were less than significant. The DEIR also identified several potentially significant environmental effects and mitigation measures were identified that would reduce those effects to a level that would be less than significant. CEQA requires that the City make specific findings for each of the potentially significant effects identified in the EIR. A CEQA Findings document for the Project addresses its potentially significant effects and the mitigation measures for these effects. The CEQA Findings document is recommended for adoption.

The proposed mitigation for one of the Project's significant effects is not considered feasible by the applicant. As such, the Project would involve one potentially significant and unavoidable environmental effect: the loss of the existing Swainson's hawk foraging habitat on the Project site. The Swainson's hawk is listed as threatened under the California Endangered Species Act. A Swainson's hawk nest that was identified across Main Street from the site was occupied this year. The EIR identified a mitigation measure that would require payment of per-acre habitat compensation fees for habitat loss at a ratio of 1:1 through purchase of mitigation credits at established Swainson's hawk mitigation banks in the general project area. This mitigation measure would reduce the effect of the Project to a less than significant level. The Project applicant maintains that the required mitigation is too costly and contrary to the purposes of the Project, and, therefore, would be infeasible to implement. Documentation to this effect has been submitted to the City for consideration in conjunction with the proposed Statement of Overriding Considerations.

City Council approval of the Site Plan / Design Review, and the associated environmental Resolutions of approval would require the adoption of a Statement of Overriding Considerations for the one significant and unavoidable effect of the Project on Swainson's hawk foraging habitat. In accordance with the CEQA Guidelines, the attached Statement of Overriding Considerations provides reasons supporting Project approval, along with required findings regarding Project alternatives, in spite of the Project's effect on Swainson's hawk foraging habitat. Among other things described in the Statement of Overriding Considerations, consistency with Livingston General Plan and Housing Element policies on City development and the need for greater availability of more affordable rental housing for City residents outweigh the one significant environmental effect of the Project.



**REQUIRED CITY APPROVALS:**

The City Code requires a project that has more than 25 units or a density of more than 24 units per gross acre to obtain a Conditional Use Permit. Since the project proposes more than 25 units at a proposed density of 27.7 units per acre, it must obtain a Conditional Use Permit, which must receive approval from the Livingston Planning Commission.

The project development would also require Site Plan/Design Review approval by the City Council after consideration of the Planning Commission’s recommendation. Should the project be approved by the City, building and grading permits from the City would be required, along with an encroachment permit for work in City streets. The landscaping design would be required to conform to the City’s Landscape Standards and recommended drought tolerant plants.

**ANALYSIS:**

The property is vacant and used for field crops and is properly General Planned and Zoned for such a use. The Project description noted above documents that the Project will provide badly needed rental housing fulfilling various Policies in the City’s General Plan and Housing Element with regard to providing more housing options. Of the 480 apartment units to be constructed, 96 will be three-bedroom units meeting the Housing Element’s objective of providing larger rental units. A number of improvements will be provided for greater and safer access for motor vehicles, bicycles, and pedestrians. The Project will install landscaping both within the Project and along Main Street which enhances the area’s attractiveness. The Project more than meets the City’s standards in terms of parking (587 spaces provided vs 528 required). Further, the Project meets zoning standards with respect to setbacks, height and lot coverage. The City has a Design Guide applicable to all new development. Staff has compared the Project’s building design and colors with the Design Guide and finds that the proposal complies with the Design Guide. The overall design of the Project and its provision of common features and amenities are greater than the typical multi-family complex in Livingston. Staff is of the opinion that this Project will be an asset to the City and address State housing goals and policies making it beneficial to the community. Exterior lighting, however, is not addressed leading staff to recommend a condition of approval to require lighting to be shielded and focused on the building and parking areas.

The Project will increase traffic in the area but there will be mitigation conditions that will help address this traffic and contribute to needed street improvements in the area on a proportionate basis. The new 480 unit apartment Project will impact the both Fire and Police services. Accordingly, a Condition of Approve is for the Project is to annex into the City’s 2018 Consolidated Community Facility District that levies annual fees that are used to address Fire and Police needs as well as traffic, park, and other City needs. For fiscal year 2018 – 19 the annual fee for new attached residential development within the District was \$651.00 per unit. The City continues to work to address needs associated with the provision of fire protection services.

**PLANNING COMMISSION ACTIONS AND RECOMMENDATION:**

The Planning Commission held a Public Hearing on this request for a Conditional Use Permit, Site Plan and Design Review, and associated environmental documents on June 29, 2021. The Owner /Applicant’s team appeared at the Hearing and presented their request and answered questions from the Commission. There was discussion from both the public and the Planning Commissioners on the impact on fire protection and traffic. Staff noted that this Project would provide mitigation for traffic impacts. Further, this Project would be annexed into the consolidated Community Facilities District and pay on-going fees

to support and improve fire protection services. Both staff and the Commissioners noted that it was a balancing act to evaluate the benefits of the Project with the impacts of the Project. After discussion the Commission voted unanimously to recommend approval to the City Council of the Environmental Documents, to approve the Conditional Use Permit, and to recommend the City Council approve the Site Plan / Design Review for the Project.

**FISCAL IMPACT:**

The Project would increase property taxes and assessments to the City and help fund City services via the CFD annual fees. Just as importantly, the Project would address the City's housing needs and demonstrate progress under the policies of the Livingston Housing Element.

**RECOMMENDATION:**

Staff is of the opinion that the proposed Project would be, on balance, an asset to the area and beneficial in the City. Developing this vacant land helps to provide needed housing for the community and promotes additional development in the City. The property taxes and annual assessments would provide traffic improvements and help to support improved fire protection services for the City.

**ATTACHMENTS:**

1. Resolution 2021-\_\_, Certifying the Environmental Impact Report
  - Exhibit "A", Final Impact Report
  - Exhibit "B", CEQA Findings and Mitigation Monitoring / Reporting Program
  - Exhibit "C", Statement of Overriding Considerations with attached 6-23-21 letter from GDR
2. Resolution 2021-\_\_, Approval of the Site Plan / Design Review 2019-04 (with Exhibit "A" Conditions of Approval)
3. Project Location and Zoning Map
4. Proposed Parking Plan
5. Conceptual Site Plan & Utility Plan
6. Apartment Floor Plans and Elevations
7. Community Center Floor Plans and Elevations
7. Preliminary Landscape Plans

**RESOLUTION 2021-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON CERTIFYING THE ENVIRONMENTAL IMPACT REPORT, ADOPTING CEQA FINDINGS AND A MITIGATION MONITORING/REPORTING PROGRAM, AND APPROVING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE VILLAGES AT MAIN RESIDENTIAL APARTMENT COMMUNITY, SITE PLAN & DESIGN REVIEW 2019-04**

**WHEREAS**, pursuant to Livingston Municipal Code (“LMC”) Sections 5-6-7 and 5-6-9, Sake Sanghera, Harvinder & Salinder Bhangu / Sukhinder & Kulvinder Sanghera, applicant and owners, have applied for a Site Plan and Design Review approval to develop an apartment complex for 480 apartment units within 20 apartment buildings, a two-story community building, and associated improvements known as The Villages at Main Residential Apartment Community (hereafter, “the Project”) on APNs 047-280-020 and APN 047-280-029 in the City of Livingston, immediately east of Main Street, south of its intersection with Peach Avenue; and

**WHEREAS**, this proposed development is deemed a “Project” within the meaning of the California Environmental Quality Act (CEQA); and

**WHEREAS**, the City of Livingston has caused to be prepared an Environmental Impact Report (EIR) addressing the potential environmental effects of the project in accordance with the requirements of CEQA; and

**WHEREAS**, a Notice of Availability of the Draft EIR was published on March 10, 2021, in the Merced Sun-Star and distributed to agencies and interested parties; and

**WHEREAS**, the Draft EIR was circulated for public and agency review and comment in accordance with the requirements of CEQA from March 10, 2021, through April 23, 2021; and

**WHEREAS**, in response to comments received on the EIR, a Final EIR has been prepared incorporating the Draft EIR by reference and containing the agency and public comments and the City’s responses to those comments, which is attached hereto as Exhibit “A” and hereby incorporated by reference; and

**WHEREAS**, the City has prepared CEQA Findings and a Mitigation Monitoring/Reporting Program for the project, attached hereto as Exhibit “B” and hereby incorporated by reference.

**WHEREAS**, the City Council has weighed the social and economic benefits of the proposed project and information submitted by the applicant (see attached) as to the infeasibility of implementing a recommended mitigation measure for Swainson’s hawk foraging habitat impacts of the project, and has documented this consideration in the proposed Statement of Overriding Considerations for the project, attached hereto as Exhibit “C” and hereby incorporated by reference; and

**WHEREAS**, the City Council has reviewed and independently considered the analysis and conclusions of the EIR and all associated materials; and

**WHEREAS**, the City Council has reviewed and considered any and all comments on the EIR made at the public hearing; and

**WHEREAS**, the City distributed a copy of its proposed responses to comments to agencies submitting comments on June 23, 2021; and

**WHEREAS**, the City Council has held a public hearing on the proposed project on September 21, 2021, which has been properly noticed by posting, a newspaper ad, and a mailing to adjacent properties within 300 feet of the site; and

**NOW, THEREFORE, BE IT RESOLVED** that the Livingston City Council hereby certifies the Final EIR for the project as contained within Exhibit "A" attached hereto; and

**BE IT FURTHER RESOLVED** that the Livingston City Council hereby adopts CEQA Findings and a Mitigation Monitoring/Reporting Program for the project as contained in Exhibit "B" attached hereto; and

**BE IT FURTHER RESOLVED** that the Livingston City Council hereby adopts the Statement of Overriding Considerations pertaining to the one significant and unavoidable environmental effect of the project, as contained in Exhibit "C" attached hereto.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Juan Aguilar Jr., 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 21st day of September, 2021.

---

Leticia Vasquez-Zurita, City Clerk  
of the City of Livingston

EXHIBIT A

FINAL  
ENVIRONMENTAL IMPACT REPORT

FOR

THE VILLAGES AT MAIN  
RESIDENTIAL APARTMENT COMMUNITY  
Livingston, CA

State Clearinghouse Number: 2021010256

June 14, 2021

*Prepared for:*

City of Livingston  
1416 C Street  
Livingston, CA 95334



FINAL  
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FOR

THE VILLAGES AT MAIN  
RESIDENTIAL APARTMENT COMMUNITY  
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Livingston, CA 95334

*Prepared by:*

BaseCamp Environmental, Inc.  
802 West Lodi Avenue  
Lodi, CA 95240  
(209) 224-8213

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# 1.0 INTRODUCTION

## 1.1 PROJECT AND EIR OVERVIEW

---

This Final Environmental Impact Report (Final EIR) describes the potential environmental impacts that would result from City of Livingston (City) approval and subsequent development of the proposed The Villages at Main Residential Apartment Community (project). The project proposes the construction of a 480-unit residential apartment complex on a 17.3-acre site located southeast of the intersection of Peach Avenue and Lincoln Boulevard, adjacent to and south of the Livingston High School playing fields, in the City of Livingston.

The proposed apartment community would consist of 20 three-story buildings, each with 24 units ranging from one to three bedrooms. The complex would also include a two-story community building with approximately 6,343 square feet of floor area, along with a patio, outdoor pool, and spa. The project would provide a total of 587 parking spaces, 453 of which would be covered, accessed from a driveway off Main Street; two other access points off Main Street would be constructed for emergency vehicles only. The project would connect to existing City water and wastewater lines adjacent to or near the site but would install an onsite storm drainage system with two storm drainage basins near the center of the site.

The project would require a Conditional Use Permit approval from the Livingston Planning Commission, and Site Plan/Design Review approval from the City Council. Permits and approvals from other public agencies, including the Merced Irrigation District (MID), would also be required for other project features, including relocation of the MID canal.

The purpose of the EIR, which consists of both the Public Review Draft EIR and this Final EIR, is to analyze and describe the potential environmental impacts of approval and implementation of the project, to identify and recommend mitigation measures that would avoid or substantially reduce the project's environmental effects, to analyze alternatives to the proposed project and to meet other applicable requirements of the California Environmental Quality Act (CEQA). The EIR is an informational document that by itself does not determine whether the project will be approved, but instead functions as an information tool that supplements the City's planning and decision-making process. The authority for EIR preparation, the relationship of the project and this document to applicable legal requirements under CEQA, and the processing status of the project are addressed in Section 1.2 below and in Chapter 1.0 of the Draft EIR. The Draft EIR is incorporated into this Final EIR by reference, as discussed below.

## 1.2 CEQA PROCESSING AND FINAL EIR

---

This EIR has been prepared in accordance with the requirements of CEQA and the State CEQA Guidelines. The City of Livingston is the “lead agency” for the proposed project. The City determined that an EIR would be required for the project and released a Notice of Preparation (NOP) on January 20, 2021 for agency and public review. The State Clearinghouse subsequently transmitted the NOP to State agencies on January 22, 2020. The City’s NOP comment period closed on February 20, 2021, while the State’s NOP review extended to February 22, 2021. A copy of the NOP and attachment are included in Appendix A of the Draft EIR.

The City prepared a Draft EIR (the Public Review Draft EIR, dated March 10, 2021) that identified the potential environmental effects of the project. The Draft EIR was distributed locally and through the State Clearinghouse (SCH #2021010256) for agency and public comment between March 10, 2021 through April 23, 2021. The Draft EIR distribution list, legal notices and other information related to the public review period for the Draft EIR are shown in Appendix A of this document. Public and agency comments received by the City during the public review period, together with the City’s responses to these comments, are shown in Chapter 3.0 of this document. Comments received after the close of the review period are addressed in the same way.

This Final EIR has been prepared pursuant to the requirements of CEQA and the CEQA Guidelines. CEQA Guidelines Section 15132 specifies the content of a Final EIR as:

- The Draft EIR or a revision of the draft,
- Comments and recommendations received on the Draft EIR, either verbatim or in summary,
- A list of persons, organizations, and the public agencies commenting on the Draft EIR,
- The responses of the Lead Agency to significant environmental points raised in the review and consultation process, and
- Any other information added by the Lead Agency. This includes additional technical information or clarification to the Draft EIR submitted by City staff.

This Section 1.0 describes the purpose and format of the Final EIR. Section 2.0 summarizes the Public Review Draft EIR, as modified in response to comments on the Draft EIR. Section 3.0 lists the comments received by the City concerning the Public Review Draft EIR, shows the text of each comment, and provides the City’s response to each of the substantive environmental concerns identified in the comments. Section 4.0 Errata describes any required corrections and changes to the Public Review Draft EIR, including changes dictated by the public and agency comments and revisions originating with City staff. Appendix A includes copies of transmittal documents, the Notice of Availability of the Public Review Draft EIR for review, the distribution list for the EIR public notice, the Notice of Completion, documentation of the State Clearinghouse review

and other material related to the public and agency review of the EIR.

The Public Review Draft EIR, cited below, is hereby incorporated by reference. Copies of the Draft EIR are available for review at the City of Livingston, 1416 C Street Livingston, CA 95334.

Public Review Draft Environmental Impact Report for The Villages at Main Residential Apartment Community, Livingston, CA. March 10, 2021. Prepared for the City of Livingston, 1416 C Street, Livingston, CA 95334. Prepared by BaseCamp Environmental, Inc., 802 West Lodi Avenue, Lodi, CA 95240. State Clearinghouse Number 2021010256.

### 1.3 EIR CERTIFICATION AND FINDINGS

Sections 15090 through 15093 of the CEQA Guidelines outline procedures for decision-making by the Lead Agency (the City of Livingston) when an EIR has been prepared. Before taking action on the project, the City must first certify that the EIR is adequate under and consistent with the requirements of CEQA. Then, in conjunction with its decision on the project, the City must make specific findings with respect to each of the significant environmental effects identified in the EIR.

Guidelines for the certification of an EIR (CEQA Guidelines Section 15090) require that the Lead Agency certify that 1) the Final EIR has been completed in compliance with CEQA, 2) that the Final EIR was presented to the decision-making body of the Lead Agency, and that the decision-making body reviewed and considered the information contained in the Final EIR prior to a decision on the project, and 3) that the Final EIR reflects the Lead Agency's independent judgment and analysis. The City's findings with respect to the EIR are contained in a separate document to be adopted following certification of the Final EIR.

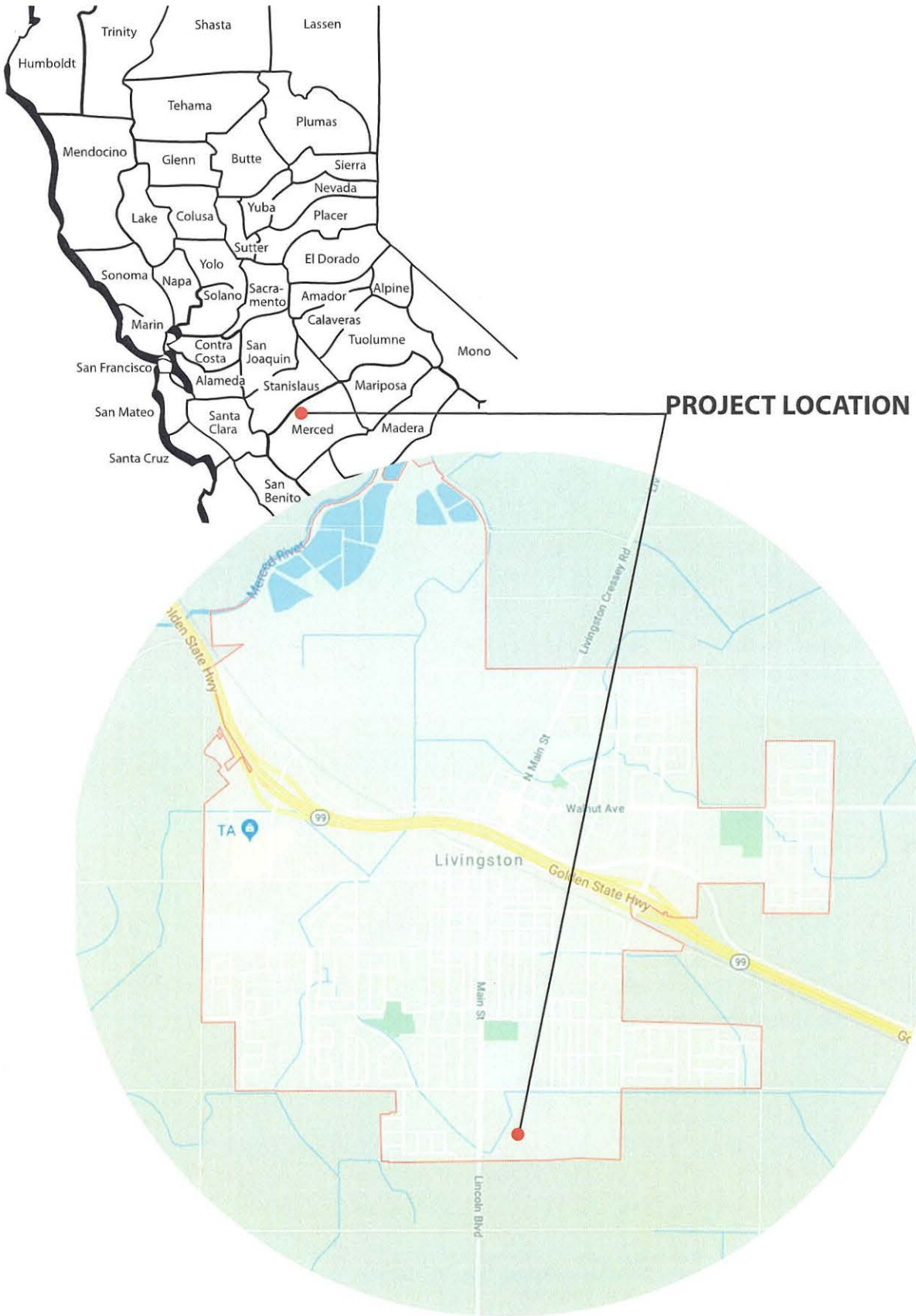
The EIR is intended by CEQA to be an informational document (CEQA Guidelines Section 15121). Decision-making on the project in relation to its environmental impacts is reserved to the Lead Agency and any Responsible Agencies. Consequently, information in the EIR does not limit the Lead Agency's ultimate discretion on the project, but as noted the Lead Agency must address each significant effect identified in the EIR in written findings before they approve the project, or portions of the project (CEQA Guidelines Section 15091). The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR (i.e., the impact has been "mitigated").
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency (i.e., mitigation is the responsibility of an agency other than the City of Livingston).

3. Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR (i.e., the impact is acceptable because the project's benefits outweigh it).

In the event that the City wishes to approve a project without providing substantial mitigation for all its significant impacts of the project (i.e., if the second or third finding options are utilized), then CEQA Guidelines Section 15093 allows the decision-makers to balance the project's benefits against its unavoidable environmental risks. This decision must be documented in a Statement of Overriding Considerations and adopted by the project decision-makers. The CEQA findings for the project, described in a separate document as noted above, include a Statement of Overriding Consideration.

As a part of the project consideration and approval process described above, the City must also adopt a mitigation monitoring and/or reporting program (CEQA Guidelines Section 15097). The mitigation monitoring/reporting program identifies the parties responsible for implementing and monitoring mitigation activity in order to ensure that the mitigation measures identified in the EIR are implemented. The measures and related project revisions described in the EIR are fully enforceable through permit conditions, agreements, or other measures. The mitigation monitoring/reporting program for this project is contained in a separate document that accompanies this Final EIR.





agi Brothers Produce



Lincoln Blvd

Magnolia Ave

Magnolia Ave

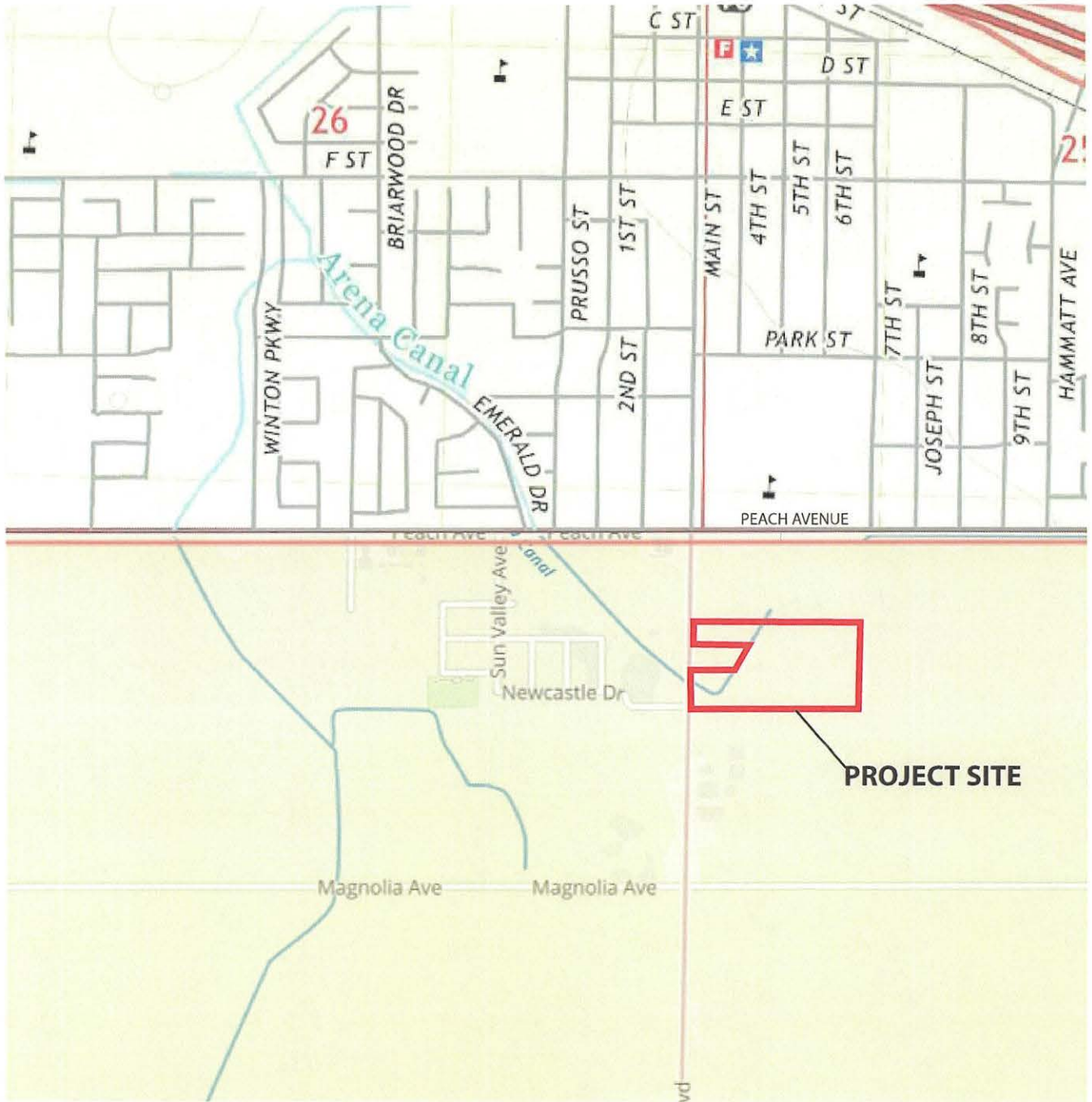
TradeFresh



SOURCE: Google Maps



Figure 2  
LOCAL STREET MAP



**SOURCE:** Cressey CA USGS Quadrangle Map, T6S, R11S, S25 and Arena CA USGS Quadrangle Map, T6S, R11E, S36.

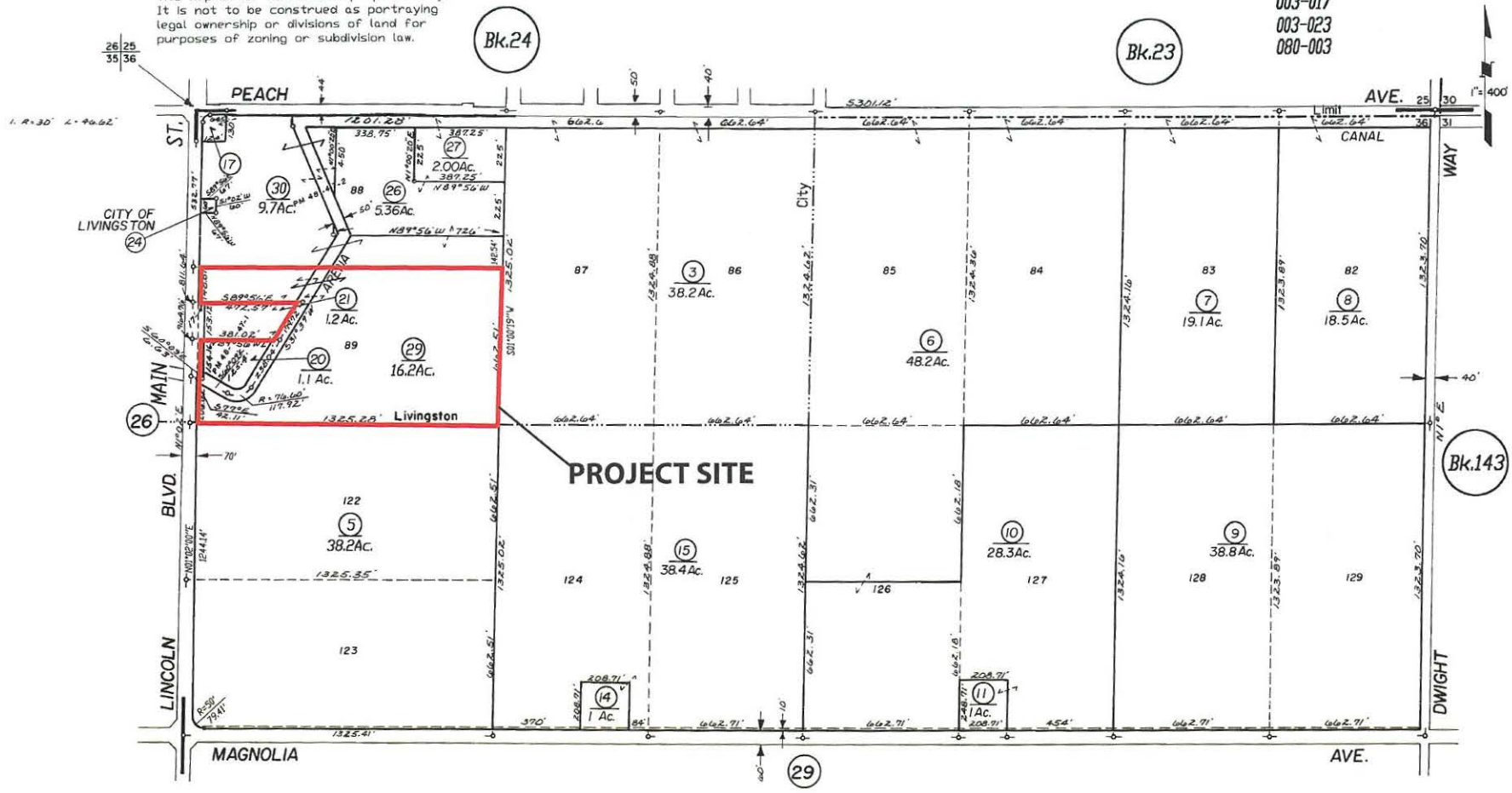
-NOTE-

This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

N. 1/2 SEC.36, T.6S.,R.11E., M.D.B.&M.

Tax Rate Area 003-001 47-28

003-017  
003-023  
080-003



REDRAWN 11/83  
REVISED 4-30-14

Livingston Land & Col. Co. Sub. No. 1, R.M. Vol. 3, Pg. 55

Assessor's Map Bk. 47 - Pg. 28  
County of Merced, Calif.  
1983

NOTE — Assessor's Block Numbers Shown in Ellipses  
Assessor's Parcel Numbers Shown in Circles



Figure 4  
ASSESSOR PARCEL MAP





**SOURCE:** Google Maps



**Landscape Area Calculations**

Total Area	100,000 sq ft
Building Footprint	20,000 sq ft
Drainage Basin	15,000 sq ft
Open Space	65,000 sq ft
Planting Area	30,000 sq ft

**Project Location**

**Preliminary Planting Palette**

- Tree**
  - Small Tree: 10-15' tall, 4" dbh
  - Medium Tree: 15-25' tall, 6" dbh
  - Large Tree: 25-40' tall, 10" dbh
- Shrub**
  - Small Shrub: 4-6' tall
  - Medium Shrub: 6-10' tall
  - Large Shrub: 10-15' tall
- Groundcover**
  - Low Groundcover: 2-4" tall
  - Medium Groundcover: 4-6" tall
  - High Groundcover: 6-10" tall

**Wetland Water Use Calculations**

Area	Volume	Notes
Wetland Area	10,000 sq ft	Existing wetland area
Water Storage	50,000 gal	Required for wetland mitigation
Total Volume	60,000 gal	Total water storage required

**Landscape Concept**

The landscape concept for the Villages at Main is designed to create a sustainable and aesthetically pleasing environment. The design emphasizes natural materials, native plants, and a mix of tree sizes to provide shade and reduce energy consumption. The site is divided into distinct zones, each with a unique character and function. The overall goal is to create a community that is both functional and beautiful.

**Wetland Water Use Calculations**

Wetland Area	10,000 sq ft	Volume	50,000 gal
Water Storage	50,000 gal	Volume	50,000 gal
Total Volume	60,000 gal	Volume	60,000 gal

Figure 6  
SITE PLAN WITH LANDSCAPING



BUILDING A - FRONT EXTERIOR ELEVATION (FRONT ELEVATION 004-01)

SCALE: 1/8" = 1'-0"



BUILDING A - RIGHT SIDE EXTERIOR ELEVATION (RIGHT SIDE ELEVATION 004-02)

SCALE: 1/8" = 1'-0"

FINISH LEGEND

		
PAINT COLOR 1 SHERWIN WILLIAMS PURE WHITE SW 7002	PAINT COLOR 2 SHERWIN WILLIAMS JADE CASCADE SW 7024	PAINT COLOR 3 SHERWIN WILLIAMS WHITE LIGHT SW 7011
		
TILE COLOR SHERWIN WILLIAMS SANTALINI PALE SW 7016	METAL CLUMBERAL PROCESSION LUMBER DARK BRONZE	ROOFING CORONA HOLLYHOCK PROFILES CORONA CORONA

PROPOSED  
DEVELOPMENT:  
**The Villages  
at Main**  
Lincoln Blvd.  
Livingston, CA.



ARCHITECTURE PLUS INC.  
4335-B NORTH STAR WAY  
MORRISVILLE, CA 94556

PH: 209.577.4661  
FX: 209.577.0213

WWW.APIARCH.COM

SHEET:

**A12**  
OF 13



COMMUNITY BUILDING - FRONT EXTERIOR ELEVATION



COMMUNITY BUILDING - LEFT SIDE EXTERIOR ELEVATION



COMMUNITY BUILDING - RIGHT SIDE EXTERIOR ELEVATION



COMMUNITY BUILDING - REAR EXTERIOR ELEVATION

FINISH LEGEND

PRIMARY COLOR SUDAN-IV 100% PIGMENT 100% RESIN	SECONDARY COLOR SUDAN-IV 100% PIGMENT 100% RESIN	TERTIARY COLOR SUDAN-IV 100% PIGMENT 100% RESIN
ROOF COLOR SUDAN-IV 100% PIGMENT 100% RESIN	METAL COLOR SUDAN-IV 100% PIGMENT 100% RESIN	FLOORING SUDAN-IV 100% PIGMENT 100% RESIN

PROPOSED DEVELOPMENT:  
**The Villages at Main**  
Lincoln Blvd.  
Livingston, CA.

PLANNING ARCHITECTURE  
**api**

ARCHITECTURE PLUS INC.  
4335 B NORTH STAR WAY  
MIDDLETOWN, CA 95366  
PH: 209.577.4661  
FX: 209.577.5213

SHEET:  
**A13**  
OF 13

## 2.0 REVISED SUMMARY OF EIR

This chapter of the Final EIR is a reproduction of Chapter 2.0 of the Draft EIR. This chapter contains a summary of the project description, the potential environmental effects and mitigation measures associated with the project and the alternatives considered in the Draft EIR. This revised summary contains minor edits and clarifications made in conjunction with the City's consideration of and response to the comments received from agencies and the public on the Draft EIR. Substantive revisions, if any, are detailed in Chapter 4.0 of this Final EIR. None of those revisions involve changes to the significant environmental effects, mitigation measures or alternatives as they were described in the Summary of the Draft EIR (Chapter 2.0) which is reproduced in Table 2-1 later of this chapter.

### 2.1 PROJECT DESCRIPTION

---

The project site is located immediately east of Main Street, south of its intersection with Peach Avenue, in southern Livingston. The proposed project includes the construction of 480 apartment units with associated facilities and landscaping on a 17.3-acre undeveloped site in the City of Livingston. The project proposes to construct 20 three-story apartment buildings, each having 24 units per building and eight units per floor. The units would range from one to three bedrooms.

Near the center of the project site, a two-story community building would be constructed. The main floor is proposed to have manager and leasing offices and a grand room with a kitchen for apartment events, along with a parcel room for delivered packages, janitor and utility rooms, and a terrace behind the building. Rooms proposed for the upper floor include a lounge, a game room, an exercise room, and a yoga studio, along with two terraces.

The project would provide 587 parking stalls for residents and visitors, of which 453 would be covered and the remainder would be uncovered. Access to the apartment complex would be provided by a new driveway from Main Street approximately 0.2 miles south of the Peach Avenue/Main Street intersection. Two other access points off Main Street frontage would be available for emergency vehicle use only. South of the main entrance, the project frontage on Main Street would be widened from 55 feet to 110 feet with sidewalk and bicycle lane improvements. From the main entrance north, the Main Street would be widened from 30 feet to 85 feet with sidewalk and bicycle lane improvements.

The project would connect to existing City water and sewer lines in the project vicinity. The project proposes the installation of an onsite storm drainage system which would include a collection system of 18-inch diameter mains and two storm drainage retention basins at the approximate site center. The project proposes to demolish and remove

approximately 830 feet of Arena Canal on the project site and replace it with an 84-inch diameter underground concrete pipeline.

The proposed residential development is consistent with, and a permitted use under, the current General Plan designation and zoning of High Density Residential. However, the City requires a project that has more than 25 units or a density of more than 24 units per gross acre to obtain a Conditional Use Permit, so the project would be required to obtain a Conditional Use Permit with approval of the Livingston Planning Commission. The project development would require Site Plan/Design Review approval by the Livingston City Council, with Planning Commission recommendation. Demolition and piping of Arena Canal would require approval from the Merced Irrigation District (MID).

## 2.2 ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

---

The potentially significant impacts of the project, and the mitigation measures proposed to minimize these effects, are shown in Table 2-1 at the end of this chapter. Table 2-1 provides an indication of the significance of impacts, both before and after application of available mitigation measures. With proposed mitigation measures, all the potentially significant impacts of the project would be reduced to a level that is less than significant. The project applicant has indicated that mitigation for impacts on Swainson's hawk foraging and nesting habitat are not feasible. Further information on this matter is provided in the CEQA Findings, Statement of Overriding Considerations.

## 2.3 AREAS OF CONTROVERSY

---

During the public comment period for the Public Review Draft EIR, three comment letters were received, as described in more detail in Chapter 3.0. Environmental issues brought up in the comment letters included the following:

- Impacts on existing irrigation district well and easements.
- Storm drainage runoff to existing canals.
- Infrastructure issues such as water supply.
- GHG and air pollutant emissions related to project.
- Project traffic impacts on Main Street and other City roads, along with impacts of added traffic on public safety.
- Impacts on agricultural lands.

Chapter 3.0 provides responses to these comments. In summary, the comments reflected a number of public issues and concerns related to the environment, but none of the comments raised issues of substantial concern that required revisions to the Public Review Draft EIR.

## 2.4 SUMMARY OF ALTERNATIVES

---

Chapter 18.0, Alternatives, identifies and discusses a range of reasonable alternatives to the project. The alternatives are:

No Project/No Development - defined as no development as proposed by the project, and no future development of the project site. There would be no impacts on existing environmental conditions at the project site. However, this alternative would not meet the project objectives. The site would remain within the city limits and designated and zoned for multi-family residential development. Undeveloped land may over time have adverse aesthetic and fire hazard impacts.

Reduced Development - assumes the construction of nine apartment buildings with a total of 216 units, rather than the 480 units under the proposed project. Many of the environmental impacts of the proposed project would be reduced: traffic, air quality, noise, and soil disturbance. On other issues, this alternative would have similar impacts to the proposed project, particularly on Swainson's hawk habitat and agricultural land conversion.

Alternative Site Design - increasing setbacks of residential buildings close to Main Street, thereby reducing exposure to traffic noise. Since the number of residential units would remain the same as under the proposed project (480), this alternative may lead to a greater building footprint or taller structures. Relocation of buildings may reduce onsite open space and require redesign of features such as the onsite drainage system.

As the No Project/No Development Alternative would eliminate or avoid most potential environmental effects associated with the proposed project, it would be considered the environmentally superior alternative. The next environmentally superior alternative would be the Reduced Development Alternative.

## 2.5 SUMMARY OF OTHER CEQA ISSUES

---

Chapter 19.0, Other CEQA Issues, discusses significant environmental impacts of the project that cannot be avoided or mitigated to a level that would be less than significant. One significant environmental impact of the project - impacts on Swainson's hawk foraging and nesting habitat - could be reduced with recommended mitigation. The project applicant considers mitigation measures to be infeasible.

The project would involve irreversible environmental commitments, including energy consumption for project construction and operations. The project would involve the irreversible commitment of construction materials to the construction of buildings, parking spaces, and supporting infrastructure. Construction materials would not be used in highly significant or unusual quantities when compared to similar projects and would be obtained from existing commercial sources. Commitment of the project site to urban uses would involve an essentially irreversible loss of open space and the biological and agricultural resource values associated with it. As discussed in the EIR, agricultural

resource impacts would be less than significant, while impacts on Swainson's hawk habitat are significant and unavoidable.

The potential growth-inducing impacts of the project were evaluated. Development associated with the project is provided for in the adopted Livingston General Plan. The project, therefore, is unlikely to induce population growth or housing development that is not planned for by the Livingston General Plan. Infrastructure already exists at the project site; no utility lines would be extended that could induce growth elsewhere in the area. Because of this, the project would not have a growth-inducing impact.

Although not incorporated as part of CEQA, the State of California has recently emphasized the incorporation of environmental justice in land use and environmental planning. The project site is within Census Tract 6047000304, which is defined as a disadvantaged community; thus, impacts in this tract are a potential environmental justice issue. However, this EIR evaluated potential environmental impacts of the project, and no significant impacts that could adversely affect members of the disadvantaged community were identified that could not be mitigated to a level that would be less than significant. The project would have no significant adverse impact on environmental justice communities in the City and vicinity.



TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
<b>4.0 AESTHETICS AND VISUAL RESOURCES</b>			
Impact AES-1: Scenic Vistas. Project structures would not substantially obstruct views of mountain ranges to the west and east from other residences in the area.	LS	None required.	-
Impact AES-2: Scenic Resources. There are no significant scenic resources on the project site No other scenic resources or scenic highways are in the area.	NI	None required.	-
Impact AES-3: Visual Character and Quality. The project site currently is a vacant parcel mostly covered with grasses and weeds. The project, with its design and landscaping, may be considered an improvement to onsite aesthetics. Project would be subject to Site Plan and Design Review by the City.	LS	None required.	-
Impact AES-4: Light and Glare. The project would add lighting to a site that currently has no lights. The project would implement a Lighting Plan that would be consistent with California's 2016 Building Energy Efficiency Standards and would be subject to Site Plan and Design Review.	LS	None required.	-
<b>5.0 AIR QUALITY</b>			
Impact AIR-1: Air Quality Plans and Standards – Construction Emissions. Neither project construction nor project operational emissions would exceed SJVAPCD significance thresholds, except for NOx operational emissions. All emissions would be reduced below significance thresholds through the required implementation of SJVAPCD Regulation VIII and Rule 9510.	LS	None required.	-
Impact AIR-2: Exposure of Sensitive Receptors to Pollutants. Sensitive receptors include residences in the vicinity and Livingston High School. Pollutant	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
emissions generated by the project are unlikely to reach nearby sensitive receptors at levels that would have an adverse impact.			
Impact AIR-3: Odors and Other Emissions. Project operations would not generate odors or TAC emissions.	NI	None required.	-
<b>6.0 BIOLOGICAL RESOURCES</b>			
Impact BIO-1: Special-Status Species and Habitats. Project development would involve the potential for impacts on nesting and foraging habitat for Swainson's hawk.	PS	<p>BIO-1: If project construction commences between March 1 and September 15, a pre-construction survey for nesting Swainson's hawks shall be conducted within 0.25 miles of the project site. If active nests are found, a qualified biologist shall determine the need (if any) for temporal restrictions on construction. Any restrictions shall be implemented by the developer as specified by the biologist. The determination for restrictions shall utilize criteria set forth by the California Department of Fish and Wildlife in its "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (<i>Buteo Swainsoni</i>) in the Central Valley of California" (1994).</p> <p>BIO-2: The project applicant shall compensate for the loss of Swainson's hawk foraging habitat that will result from the project prior to project completion. In accordance with the "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (<i>Buteo Swainsoni</i>) in the Central Valley of California" (1994), compensation shall occur at a ratio of 1:1. Compensation may be provided by contributions to nearby habitat mitigation banks, such as the Great Valley and Deadman Creek banks in Merced County.</p>	SU
Impact BIO-2: Riparian and Other Sensitive Habitats. No riparian areas or sensitive vegetation communities such as vernal pools were identified on the project site.	NI	None required.	-
Impact BIO-3: Waters of the U.S. and Wetlands. No wetlands or Waters of the U.S. were identified on the	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
project site. The Arena Canal is exempt from Section 404 permit requirements.			
Impact BIO-4: Fish and Wildlife Migration. Small trees and grassland on the project site could provide nesting habitat for smaller migratory birds. Large trees in the vicinity could provide nesting habitat for raptors and larger birds.	PS	BIO-3: If project construction or vegetation removal commences during the general nesting season (March 1 through July 31), a pre-construction survey on the project site for all species of nesting birds shall be conducted. If active nests are found, work in the vicinity of the nests shall be delayed until the young have fledged.	LS
Impact BIO-5: Local Biological Requirements. The project would be required to comply with Livingston Municipal Code Section 5-4-8 if any onsite trees meet the definition of a mature tree. The City has no other ordinances applicable to biological resources.	LS	None required.	-
Impact BIO-6: Habitat Conservation Plans. No Habitat Conservation Plans or similar plans are applicable to the project site.	NI	None required.	-
<b>7.0 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES</b>			
Impact CULT-1: Historical Resources. There are no existing structures on or near the site that might be considered historic.	LS	None required.	-
Impact CULT-2: Archaeological Resources. No record of archaeological resources on project site. However, it is possible that unknown resources may be uncovered during project construction.	PS	CULT-1: If any subsurface cultural resources are encountered during construction of the project, all construction activities within 50 feet of the encounter shall be halted until a qualified archaeologist can examine these materials, determine their significance, and if significant recommend further mitigation measures that would reduce potential effects to a level that is less than significant. Recommended mitigation measures could include, but are not limited to, 1) preservation in place, or 2) excavation, recovery, and curation by qualified professionals. The City of Livingston Community Development Department shall be notified, and the project developer shall be responsible for	LS

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
<p>Impact CULT-3: Human Burials. It is not expected that any human burials, particularly those of Native Americans, would be uncovered by construction on the project site. However, it is conceivable that excavation associated with the project could uncover a previously unknown burial.</p>	PS	<p>retaining qualified professionals, implementing recommended mitigation measures, and documenting mitigation efforts in a written report to the City's Community Development Department, consistent with the requirements of the CEQA Guidelines.</p> <p>CULT-2: If project construction encounters evidence of human burial or scattered human remains, the contractor shall immediately notify the County Coroner and the City, which shall in turn notify the appropriate tribal representatives. The City shall notify other federal and State agencies as required. The City will be responsible for compliance with the requirements of California Health and Safety Code Section 7050.5 and with any direction provided by the County Coroner.</p> <p>If the human remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission, which will notify and appoint a Most Likely Descendant. The Most Likely Descendant shall work with the City and a qualified archaeologist to decide the proper treatment of the human remains and any associated funerary objects in accordance with California Public Resources Code Sections 5097.98 and 5097.991. Avoidance is the preferred means of disposition of the burial resources.</p>	LS
<p>Impact CULT-4: Tribal Cultural Resources. Livingston has not been identified as an area of interest by any tribe for consultation. Project construction could potentially uncover previously unknown archaeological resources or burials, including those of Native American origin.</p>	PS	<p>Mitigation Measures CULT-1 and CULT-2.</p>	LS
<p><b>8.0 GEOLOGY AND SOILS</b></p>			
<p>Impact GEO-1: Faulting and Seismicity. There are no active or potentially active faults within or near the project site. The project site would be exposed to</p>	LS	<p>None required.</p>	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
seismic shaking, but compliance with the adopted California Building Code would minimize seismic hazards.			
Impact GEO-2: Other Geologic Hazards. The project site is not prone to landslide hazards or liquefaction. The project is not expected to change existing conditions related to geologic stability; required engineering design would avoid potential adverse effects.	LS	None required.	-
Impact GEO-3: Soil Erosion. The project site is potentially susceptible to water and wind erosion. Project would be required to obtain a Construction General Permit, which has requirements that would reduce soil erosion impacts.	PS	GEO-1: Prior to commencement of construction activity, the developer shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the project and file a Notice of Intent with the State Water Resources Control Board (SWRCB) in compliance with the Construction General Permit and City of Livingston storm water requirements. The SWPPP shall be available on the construction site at all times. The developer shall incorporate an Erosion Control Plan consistent with all applicable provisions of the SWPPP within the site improvement and building plans. The developer also shall submit the SWRCB Waste Discharger's Identification Number to the City prior to approval of development or grading plans.	LS
Impact GEO-4: Expansive Soils. Project site soils have low shrink-swell potential.	NI	None required.	-
Impact GEO-5: Paleontological Resources and Unique Geological Features. The project site does not contain unique geological features any known paleontological resources; however, project construction could unearth paleontological materials of unknown significance.	PS	GEO-2: If any subsurface paleontological resources are encountered during construction of the project, all construction activities within 50 feet of the encounter shall be halted until a qualified paleontologist can examine these materials, determine their significance, and if significant recommend further mitigation measures that would reduce potential effects to a level that is less than significant. Recommended measures could include, but are not limited to, 1) preservation in place, or 2) excavation, recovery, and curation by qualified professionals. The City of Livingston	LS

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
		Community Development Department shall be notified, and the project developer shall be responsible for retaining qualified professionals, implementing recommended mitigation measures, and documenting mitigation efforts in a written report to the City's Community Development Department, consistent with the requirements of the CEQA Guidelines.	
Impact GEO-6: Access to Mineral Resources. There are no identified mineral resource areas on or near the project site.	NI	None required.	-
<b>9.0 GREENHOUSE GAS EMISSIONS</b>			
Impact GHG-1: Project GHG Emissions and Consistency with Applicable Plans and Policies. Unmitigated construction GHG emissions would be reduced by compliance with applicable State and SJVAPCD rules and regulations. Operational GHG emissions would be reduced by project features by an amount that complies with State and SJVAPCD plans.	LS	None required.	-
<b>10.0 HAZARDS AND HAZARDOUS MATERIALS</b>			
Impact HAZ-1: Hazardous Material Transportation, Use, and Storage. Hazardous materials that are likely to be used and stored on the project site would include cleaning products and landscaping chemicals such as pesticides, herbicides, and fertilizers. These would be used or stored in relatively small quantities, which would not present a health hazard to residents either onsite or in the vicinity.	LS	None required.	-
Impact HAZ-2: Hazardous Material Releases. Project construction would create only a limited potential for hazardous material releases. The required SWPPP and other typical contractor practices shall minimize construction impacts. Compliance with applicable local,	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
state, and federal regulations would minimize operational impacts. Livingston High School is located within one-quarter mile of the project site, but the project would not generate hazardous emissions.			
Impact HAZ-3: Hazardous Material Sites. No hazardous material sites were identified on or adjacent to the project site. However, given past and present agricultural use, residual agricultural chemicals could exist at levels that are a risk to health.	PS	HAZ-1: Prior to final site plan approval, the project applicant shall conduct a Phase I Environmental Site Assessment to determine the potential presence of soil contamination on the project site, particularly of residual agricultural chemicals. If this assessment determines that such a potential exists, then a Phase II Environmental Site Assessment shall be conducted to determine the location and extent of soil contamination. The Phase II Environmental Site Assessment shall present its analysis and conclusions and, if necessary, make recommendations for remediation of any contamination determined to present a potential risk to human health. All recommendations shall be implemented prior to the start of building construction.	LS
Impact HAZ-4: Airport Hazards. There are no public or public-use airports in the Livingston area.	NI	None required.	-
Impact HAZ-5: Interference with Emergency Vehicle Access and Evacuations. Project construction could require restrictions on use of Main Street. Project operations would not obstruct emergency access or evacuations.	PS	HAZ-2: Prior to the start of project construction, the developer shall prepare and implement a Traffic Control Plan, which shall include such items as traffic control requirements, resident notification of access closure, and daily access restoration. The contractor shall specify dates and times of road closures or restrictions, if any, and shall ensure that adequate access will be provided for emergency vehicles. The Traffic Control Plan shall be reviewed and approved by the City Department of Public Works and shall be coordinated with the Livingston Police Department and the Merced County Fire Department if construction will require road closures or lane restrictions.	LS
Impact HAZ-6: Wildfire Hazards. Project is in an urbanizing area that has been farmed and has not been designated a fire hazard area by Cal Fire. The project	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
would reduce any existing fire hazard by replacing the existing grasses and weeds with a paved and developed area.			
<b>11.0 HYDROLOGY AND WATER QUALITY</b>			
Impact HYDRO-1: Surface Water Resources and Quality. Construction activities could loosen soils that could eventually enter nearby surface waters. Project operations could generate contaminants that enter surface waters. Compliance with Construction General Permit and City's SWMP would minimize impacts.	PS	<p>In addition to Mitigation Measure GEO-1, the following measures shall be implemented:</p> <p>HYDRO-1: The developer shall submit a Storm Water Quality Plan for the project that shall include post-construction Best Management Practices (BMPs) as required by the City's Storm Water Management Program. The Storm Water Quality Plan shall be reviewed and approved by the City of Livingston Public Works Department prior to approval of project improvement plans.</p> <p>HYDRO-2: If required, the developer shall execute a Maintenance Agreement with the City for stormwater BMPs prior to receiving a Certificate of Occupancy. The developer shall remain the responsible party and provide funding for the operation, maintenance and replacement costs of the proposed treatment devices built for the project.</p> <p>HYDRO-3: The developer shall comply with applicable requirements of, and pay all associated fees as required by, the City's Storm Water Pollution Prevention Program as set forth in its NPDES Storm Water Permit.</p>	LS
Impact HYDRO-2: Groundwater Resources and Quality. Project would be served by the City's water system, which relies in part on groundwater. Project can be accommodated from City's existing supplies without requiring additional groundwater. The project would reduce recharge area but would not significantly affect recharge of local subbasin. Groundwater quality would not be affected by proposed retention basins.	LS	None required.	-



TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
Impact HYDRO-3: Drainage Patterns and Runoff. Project would alter existing drainage patterns and runoff volumes, but project features would reduce impacts.	LS	None required.	-
Impact HYDRO-4: Flood Hazards. The project site is not within a FEMA-designated 100-year floodplain or a 200-year flood zone. The project site is unlikely to be subject to flooding from dam or levee failure, and it would not be flooded by seiches or tsunamis.	LS	None required.	-
Impact HYDRO-5: Consistency with Water Quality and Groundwater Management Plans. The project would comply with the City's SWMP and the Groundwater Sustainability Plan for the Merced Subbasin.	NI	None required.	-
<b>12.0 LAND USE, AGRICULTURE, AND POPULATION</b>			
Impact LUP-1: Division of Communities. The project would not divide existing residential communities in the area.	NI	None required.	-
Impact LUP-2: Conflict with Applicable Plans, Policies, and Regulations. The project would be consistent with the City General Plan and zoning. Project would comply with City ordinances and Livingston Municipal Code.	LS	None required.	-
Impact LUP-3: Conversion of Farmland. The project site is classified as Prime Farmland and Farmland of Statewide Importance. The Livingston General Plan EIR discusses conversion impacts. The project is consistent with the General Plan designation for the site, which is High Density Residential. Revisions to the project, or conditions imposed on the project, are unlikely to avoid or reduce the conversion of Farmland on the project site. Pursuant to CEQA Guidelines Section 15152(d), this environmental impact does not	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
require additional consideration under CEQA.			
Impact LUP-4: Agricultural Zoning and Williamson Act. The project site is not zoned for agriculture and is not under a Williamson Act contract or within a Farmland Security Zone.	NI	None required.	-
Impact LUP-5: Indirect Conversion of Agricultural Lands. Adjacent agricultural lands to the east and south has been designated for future development by the Livingston General Plan. All project construction would occur on site and would not encroach upon adjacent farmland or affect access to farmland.	LS	None required.	-
Impact LUP-6: Inducement of Unplanned Population Growth. The proposed development is anticipated by, and would be consistent with, the Livingston General Plan. Employment opportunities would be limited in number and can be expected to be met from the existing population in the Livingston area.	LS	None required.	-
Impact LUP-7: Displacement of Housing and People. The project site is currently vacant and has no structures, residential or otherwise.	NI	None required.	-

**13.0 NOISE**

Impact NOISE-1: Exposure to Noise Levels in Excess of Standards – Project Operations. Interior noise levels of apartment building close to Main Street may exceed standards. Construction of the proposed project would involve temporary increases in ambient noise levels.	PS	NOISE-1: The building plans for any buildings located near the western boundary of the project site shall be reviewed by a qualified acoustical professional to ensure that interior building noise levels comply with the City’s interior noise level standard of 45 dB L <sub>dn</sub> . If it is determined that a building does not comply with this standard, then the acoustical professional shall recommend measures that would bring the building into compliance, which the project applicant shall incorporate into the site design. Measures may include, but are not limited to, the provision of air conditioning or other suitable mechanical ventilation so that residents may close	LS
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TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
		windows and doors to reduce noise levels.	
Impact NOISE-2: Exposure to Noise Levels in Excess of Standards – Project Construction. Construction of the proposed project would involve temporary increases in ambient noise levels.	PS	NOISE-2: Project construction shall be restricted to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday. No construction shall occur on Sundays or national holidays without prior approval from the City Planning Director.  NOISE-3: All equipment used on the construction site during all project phases shall be fitted with mufflers in accordance with manufacturers' specifications. Mufflers shall be installed on the equipment at all times on the construction site.	LS
Impact NOISE-3: Groundborne Vibrations. The project would not involve, or be in proximity to, any potential groundborne vibration sources. Project construction would not generate vibrations that would disturb adjacent residence.	LS	None required.	-
Impact NOISE-4: Airport and Airstrip Noise. There are no public airports or private airstrips in the Livingston area.	NI	None required.	-
<b>14.0 PUBLIC SERVICES AND RECREATION</b>			
Impact PSR-1: Fire Protection Service. New or expanded facilities may be required in the future, but project would not trigger this requirement. Public Facility Fees would be paid.	LS	None required.	-
Impact PSR-2: Police Protection Services. New or expanded facilities may be required in the future, but project would not trigger this requirement. Public Facility Fees would be paid.	LS	None required.	-
Impact PSR-3: Schools. The project would likely generate new student load. The project would be responsible for the payment of school impact fees, the payment is considered by State law to be adequate	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
mitigation.			
Impact PSR-4: Parks and Recreational Facilities. The project would generate a demand for park and recreational services, but it is not expected to require new or expanded recreational facilities or services, and park in-lieu fees would be paid.	LS	None required.	-
Impact PSR-5: Other Public Facilities. The project would not generate demand for library, hospital, and courthouse services such that new or expanded facilities would be required.	LS	None required.	-
<b>15.0 TRANSPORTATION</b>			
Impact TRANS-1: Conflict with Traffic Plans, Ordinances and Policies. Under Existing Plus Project conditions, three intersections affected by the project would not operate at LOS above minimally acceptable City of Livingston standards. Improvements at all three intersections would lead to LOS operations at minimally acceptable levels or greater.	NA	<p>RSI-1: The project applicant will pay a fair share of the cost of installing traffic signals at the intersections of Hammatt Avenue and State Route 99 Northbound Ramps, and Hammatt Avenue and SR 99 Southbound Ramps. Fair-share costs shall be determined by the City Engineer.</p> <p>RSI-2: The project applicant will pay a fair share of the cost of splitting the single-lane southbound approach at the intersection of Hammatt Avenue and F Street into a combined through/left-turn lane and an exclusive southbound-to-westbound right-turn lane. Fair-share costs shall be determined by the City Engineer.</p>	NA
Impact TRANS-2: Conflicts with Non-Motor Vehicle Transportation Plans. It is expected that existing public transit can accommodate the additional passengers the project would generate, which would be consistent with the goals of the RTP. Project would provide sidewalks and allow for bicycle lanes.	LS	None required.	-
Impact TRANS-3: Consistency with CEQA Guidelines Section 15064.3(b). Project VMT per capita would be approximately 11.50, which is below the threshold of	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
15% below VMT per capita for the MCAG region,			
Impact TRANS-4: Safety Hazards. The Main Street frontage would be widened and improved, including a median turn lane and bicycle and pedestrian facilities.	LS	None required.	-
Impact TRANS-5: Emergency Access. Adequate emergency access would be provided to the project site.	LS	None required.	-
<b>16.0 UTILITIES AND ENERGY</b>			
Impact UTIL-1: Relocation or Construction of New Facilities. The project would connect to existing water, sewer, and electricity facilities in existing streets in the immediate project vicinity. Onsite storm drainage facilities would be constructed; the project would not connect to the City's storm drainage system.	LS	None required.	-
Impact UTIL-2: Water Systems and Supply. City has adequate water supplies for project. Existing water lines are in vicinity.	LS	None required.	-
Impact UTIL-3: Wastewater Treatment Capacity. The Domestic Wastewater Treatment Plant has available capacity to accommodate project demands.	LS	None required.	-
Impact UTIL-4: Solid Waste. The project would not generate a substantial demand for solid waste services, either from construction or operations. Existing landfills in the County would have adequate capacity to accommodate project solid waste. The project would comply with applicable federal, state, and local statutes and regulations related to solid waste.	LS	None required.	-
Impact UTIL-5: Energy and Telecommunications Facilities. Existing electrical, natural gas, and telephone and cable television lines either are available near the project site or can be extended with no significant	LS	None required.	-

TABLE 2-1  
SUMMARY OF IMPACTS AND MITIGATION MEASURES

Potential Impact	Significance Before Mitigation	Mitigation Measures	Significance After Mitigation
impacts.			
Impact UTIL-6: Project Energy Consumption. Neither project construction nor operations would consume energy in a manner that is wasteful, inefficient, or unnecessary.	LS	None required.	-
Impact UTIL-7: Consistency with Energy Plans. While the City does not have adopted plans for renewable energy or energy efficiency, it has adopted the 2016 versions of both the California Energy Code and CALGreen, and the project would be required to comply with these codes.	LS	None required.	-
<b>17.0 CUMULATIVE IMPACTS</b>			
Transportation - Under Cumulative Plus Project conditions, five intersections affected by the project would not operate at LOS above minimally acceptable City of Livingston standards. Improvements at all five intersections would lead to LOS operations at minimally acceptable levels or greater.	NA	In addition to Measures RSI-1 and RSI-2, the following measure shall be implemented:  RSI-3: The project applicant will pay a fair share of the cost of installing traffic signals at the intersections of Hammatt Avenue and F Street, Hammatt Avenue and Peach Avenue, and Main Street and Peach Avenue. Fair-share costs shall be determined by the City Engineer.	NA

## 3.0 COMMENTS ON DRAFT EIR AND LEAD AGENCY RESPONSES TO COMMENTS

This chapter displays the written comments received by the City during the public review period for the Villages at Main Draft EIR. The Lead Agency's written responses to each of these comments are provided following each comment letter.

A total of three written communications, all letters, from public agencies, organizations and individuals were received during the review period. A list of entities submitting written comments is shown below. Although the EIR was circulated through the State Clearinghouse, no comments were received from state agencies. The City's responses to substantive comments were provided to the commenting agency at least 10 days before the planned certification of this document.

### Comments Received on the Public Review Draft SEIR

1. Merced Irrigation District, Letter of April 22, 2021
2. Jean Okuye, Letter of April 23, 2021
3. Collette Alvernaz, Letter of April 23, 2021

CEQA Guidelines Section 15088 states that the Lead Agency's responses shall describe the disposition of significant environmental issues raised in comments on the Draft EIR. In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail, giving reasons why specific comments and suggestions were not accepted. There must be good-faith, reasoned analysis in response to comments; conclusory statements unsupported by factual information are not sufficient.

The written comments received on the Draft EIR are shown on the following pages. Each comment document is followed by the Lead Agency's response(s) to the individual comments made in each document, in sequence. Each comment document is assigned a number code, shown above, and each substantive comment within the numbered letter is assigned an alphabetical code. Thus, each comment has a unique code made up of the letter number and the comment code. For example, comment "2A" is the first comment made by Jean Okuye.



April 22, 2021

City of Livingston  
Attn: Randy Hatch  
1416 C Street  
Livingston, CA 95334

Subject: NOA of Draft EIR, The Villages at Main Apartment Community

Dear Mr. Hatch:

The Merced Irrigation District (MID) has reviewed the Draft EIR, for The Villages at Main Apartment Community. The entire site is located within MID boundaries and impacts the following MID facilities:

1. MID operates and maintains the Arena Canal within a 50-foot wide irrigation easement along the westerly portion of the subject property as recorded in Volume 84 of Deeds, Page 40, Merced County Records.
2. MID operates and maintains the Well Site 20A within a 50'x 50' feet wide easement along the southerly line of the subject parcel, along with a 5' feet wide easement for a pipeline and a 10' feet wide access route through the subject property recorded in Volume 81 of Official Records, at Page 88, Merced County Records.
3. MID has an easement for a well site along with access easements near the westerly line of the subject parcel as described in Volume 29 of Official Records, at Page 444, Merced County Records.
4. The subject property is located within the Merced Irrigation District Drainage Improvement District No. 1 (MIDDID No. 1) and subject to storm drainage fees if drainage is directed off site and ultimately to any MID facility.

MID respectfully proposes that the following conditions be considered as mitigation for the proposed project:

COMMENT NO. 1  
MID

1A

1B



1. Placing the Arena Canal in an underground pipeline meeting MID standards and a possible new alignment to better accommodate the proposed development both within and outside of the subject parcel as determined by MID. MID would then ask for appropriate width deeded exclusive easements in exchange for the quitclaiming portions of the existing easement now in place.
2. The Well Site 20A pipeline will need to be replaced and rerouted to a new alignment to better accommodate the proposed development. MID would then ask for appropriate width deeded exclusive easements in exchange for quitclaiming portions of the existing easement now in place. Fencing around the well site will be required by MID. Size and type will be determined by MID at a later date. Other improvements to Well Site 20A may be needed depending on the proposed project improvements and will be determined by MID at a later date.
3. Ensure that any water users that receive their irrigation water through the subject property retain their ability to do so.
4. No structures or trees would be allowed within the MID pipeline easements.

1C

1D

General Comments

1. An MID signature block on any Improvement Plans for the proposed project that affect MID facilities will be required.
2. An Encroachment Agreement with MID will be required for any roadways, walkways, bike paths, utilities and pipelines crossing MID facilities.
3. A Construction Agreement for the work associated with the improvements to MID facilities will be necessary.
4. If storm water runoff from the site is to be discharged into an MID facility, the Owner would be required to enter into a Storm Drainage Agreement with the MID, paying all applicable fees
5. Be advised that the MID does not accept landscape tail water or runoff into its canal system.
6. Issues of health and safety around its facilities shall be coordinated with MID.

1E

COMMENT NO. 1  
MID

7. MID reserves the right for further comment as unforeseen circumstances may arise.

1E

Thank you for the opportunity to comment on the above referenced project. If you have any questions, please contact me at 354-2882.

Sincerely,

*Mike Morris*

Mike Morris PLS  
Associate Engineer

COMMENT NO. 1  
MID

## Responses to Comment #1, Merced Irrigation District

Response 1A: This comment provides the City with additional clarification regarding the existence of MID facilities and easements affecting the project site. The existence of these facilities was documented more generally in the EIR. This comment supplements the information included in the EIR. No response is required.

Response 1B: As described in the EIR, the project would provide storm drainage for the developed site with a new collection system and on-site retention pond. Since storm drainage would not be discharged from the site, the project would not involve storm drainage impacts on the MID system or require the payment of storm drainage fees. In the event that the proposed storm drainage system is modified to involve discharge to off-site facilities, a Storm Drainage Agreement with MID may be required and fees may be due to the MIDDID.

This and other similar concerns related to MID facilities and services would be addressed in project conditions of approval and the City Engineer's review of improvement plans. The City Engineer will refer project improvement plans to MID as a part of its plan review responsibility.

Response 1C: Relocation of the Arena Canal is addressed in the EIR as a part of the proposed project. All aspects of the relocation would be subject to MID review and approval as a part of the City's review of proposed improvement and building plans.

This comment identifies additional minor modifications of the MID system – Well Site 20A - and related improvements that will need to occur in conjunction with the project. As discussed above, the City will provide for MID review and approval of site improvement plans.

Response 1D: Coordination of proposed improvement plans with MID will during planning and design of the relocation of the Arena Canal will address maintenance of existing water supply to MID customers during construction activity.

Response 1E: These concerns would be addressed in project conditions of approval and the City Engineer's review of improvement plans as discussed above. The City Engineer will refer project improvement plans to MID as a part of its plan review responsibility.

Jean Okuye  
10181 Olive Ave.  
Livingston, Ca 95334

April 23, 2021

To Livingston City Manager,

Re: EIR for The Village at Main Apartment Project

Dear Livingston City Manager,

As a county resident I am making comments on the proposed 17.3 acre development of 480 apartment units with associated facilities.

I am addressing Water Quality and Hydrology along with Green House Gases, GHG.

Water: 11.0 A 1995 DWR report is being used and suggest referring to recent progress in understanding our groundwater done by Sustainable Groundwater Management Plans for our water basin. With less water due to drought and demand on the Merced River, guaranteeing water for development is questionable.

2A

Green House Gasses: 9.7 Without a GHG plan, which is required to reduce gases, adding any development will increase GHG. The city is demonstrating how they will provide conservation with this development; however, GHG will be increased, not decreased. This GHG plan should be in place before moving forward with any development. Such ways to decrease GHG could include more bikeways, solar requirements, encouragement of less use of cars, requirement of all new construction to include light colored roofs and passive solar, traffic movement to eliminate idling at traffic lights by installing roundabouts, electric car recharge stations, to name a few.

2B

We approve of compact development planning for people, not cars, but have concern two of the three floors in this proposed complex will need to be reached by stairs. We recommend at least requiring ADA handicapped apartments on the first floor.

2C

In conclusion, Valley Land Alliance, is recommending this project not be permitted until an updated water report and GHG reduction plan have been provided.

2D

Sincerely,

Jean Okuye  
Concerned citizen  
209-756-2421

COMMENT NO. 2  
JEAN OKUYE

## Responses to Comment #2, Jean Okuye

Response 2A: A thorough discussion of the surface and groundwater resources of the project site and the City as a whole is provided in Draft EIR Chapter 11.0. The EIR does not rely solely on 1995 DWR groundwater data as suggested by the commenter, but rather references considerably more-updated (2018) DWR groundwater data as documented on page 11-1. The relationship between the project and the Sustainable Groundwater Management Act is discussed on page 11-3 and elsewhere in the chapter.

The City's determination of the adequacy of the City's water supply to serve the project and other planned development in Livingston is documented on page 16-2 of the EIR. This analysis is based on a 2015 Urban Water Management Plan, which found that the City's available water supply would be adequate to meet projected water needs, including those generated by the project, over a 20-year period. The projected water supply would remain reliable even in drought periods such as the severe one-year drought experienced in 1977, the prolonged drought of 1987-1992, or the most recent 2010-2015 drought.

Response 2B: The EIR in Chapter 9.0 acknowledges that the project would result in increases in GHG emissions, not decreases as suggested by the commenter. The means for reducing GHG emissions are among the many greenhouse gas reduction strategies adopted and being implemented by the State and air districts pursuant to the adopted statewide plans. As documented in the EIR, the project involves relatively compact development, which is itself a substantial contributor to reducing greenhouse gas emissions. The EIR compares the project's emissions to goals expressed in the applicable state and local plans and finds that these objectives would be reached by the project such that the GHG impact of the project would be reduced to a less than significant level.

Response 2C: Proposed buildings will be designed in conformance with adopted building codes and standards, which applicable ADA requirements.

Response 2D: This comment is a recommendation to the City as to whether or not the project should be approved. As described in the Draft EIR, the EIR is a document that informs the City's decision on the project. Recommendations regarding project approval are not the subject of the EIR and require no response.

As discussed above, updated water information was used in the analysis of hydrologic effects, and no updated report is necessary. The City will consider potential GHG impacts of future development in its ongoing general plan update, including the need for increased local GHG reduction plans if needed.

## Comment #3 and Responses to Comment #3, Colette Alvernaz

Ms. Alvernaz' 21-page letter addresses a range of general environmental issues as well as more project-specific concerns associated with the environmental effects of the project, including effects on traffic congestion, agricultural land, air quality, greenhouse gases and sewer and domestic water supply. In many cases, the subjects of the letter are repeated in various forms and contexts and are expressed at two or more locations in the comment letter. The letter also includes the commentor's opinions as to more general subjects such as the feasibility of the project, which are determinations that will need to be made by the Livingston City Council

To clarify the comments, to improve opportunities for understanding by the City decision-makers, and for the sake of brevity, the comments are grouped by subject and summarized below. A response to each of the summarized comments is provided in *italics* immediately following each comment. The complete comment letter is shown, for reference, in Appendix B of this Final EIR.

### GENERAL EFFECTS ON LIVINGSTON AND ITS CITIZENS

The commenter has general concerns related to the project's impacts on project site neighbors, including the partially-surrounded house adjacent to the site and homes across Main Street.

*These concerns in terms of air quality, noise and traffic are all addressed in detail the respective chapters of the EIR: 5.0 Air Quality, 13.0 Noise and 15.0 Transportation. Potential impacts on residential uses near the site are found to be less than significant.*

Have potentially affected landowners been contacted regarding their opinion on the project?

*Avenues for public understanding of the project and its potential environmental effects are provided through the EIR public review process and subsequent public hearings by the City Planning Commission and City Council. Notice of these meetings was provided in the Notice of Availability. Additional opportunities for public involvement in the project are provided through state and local requirements for notification of property owners in conjunction with processing of the project approvals.*

Who will be responsible for the costs and right-of-way acquisition for widening of Main Street in conjunction with the project?

*The project applicant will be responsible for dedication of needed right-of-way and costs of constructing the required improvements in accordance with City improvement standards. This requirement was described in EIR Chapter 3.0*

*Project Description. These requirements will also be contained in Conditions of Approval adopted in conjunction with project approval.*

The 1999 Livingston General Plan is too old to provide an adequate basis for consideration of the project and its environmental impacts.

*The 1999 Livingston General Plan is the City's existing constitution for development planning and review, which was adopted and continues to be implemented in accordance with Government Code Section 65300. The City is in the process of updating the General Plan; the update process will also include an updated environmental impact study under CEQA. Until a revised general plan is adopted, the 1999 Livingston General Plan will remain in force.*

Various street and utility improvements identified in the Livingston General Plan have not occurred as required by the Plan.

*The General Plan provides guidelines for effective management of urban development in the City over the course of time and identifies goals and policies related to street, sewer, water and other infrastructure improvements that may be required to accommodate that development. These goals and policies are applied to proposed development projects that are subject to City review as well as to the City's long range capital improvement planning. To respond to one specific commenter question, the projected improvements to Main Street discussed in the General Plan have not been completed yet because the improvements are not justified by existing and project near-term traffic loading. As the proposed project will be required to construct needed improvements along its Main Street frontage, so other Main Street improvements will occur as required by projected traffic demands. Responsible parties will include developers as well as the City, as appropriate.*

## TRAFFIC CONGESTION

The analysis of traffic impacts in the EIR does not address all of the streets that would be used by future residents of the project, in particular the SR 99/Winton Parkway interchange. Only five intersections are studied.

*The scope of the traffic study, which was reported in Chapter 15.0 of the EIR, was determined by the author, an expert traffic analyst, using accepted models and subject to review and approval by the Livingston City Engineer. The locations subject to analysis were determined based on joint professional judgment as to the extent of potentially significant traffic effects resulting from the project. Locations beyond the selected analysis locations were not expected to receive substantial amounts of traffic from the project or be subject to significant traffic impacts, and were therefore not subject to analysis. Certainly, trips by some future residents of the project will use the SR 99/Winton Parkway interchange or rural roads in the southern Livingston area, or will seek to access job sites at*



*Foster Farms or Gallo, but not to a degree that would significantly affect traffic on these more-distant elements of the City street system.*

Traffic generated by the project will result in increased use of rural roads with associated effects on the use of agricultural land.

*See the above response regarding traffic impacts generally. The project and traffic generated by the project are expected to be oriented primarily to destinations within the City of Livingston and nearby urban areas as documented in the traffic study. No significant traffic destinations in the unincorporated area were identified for future residents of the project.*

To accommodate additional traffic on Main Street, who will pay for improvements?

*Outside of the immediate project area, the project will not result in significant effects on Main Street traffic that will require short-term improvements. To the degree that the traffic study identifies the need for long-term improvements to Main Street or other locations, the project will be required to contribute its proportionate share to these future improvements. As an example, planned commercial development in the vicinity of the SR 99/Hammatt Avenue interchange will require signalization and other street improvements. The contributing development projects will be required to pay their proportionate share of the cost of these improvements. Proportionate share costs and any other requirements imposed by the City on The Villages or other projects are secured by a Mitigation Monitoring Reporting Program adopted by the City and/or Conditions of Approval attached to the project at the time of approval.*

Traffic congestion will impair the delivery of emergency services causing safety impacts on the citizens of Livingston.

*The traffic study does not project any substantial or extended traffic congestion that would result from the project and potentially interfere with delivery of emergency services. Were such congestion to occur at all, it would be short-term and occur during predictable periods, such as school dismissal times, allowing emergency service providers to make informed choices regarding alternative routes.*

## AGRICULTURE AND AGRICULTURAL LAND

Impacts of the project on agriculture on the site and in the vicinity are not adequately addressed.

*The EIR addressed the potential effects of the project on agriculture and agricultural land in Chapter 12.0 Land Use of the EIR. The EIR acknowledged that project site is designated Prime Farmland and Farmland of Statewide Importance and that the project would convert this land to non-agricultural use.*

*The EIR also considered the potential effects of the project on Williamson Act lands, agricultural zoning and on Farmland Security Zones finding that none of these would be affected by the project. The analysis encompassed all of the potentially significant effects on agriculture listed in the CEQA Guidelines Environmental Checklist.*

*The EIR also noted that potential effects on agriculture were addressed in the 1999 Livingston General Plan EIR, including potential conversion of prime agricultural land on and near the site. The EIR described several General Plan policies that would minimize potential agricultural impacts; the project would be consistent with each of these policies. The project was subsequently annexed to the City of Livingston and zoned for urban residential development.*

*The potential agricultural impacts of the project were accounted for in the General Plan EIR as being significant and unavoidable. Nonetheless the General Plan was adopted after the City adopted a Statement of Overriding Considerations. As noted in the EIR, CEQA does not require that the issue be addressed again. More specifically, where such an issue has been addressed in a certified EIR, the analysis does not need to be repeated except under specified circumstances that do not apply to the project.*

Impacts on off-site Williamson Act lands, Farmland Security Zones and lands in agriculture easements or permanent preserves.

*The EIR considered the potential for project impacts on Williamson Act lands on age 12-7 finding that the project would have no effect; this was due to the fact that none of these development restrictions apply to the project site.*

*Indirect effects of the project on off-site agricultural lands were considered in the EIR under Impact LUP-5 on the same page. Potential for indirect agricultural land impact can be associated with impacts on irrigation systems, access or potential air quality or aesthetic effects on nearby residential areas. The project would involve none of these potential environmental effects. Both the City of Livingston and Merced County have adopted Right to Farm ordinances, which help to preserve the integrity and support for ongoing agricultural use. The EIR found these potential impacts to be less than significant.*

The Livingston General Plan uses Urban Reserve instead of agricultural land use designations.

*While this may be an issue of some community-wide concern, it has no bearing on the proposed project, which is located on land that has already been annexed to the City and is currently designated and zoned for the proposed high-density residential use.*

## AIR QUALITY

Traffic congestion will cause adverse air quality impacts on nearby areas resulting in health impacts on the citizens of Livingston.

*The potential for localized air quality impacts was considered, modeled using accepted modeling tools, and reported in the EIR in Chapter 5.0 Air Quality as being less than significant.*

## GREENHOUSE GASES

Concern regarding greenhouse gas emissions and the need for a Livingston greenhouse gas management plan.

*The potential greenhouse gas impacts of the project were analyzed in EIR Chapter 9.0. Although the project would involve some greenhouse gas emissions, as would any residential project, the project's effects were modeled and found to be less than significant. The applicable requirements of adopted state and local greenhouse gas management plans were considered in the analysis.*

## UTILITIES AND SERVICES

General Plan fire protection service standards are not being met.

*This concern is related to larger City services planning and goals but not to the impacts of the project. The impact of the project on fire protection services was analyzed in the EIR and, after consultation with the Fire Department, found to be less than significant. Based on CEQA case law, fire service, staffing levels and response time are not suitable subjects for analysis in CEQA documents.*

Handicap accessibility and fire protection access to proposed apartment buildings should not be limited to the first floor.

*Proposed apartment structures will be required to comply with all applicable requirements of the Uniform Building Code and Uniform Fire Code.*

The project site has only one ingress/egress point.

*In addition to the main entry from Main Street, the project includes an additional emergency vehicle access point to and from Main Street. The suitability of access to and from the site will be a specific subject of concern and detailed review by the City Engineer and Fire Department during the technical review of the project site plans.*

The Carollo report of 2007 is a part of the litigated General Plan and plans for a 42-inch wastewater line, expansion of the wastewater treatment plan are illegal and should not be assumed in the EIR.

*The EIR conducted its analysis of wastewater-related issues based on their consistency with the capacity of the existing wastewater treatment facility and the City's existing wastewater collection system, not a future system identified in the Carollo report. The EIR found that both elements of the existing wastewater system were sufficient to meet demands associated with the project without substantial improvement. The EIR text noted by the commenter was intended only to inform the reader that the costs of future expansion would be met by the project through the payment of connection fees.*

*The EIR analysis did make use of data presented in the Carollo report addressing the quantity of wastewater that would be generated by the project.*

How can the EIR say that water demand would not be increased by the project?

*The EIR states on page 16-8 that "The project would place additional demand on the City's water supplies," and therefore acknowledges that water demand would be increased. The EIR goes on to say, however, that the City has adequate capacity to accommodate project water demands and therefore that impacts on water systems and supplies would be less than significant.*

The EIR states that water well depth in the project vicinity ranges from 60-80 feet, but wells in the project area are deeper.

*The "well depth" described in the EIR refers to the depth to the static water level below the ground surface. Groundwater wells are commonly drilled to depths substantially below the static water level in order to draw on deeper and more productive sediment layers.*

How will water supply be increased?

*This is a general question of interest to the City as well as agricultural interests throughout Merced County. With respect to the proposed project, and as noted in the EIR and above, the City has adequate capacity to accommodate project-related water demands.*

The project will reduce the recharge basin.

*The EIR analysis is, in context, referring to the loss of recharge on the site as a whole that would result from building construction and paving. Ordinarily, increased runoff from development would be discharged to surface water, but in the case of the proposed project, runoff from the site will be collected and discharged to an on-site retention basin; the project will not result in a runoff*

*discharge to surface waters but would return runoff to the groundwater system through percolation into the soils beneath the retention basin.*

APPENDIX A  
PUBLIC REVIEW MATERIALS

FILED

**PUBLIC NOTICE OF AVAILABILITY**  
**DRAFT ENVIRONMENTAL IMPACT REPORT**  
(Pursuant to Public Resources Code Sections 21092 and 21092.3 and  
Cal. Code of Regulations Title 14, Section 15087)

2021 MAR 12 PM 3:42

DEPUTY COUNTY CLERK

BY:   
DEPUTY

The City of Livingston has completed the following Draft Environmental Impact Report (DEIR) SCH #2021010256 for **The Villages at Main Apartment Community**. The City of Livingston is the Lead Agency for this project under the California Environmental Quality Act (CEQA). The project applicant proposes the construction of 480 apartment units with parking, circulation and associated community facilities and landscaping. The project would consist of 20 three-story apartment buildings, all approximately 39 feet in height and each having 24 units. The project is located on a 17.3-acre undeveloped site located immediately east of Main Street and south of its intersection with Peach Avenue.

The Draft EIR discusses the range of environmental concerns listed in the latest CEQA Environmental Checklist and identifies significant environmental effects in the following issue areas: Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology, Land Use, Noise and Public Services. There are no sites identified under Section 65962.5 of the Government Code located on or near the project site.

Copies of the Draft EIR are available for public review at the City of Livingston Planning Department at the address shown below and at the City's website: [www.cityoflivingston.org](http://www.cityoflivingston.org). The City will accept public and agency comments on the Draft EIR during a 45-day review period that will begin on March 10, 2021 and end on April 23, 2021. Comments may be submitted by mail or e-mail to the City at the address shown below or to [rhatch@livingstoncity.com](mailto:rhatch@livingstoncity.com) and [filo@livingstoncity.com](mailto:filo@livingstoncity.com).

City of Livingston  
Community Development Department  
1416 C Street  
Livingston, CA 95334  
Attn: Randy Hatch, Contract City Planner

In addition, notice is hereby given that the Livingston Planning Commission will consider the Draft EIR and the Mitigation Monitoring/Reporting Plan at a public meeting scheduled for June 8, 2021 at 7:00 PM in the City Council Chambers, 1416 "C" Street, Livingston, California.



State of California - Department of Fish and Wildlife  
**2021 ENVIRONMENTAL FILING FEE CASH RECEIPT**  
 DFW 753.5a (REV. 01/01/21) Previously DFG 753.5a

RECEIPT NUMBER: <b>24-2021-022</b>
STATE CLEARINGHOUSE NUMBER (if applicable) <b>2021010256</b>

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY <b>CITY OF LIVINGSTON COMMUNITY DEVELOPMENT</b>	LEAD AGENCY EMAIL	DATE <b>03/12/2021</b>
COUNTY/STATE AGENCY OF FILING <b>MERCED COUNTY</b>	DOCUMENT NUMBER <b>24-2021-022</b>	

PROJECT TITLE  
**PUBLIC NOTICE OF AVAILABILITY DRAFT ENVIRONMENTAL IMPACT REPORT, THE VILLAGES AT MAIN APARTMENT COMMUNITY**

PROJECT APPLICANT NAME <b>CITY OF LIVINGSTON COMMUNITY DEVELOPMENT</b>	PROJECT APPLICANT EMAIL	PHONE NUMBER	
PROJECT APPLICANT ADDRESS <b>1416 C STREET</b>	CITY <b>LIVINGSTON</b>	STATE <b>CA</b>	ZIP CODE <b>95334</b>

PROJECT APPLICANT (Check appropriate box)

Local Public Agency   
  School District   
  Other Special District   
  State Agency   
  Private Entity

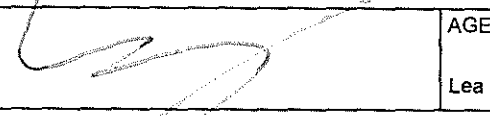
CHECK APPLICABLE FEES:

<input type="checkbox"/> Environmental Impact Report (EIR)	\$3,445.25	\$	<u>0.00</u>
<input type="checkbox"/> Mitigated/Negative Declaration (MND)(ND)	\$2,480.25	\$	<u>0.00</u>
<input type="checkbox"/> Certified Regulatory Program (CRP) document - payment due directly to CDFW	\$1,171.25	\$	<u>0.00</u>
<input type="checkbox"/> Exempt from fee			
<input type="checkbox"/> Notice of Exemption (attach)			
<input type="checkbox"/> CDFW No Effect Determination (attach)			
<input type="checkbox"/> Fee previously paid (attach previously issued cash receipt copy)			
<hr/>			
<input type="checkbox"/> Water Right Application or Petition Fee (State Water Resources Control Board only)	\$850.00	\$	<u>0.00</u>
<input type="checkbox"/> County documentary handling fee	\$50.00	\$	<u>0.00</u>
<input checked="" type="checkbox"/> Other No Fees Applicable		\$	<u>0.00</u>

PAYMENT METHOD:

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  Credit   
  Check   
  Other

TOTAL RECEIVED \$ 0.00

SIGNATURE 	AGENCY OF FILING PRINTED NAME AND TITLE <b>Lea Z. H. Hoiguin Deputy Clerk</b>
--	--



3033

**THANK YOU for your legal submission!**

Your legal has been submitted for publication. Below is a confirmation of your legal placement. You will also receive an email confirmation.

**ORDER DETAILS**

**Order Number:**  
IPL0013771  
**Order Status:**  
Submitted  
**Classification:**  
Legals & Public Notices  
**Package:**  
MER - Legal Ads 1x  
**Final Cost:**  
221.86  
**Payment Type:**  
Mastercard  
**User ID:**  
IPL0026642

**PREVIEW FOR AD NUMBER IPL00137710**

**PUBLIC NOTICE OF AVAILABILITY - DRAFT ENVIROMENTAL IM-  
PACT REPORT**

PUBLIC NOTICE OF AVAILABILITY  
DRAFT ENVIRONMENTAL IMPACT REPORT  
(Pursuant to Public Resources Code Sections 21092 and 21092.3 and  
Cal. Code of Regulations Title 14, Section 15087)

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City of Livingston  
Community Development Department  
1416 C Street  
Livingston, CA 95334  
Attn: Randy Hatch, Contract City Planner

In addition, notice is hereby given that the Livingston Planning Commission will consider the Draft EIR and the Mitigation Monitoring/Reporting Plan at a public meeting scheduled for June 8, 2021 at 7:00 PM in the City Council Chambers, 1416 "C" Street, Livingston, California.

**ACCOUNT INFORMATION**

Charles Simpson  
802 West Lodi Ave  
Lodi, CA 95240  
209-224-8213  
rbeck@basecampenv.com  
BaseCamp Environmental, Inc

**PAYMENT DETAILS**

Mastercard\*\*\*\*\*1698 08/2022

W00000000  
Publication Dates

**TRANSACTION REPORT**

**Date**  
12:39 PM - Mon, Mar 8, 2021  
**Amount:**  
221.86

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**SCHEDULE FOR AD NUMBER IPL00137710**

Wed Mar 10, 2021  
Merced Sun-Star

NOP Distribution List for The Villages @ Main Apartment Project in Livingston, CA

**State Agencies**

State Clearinghouse  
1400 Tenth Street, #12  
Sacramento, CA 95814  
Submit CEQA docs via "CEQA Submit" Database  
(916) 445-0613

[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

San Joaquin Valley Air Pollution Control District  
1990 E. Gettysburg Avenue, Fresno, CA 93726  
(559) 230-6000

[sjvapcd@valleyair.org](mailto:sjvapcd@valleyair.org)

**Merced County Agencies**

Merced County  
James Brown, County Executive Officer  
2222 M Street  
Merced, CA 95340  
(209) 385-7637

[ceo16@co.merced.ca.us](mailto:ceo16@co.merced.ca.us)

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2222 M Street  
Second Floor  
Merced, CA 95340  
(209) 385-7686

[mhendrickson@co.merced.ca.us](mailto:mhendrickson@co.merced.ca.us)

Merced County Association of Governments  
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369 West 18<sup>th</sup> Street  
Merced, CA 95340  
(209) 723-3153

[matt.fell@mcagov.org](mailto:matt.fell@mcagov.org)

Merced County Public Works Public Works  
Dana S. Hertfelder, P.E.  
Director of Public Works/Road Commissioner  
715 Martin Luther King Jr. Way  
Merced, CA 95340  
(209) 385-7602

[dana.hertfelder@countyofmerced.com](mailto:dana.hertfelder@countyofmerced.com)

## Utility Companies / Local Agencies

Merced Irrigation District  
Mike Morris  
744 W. 20<sup>th</sup> Street  
Merced, CA 95340  
(209) 722-5761

[mmorris@mercedid.org](mailto:mmorris@mercedid.org)

Merced Irrigation District  
Ann-Marie Felsing

[afelsing@mercedid.org](mailto:afelsing@mercedid.org)

U.S. Post Office, Livingston Branch  
Sucha S. Attwal, Postmaster  
1444 B Street  
Livingston, CA 95334  
(209) 394-7216

[sucha.s.attwal@usps.gov](mailto:sucha.s.attwal@usps.gov)

PG&E  
Plan Review Team

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Abraham Zamora, Construction Coordinator

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[Abraham.zamora@charter.com](mailto:Abraham.zamora@charter.com)

Frontier Communications  
Kirby Bernard, Engineering Manager

[kirby.bernard@FTR.com](mailto:kirby.bernard@FTR.com)

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Nick Jones, Director of Maint./Operations/Transportation

[njones@livingstonusd.org](mailto:njones@livingstonusd.org)

Merced Union High School District  
Melissa Miller, Manager of Facilities

[mmiller@muhsd.org](mailto:mmiller@muhsd.org)

## City Departments

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[citymanager@livingstoncity.com](mailto:citymanager@livingstoncity.com)

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Mario Gouveia, City Engineer  
Noe Martinez, Principal Engineer

[mgouveia@gouveiaengineering.com](mailto:mgouveia@gouveiaengineering.com)  
[nmartinez@gouveiaengineering.com](mailto:nmartinez@gouveiaengineering.com)

City Attorney, Meyers Nave  
Trevor Taniguchi, City Attorney

[ttaniguchi@meyersnave.com](mailto:ttaniguchi@meyersnave.com)

Anthony Chavarria, Public Works Director

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Nick Gonzales, Building Inspector

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Chris Soria, Chief of Police

[csoria@livingstonpd.org](mailto:csoria@livingstonpd.org)

Merced County Fire

Rich Bohn, Fire Marshal

[rbohn@co.merced.ca.us](mailto:rbohn@co.merced.ca.us)

Gregory Padilla, Fire Marshal

[Gregory.Padilla@fire.ca.gov](mailto:Gregory.Padilla@fire.ca.gov)

Brian White, Battalion Chief

[Brian.White@fire.ca.gov](mailto:Brian.White@fire.ca.gov)

Bryan Alvis, Fire Captain (Livingston)

[Bryan.Alvis@fire.ca.gov](mailto:Bryan.Alvis@fire.ca.gov)

Jose Flores, Fire Prevention Inspector

[Jose.Flores2@countyofmerced.com](mailto:Jose.Flores2@countyofmerced.com)

Jacque Benoit, Recreation Superintendent

[jbenoit@livingstoncity.com](mailto:jbenoit@livingstoncity.com)

**Other Interested Parties**

Katherine Schell-Rodriguez, City Treasurer

[kschell-rodriquez@livingstoncity.com](mailto:kschell-rodriquez@livingstoncity.com)

[thegardeningsnail@yahoo.com](mailto:thegardeningsnail@yahoo.com) (personal)

Distribution list updated: 2/26/21

**Notice of Completion & Environmental Document Transmittal**

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613

For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

**SCH # 2021010256****Project Title:** The Villages at Main Residential Apartment CommunityLead Agency: City of LivingstonContact Person: Randy HatchMailing Address: 1416 C St.Phone: 2093948041City: LivingstonZip: 95334County: Merced**Project Location:** County: MercedCity/Nearest Community: LivingstonCross Streets: Main Street / Peach AvenueZip Code: 95334Longitude/Latitude (degrees, minutes and seconds): 37 ° 22 ' 20 " N / 120 ° 43 ' 17 " W Total Acres: 17.3Assessor's Parcel No.: 047-280-020 / 0476-280-029Section: 39 Twp.: 6Range: 11 Base: MDBMWithin 2 Miles: State Hwy #: 99Waterways: NoneAirports: NoneRailways: NoneSchools: Livingston HS**Document Type:**CEQA:  NOP Draft EIRNEPA:  NOIOther:  Joint Document Early Cons Supplement/Subsequent EIR EA Final Document Neg Dec

(Prior SCH No.) \_\_\_\_\_

 Draft EIS Other: \_\_\_\_\_ Mit Neg Dec

Other: \_\_\_\_\_

 FONSI**Local Action Type:** General Plan Update Specific Plan Rezone Annexation General Plan Amendment Master Plan Prezone Redevelopment General Plan Element Planned Unit Development Use Permit Coastal Permit Community Plan Site Plan Land Division (Subdivision, etc.) Other: \_\_\_\_\_**Development Type:** Residential: Units 480 Acres 17.3 Office: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_ Transportation: Type \_\_\_\_\_ Commercial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_ Mining: Mineral \_\_\_\_\_ Industrial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_ Power: Type \_\_\_\_\_ MW Educational: \_\_\_\_\_ Waste Treatment: Type \_\_\_\_\_ MGD Recreational: \_\_\_\_\_ Hazardous Waste: Type \_\_\_\_\_ Water Facilities: Type \_\_\_\_\_ MGD Other: \_\_\_\_\_**Project Issues Discussed in Document:** Aesthetic/Visual Fiscal Recreation/Parks Vegetation Agricultural Land Flood Plain/Flooding Schools/Universities Water Quality Air Quality Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater Archeological/Historical Geologic/Seismic Sewer Capacity Wetland/Riparian Biological Resources Minerals Soil Erosion/Compaction/Grading Growth Inducement Coastal Zone Noise Solid Waste Land Use Drainage/Absorption Population/Housing Balance Toxic/Hazardous Cumulative Effects Economic/Jobs Public Services/Facilities Traffic/Circulation Other: \_\_\_\_\_**Present Land Use/Zoning/General Plan Designation:**High Density Residential**Project Description:** *(please use a separate page if necessary)*

Construction of 480 apartment units with parking, circulation and associated community facilities and landscaping.

*Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.*

**Reviewing Agencies Checklist**

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "X".  
If you have already sent your document to the agency please denote that with an "S".

- |  |  |
|--|--|
| <input type="checkbox"/> Air Resources Board                         | <input type="checkbox"/> Office of Historic Preservation                     |
| <input type="checkbox"/> Boating & Waterways, Department of          | <input type="checkbox"/> Office of Public School Construction                |
| <input type="checkbox"/> California Emergency Management Agency      | <input type="checkbox"/> Parks & Recreation, Department of                   |
| <input type="checkbox"/> California Highway Patrol                   | <input type="checkbox"/> Pesticide Regulation, Department of                 |
| <input checked="" type="checkbox"/> Caltrans District # 10           | <input type="checkbox"/> Public Utilities Commission                         |
| <input type="checkbox"/> Caltrans Division of Aeronautics            | <input checked="" type="checkbox"/> Regional WQCB # 5                        |
| <input type="checkbox"/> Caltrans Planning                           | <input type="checkbox"/> Resources Agency                                    |
| <input type="checkbox"/> Central Valley Flood Protection Board       | <input type="checkbox"/> Resources Recycling and Recovery, Department of     |
| <input type="checkbox"/> Coachella Valley Mtns. Conservancy          | <input type="checkbox"/> S.F. Bay Conservation & Development Comm.           |
| <input type="checkbox"/> Coastal Commission                          | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy |
| <input type="checkbox"/> Colorado River Board                        | <input type="checkbox"/> San Joaquin River Conservancy                       |
| <input type="checkbox"/> Conservation, Department of                 | <input type="checkbox"/> Santa Monica Mtns. Conservancy                      |
| <input type="checkbox"/> Corrections, Department of                  | <input type="checkbox"/> State Lands Commission                              |
| <input type="checkbox"/> Delta Protection Commission                 | <input type="checkbox"/> SWRCB: Clean Water Grants                           |
| <input type="checkbox"/> Education, Department of                    | <input type="checkbox"/> SWRCB: Water Quality                                |
| <input type="checkbox"/> Energy Commission                           | <input type="checkbox"/> SWRCB: Water Rights                                 |
| <input checked="" type="checkbox"/> Fish & Game Region # 4           | <input type="checkbox"/> Tahoe Regional Planning Agency                      |
| <input type="checkbox"/> Food & Agriculture, Department of           | <input type="checkbox"/> Toxic Substances Control, Department of             |
| <input type="checkbox"/> Forestry and Fire Protection, Department of | <input type="checkbox"/> Water Resources, Department of                      |
| <input type="checkbox"/> General Services, Department of             |  |
| <input type="checkbox"/> Health Services, Department of              | Other: _____   |
| <input type="checkbox"/> Housing & Community Development             | Other: _____   |
| <input type="checkbox"/> Native American Heritage Commission         |  |

**Local Public Review Period (to be filled in by lead agency)**

Starting Date March 10, 2021 Ending Date April 23, 2021

**Lead Agency (Complete if applicable):**

Consulting Firm: <u>BaseCamp Environmental, Inc.</u>	Applicant: _____
Address: <u>802 West Lodi Ave</u>	Address: _____
City/State/Zip: <u>Lodi, California 95240</u>	City/State/Zip: _____
Contact: <u>Charlie Simpson</u>	Phone: _____
Phone: <u>209-224-8213</u>	

Signature of Lead Agency Representative: \_\_\_\_\_ Date: 03/10/2021

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

# The Villages at Main Apartment Community

## Summary

**SCH Number**

2021010256

**Lead Agency**

City of Livingston

**Document Title**

The Villages at Main Apartment Community

**Document Type**

EIR - Draft EIR

**Received**

3/10/2021

**Present Land Use**

17.3 acre undeveloped site

**Document Description**

The proposed Village at Main Apartment project is located on a site consisting of two parcels totaling 17.3 acres. The site is located immediately east of Main Street south of its intersection with Peach Avenue in southern Livingston (Figures 1-5). The project proposes the construction of 480 apartment units with associated facilities and landscaping (Figure 6). The project would consist of 20 three-story apartment buildings, all approximately 39 feet in height and each having 24 units. The apartment complex as a whole would include 84 one-bedroom units, 300 two-bedroom units, and 96 three bedroom units. A two-story 6,343 square foot community building approximately 29 feet in height would be located near the center of the project site. The community center would include a community patio, an outdoor pool and a spa.

**Contact Information**

BaseCamp Environmental

Charlie Simpson

Consulting Firm

802 West Lodi Avenue

Lodi, CA 95240

Phone : (209) 224-8213

csimpson@basecampenv.com

## Location

**Cities**

Livingston

**Counties**

Merced

**Regions**

Northern California

**Cross Streets**

Main Street/ Peach Avenue

**Zip**

95334

**Total Acres**

17.3

**State Highways**

99

**Notice of Completion**

**Review Period Start**

3/10/2021

**Review Period End**

4/23/2021

**Development Type**

Residential (Apartment Complex)(Units 480, Acres 17.3)

**Local Action**

Planned Unit Development

**Project Issues**

- Aesthetics
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Drainage/Absorption
- Geology/Soils
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Schools/Universities
- Sewer Capacity
- Solid Waste
- Transportation
- Tribal Cultural Resources
- Utilities/Service Systems

**Reviewing Agencies**

- California Air Resources Board (ARB)
- California Department of Conservation (DOC)
- California Department of Fish and Wildlife, Central Region 4 (CDFW)
- California Department of Housing and Community Development (HCD)
- California Department of Parks and Recreation
- California Department of Transportation, District 10 (DOT)
- California Department of Water Resources (DWR)
- California Highway Patrol (CHP)
- California Native American Heritage Commission (NAHC)
- California Natural Resources Agency
- California Regional Water Quality Control Board, Central Valley Fresno Region 5 (RWQCB)
- Central Valley Flood Protection Board
- Office of Historic Preservation
- State Water Resources Control Board, Division of Drinking Water

**Attachments**

**Draft Environmental Document [Draft IS, NOI\_NOA\_Public notices, OPR Summary Form, Appx,]**

- 2021010256 Summary Form PDF 580 K
- Draft EIR The Villages at Main PDF 93162 K
- NOA The Villages at Main PDF 88 K

**Notice of Completion [NOC] Transmittal form**

- NOTICE OF COMPLETION The Villages at Main PDF 330 K

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APPENDIX B  
COLETTE ALVERNAZ COMMENT LETTER

Friday, April 23, 2021

City of Livingston  
Community Development Department  
1416 C Street  
Livingston, CA 95334  
Attn: Randy Hatch, Contract City Planner

RECEIVED  
APR 23 2021

CITY OF LIVINGSTON

Regarding the Villages at Main Apartment Community

Draft Environmental Impact Report

Public Comments:

I like the idea of infill development. I like high density apartments. But, we don't have the infrastructure to do a project of this magnitude at this time.

I am concerned how this development will impact its neighbors. What about the house that is surrounded by open spaces and agriculture land? This proposed project has two roads on each side of the property. One of the roads will carry all of the traffic. How many trips a day will be going by that house? How much traffic by that person's home will 587 parking spaces generate? What about air pollution for that home owner? Do they even know about this plan? Do they speak English? Has anyone sat down and discussed it with them and explained it?

What about the property across the street, there are homes, agriculture land, a store? Has anyone talked to them? What about the homes just north and northwest to this plan? How will it impact there quality of life? Have they been talked with and the plan explained?

How would you feel if this proposed project goes up next to or near where you live? How would it impact the existing residents quality of life?

**Traffic:**

**Concern 1**

What is the cost of widening Main Street?

There are existing homes and businesses on Main Street. How is the city going to acquire the property to widen Main Street? What is it going to cost?

From the main entrance north, the Main Street would be widened from 30 feet to 85 feet.

My concern is this EIR does not address how Main Street will be widened, the cost involved in widening Main Street, where the funding to widen Main Street will come from, how far Main Street needs to be widened, and the feasibility to widening Main Street.

The City of Livingston 1999 General Plan Circulation Element speaks to developing Main Street to a North-South Arterials within an 84-foot right-of-way. (Livingston 1999 General Plan 4-4) It is **over twenty years later** and Main Street has **not been** widened to an arterial even though much development and growth has occurred. Instead of widening Main Street the City of Livingston **narrowed Main Street** when it added lamp post and diagonal parking on Main Street. Will widening Main Street even occur?

According to this proposed development EIR there is a safety concern if Main Street is not widened.

Impact TRANS-4: Safety Hazards The project site is located along Main Street, which along the site frontage is a two-lane road with no improvements. Should the road remain in its existing condition, the project could introduce a potential safety concern related to increased traffic and turning movements from Main Street to and from the project site. However, as described in Chapter 3.0, Project Description, the Main Street frontage would be widened and improved as part of the project. The improvements would include a median turn lane and bicycle and pedestrian facilities. With these improvements, potential safety concerns associated with the project would be reduced to a level that would be less than significant

My concern is widening Main Street needs to be included on paper in this proposed project's EIR but in actuality is not going to happen.

This EIR needs to address: How is the city going to acquire the property to widen Main Street? How Main Street will be widened, the cost involved in widening

Main Street, where the funding to widen Main Street will come from, how far Main Street needs to be widened, and the feasibility to widening Main Street?

### **Concern 2**

The direct and indirect impact to all the roads has not been addressed in this proposed development EIR.

This EIR looks at only five intersections. It is absurd to think the traffic to and from this project will only consume five intersections.

The operation of the following five existing intersections was analyzed for this study: • Hammatt Avenue and SR 99 Northbound Ramps • Hammatt Avenue and SR 99 Southbound Ramps • Hammatt Avenue and F Street • Hammatt Avenue and Peach Avenue • Main Street and Peach Avenue.

Basically, the intersections analyzed are one route to get on the City of Livingston's southern entrance to Hwy 99.

But what about other routes people might take? This proposed projects EIR speaks about increase school enrollment. A parent might drop their child off at school. Should we not look at the traffic impact on other surface streets? What about getting groceries, going to the post office, the medical clinic, the pharmacy? People generally drive to these places.

My friend lives on Peach Avenue west of Main Street. He cannot get out of his driveway for 15 minutes in the morning when Livingston High School is in session. What will the traffic impact be on Peach Avenue west of Main Street? This proposed project EIR needs to address the impact to all of the roads not just a hand-picked few.

### **Concern 3**

When roads are congested people find alternate paths. One alternate path is country roads. Agriculture land is adjacent to the city. The increased traffic will impact agriculture land. What will the cumulative effect be? Will agriculture land be lost to widening roads?

The proposed project calls to widen the roads South of Peach Avenue and Main Street.

South of the main entrance, the project frontage on Main Street would be widened from 55 feet to 110 feet.

Why is the proposed project EIR widening the road south to 110 feet?

To the south and east are agricultural fields, along with buildings owned by Yagi Brothers Produce, Inc.

South of this proposed project is agriculture fields. Why is the city widening the road toward agriculture land to 110 feet? How will widening the road to 110 feet directly and indirectly impact the agriculture land?

Widening the road to 110 feet is not consistent with its 1999 General Plan. According to the 1999 General Plan (4-4), the largest roads have an 84-foot-right-of way, not 110.

#### **Concern 4**

Winton Parkway and Hwy 99 is a congested mess. I have waited through three lights before I could get through. Cars and trucks block the intersections. I see broken glass on the road from car accidents. At certain times of day, it has gotten dangerous.

This is huge safety, quality of life, and air pollution issue. In my Notice of Preparation comments I brought up this concern. The proposed project EIR did not adequately address it.

#### **Concern 5**

There is this one statement in the proposed project EIR: For the Sanghera Apartment project, access to SR 99 is primarily provided via the Hammatt Avenue interchange, which is approximately one mile northeast of the project site.

The Winton Parkway is a much used access to SR 99. In fact, it makes sense that many people in the proposed project will access SR 99 via Winton Parkway. Winton Parkway is close to the only Middle School on Robin Avenue in Livingston.

A parent will drop of their student at the Middle School and then access SR 99 via Winton Parkway.

Many people might work north of the City of Livingston like in Turlock, Modesto, Ripon, Ceres, and at Hilmar Cheese. These people will access the north entrance to SR 99 which is Winton Parkway.

Even in this proposed project EIR it states that: A significant portion of travel mileage in Merced County is generated by trips from Bay Area commuters moving into the county (MCAG 2018a). (16-4).

Those commuters are likely to drive to the north access to SR 99 which is Winton Parkway.

This proposed project EIR does not know if people will be driving North or South on SR 99. This proposed project EIR does not know if people will be accessing SR 99 via Hammatt Avenue or Winton Parkway.

Both interchanges north and south SR 99/Winton Parkway needs to be studied and analyzed.

#### **Concern 6**

The largest employer, Foster Farms, is located on the northern end of Main Street across SR 99. With a proposed large apartment complex (480 units) on the southern end of Main Street, and the largest employer on the northern end what will the direct and indirect impact be to Main Street?

The City of Livingston has not widened Main Street like the 1999 General Plan called for. In fact, the city has recently narrowed Main Street with lamppost jutting out into the road, diagonal parking, and a round-a-bout.

How is widening Main Street to 85 feet feasible? Where is the funding for it? What is the plan to fund it? What about people's homes and businesses?

The other route people will take is Winton Parkway over SR 99 to Foster Farms.

West of the City of Livingston out B Street is one of the largest crushing plants in the world owned by E & J Gallo. There has been tremendous build out of the crushing plant since the 1999 General Plan circulation element. This needs to be considered. This proposed project might house some of the workers to the crushing plant. This route also needs to be studied and analyzed.

Foster Farms and E & J Gallo are both large employers in our community. How many vehicle trips and the routes to travel from the proposed apartments to these businesses needs to be looked at?

### **Concern 7**

Currently, at Hammatt Ave and SR 99 Northbound Ramps at peak hours are operating at a LOS E and LOS D this is considered unacceptable. (Traffic impact study p.13)

The City of Livingston has not followed its 1999 General Plan Circulation Element. The roads have not been expanded. It is difficult, if not feasible to expand road right-of-ways when people own the property. Along Hammatt Ave there are homes and agriculture land. What is the plan to expand the roads? What is the cost? The City of Livingston states it has increased its population from 10,000 to 15,000. This is a 50% increase in development yet many of the city roads have not been widened. Traffic congestion is getting worse.

With this proposed development the five intersections studied will decline to LOS of C, LOS E, and LOS F if the improvements are not done. What assurances are there that the improvements will occur?

Currently, the city has not done the improvements required in its Circulation Element of its 1999 General Plan and EIR. I understand that it may not be feasible to widen the roads as required in its 1999 General Plan. People have homes and businesses. The land may not be there to widen the roads.

But, Let us remember on page 4-4 of the 1999 General Plan under 14. No development shall be approved unless it is found to be consistent with the



adopted Circulation Element and policies of the General Plan with the Circulation Element.

The City of Livingston has already increased its population by 50% without following its Circulation Element.

How is more development going to help the City follow its Circulation Element on all of its streets? I understand there is a plan for five intersections, but, we need to look at the impact on the entire city and the surrounding agricultural community. What are the entire direct and indirect and cumulative impacts to our roads with this proposed project?

The statement: For the Sanghera Apartment project, access to SR 99 is primarily provided via the Hammatt Avenue interchange, which is approximately one mile northeast of the project site. This statement is not a valid excuse, reason, or justification to not adequately address the direct and indirect impacts to the roads.

### **Save Lives/Safety**

#### **Concern 1**

Winton Parkway, B Street, Main Street, these are emergency and evacuation access roads. Traffic congestion can delay our emergency personal (fireman, police, sheriff, paramedic, ambulance). We need to keep our roads open. Lives are depending on it.

#### **Concern 2**

What happens to our air quality if Main Street is not expanded? How far will the vehicles back up? How bad will the emissions be? As discussed previously expanding Main Street has not happened and the likelihood of it happening for a significant distance of the road is slim. What happens to our air when the autos for the 587 parking spaces start backing up? How long of a line of cars will that be at peak times and nonpeak times?

The City of Livingston has no data on Green House Gas Emissions

No data on GHG emissions from the City of Livingston are available (9-2)

Did not the Court tell the City of Livingston it had to address Green House Gas Emissions in its ruling on the Court-Set-Aside 2020 General Plan?

What are the Green House Gas Emissions levels in the City of Livingston? And what will happen to our air quality when Main Street is not increased to an 85-foot-right-of way?

How will the emissions and air quality affect people with asthma, health issues, children, elderly, and agriculture land?

### **Concern 3**

There is the safety concern of mixing commuter traffic with agriculture equipment traffic on the roads, especially during planting and harvest.

### **Concern 4**

The 1999 General Plan and EIR calls for:

The City to maintain volunteer fire department staffing of one volunteer per 500 residents. (1999 General Plan Fire Protection 10.2, 1)

But, this proposed project EIR has 15 volunteers for a population of 15,000. That is one volunteer per 1000.

The standard of one fire company for every 10,000 residents. (1999 General Plan Fire Protection 10.2, 2)

But, the City of Livingston states its population at 15,000 and has only one Fire Company.

The City's fire service response goal shall be six minutes from "tone-out" it arrival scene. Is this being met? How does the impacted congested roads affect the response time? (1999 General Plan Fire Protection 10.2, 3)

Fire protection, rescue, and emergency medical response service are provided by the Livingston Fire Department. The Livingston Fire Department is managed through a contractual agreement with Merced County. The agreement consists of staffing for one Cal Fire full-time position and 15 volunteer members 24 hours a day, 7 days a week in the City (City of Livingston 2018). The County Fire Department maintains Station 96 on 1430 C Street in downtown Livingston, which has one Type 2 fire engine, and

one Type 1 water tender (Merced County Fire Department 2019). In 2016, Livingston maintained a ratio of slightly greater than one volunteer per 1,000 residents (City of Livingston 2018). (14-1)

Our current 1999 General Plan fire safety goals are not being met. How will adding more development, impacting the roads more, adding more residents meet our fire safety goals? The City of Livingston did not meet its 1999 General Plan fire safety goals with adding 5,000 residents, a 50% increase in the population. Adding 2000 more lives to an already overtaxed fire department will decrease safety.

Over the last few years, emergency calls have been steadily increasing. In 2016, the Fire Department responded to 1,581 calls for services. In 2015, the Fire Department responded to 1,468 calls for services. In 2014, the Fire Department responded to 1,214 calls for services. Emergency calls in 2016 rose approximately 10 percent and are projected to grow in the upcoming years. Medical emergencies make up approximately 54 percent of the call volume (City of Livingston 2018) (14-1)

Emergency calls keep increasing but the firefighter staffing ratio to residents keeps declining.

Is this feasible? The City of Livingston needs to make Safety a priority and increase our fire services before it adds more lives to the equation.

#### **Concern 5**

Are some of these apartments handicap accessible?

Also the access is by stairs not elevator. Will our emergency personal be able to reach the residents in a timely manner?

Are there at least two stairwells for each apartment complex?

#### **Concern 6**

I am concerned there is only one egress to enter and exit the complex with a vehicle for the public. For safety reasons there should be two egresses. What if a car breaks down and blocks the egress or there is an accident? Also vehicles to fill 587 parking spaces is a lot of vehicles. How is that volume of vehicles going to work with only one egress?

#### **Concern 7**

I am concerned about the safety of pedestrian traffic with the increase of vehicle traffic especially, students walking to school. We need to look at the safety and traffic volume at all the roads and intersection this proposed project impacts, not just five.

## **Agriculture**

### **Concern 1**

Agriculture Preservation has increased since the 1999 General Plan. The awareness of how important agriculture is locally, statewide, on a national level and globally has increased since the 1999 General Plan.

The 1999 General Plan and its EIR did not address the Williamson Act. The Williamson Act in Merced County was implemented after the 1999 General Plan. Like I stated above, people are acknowledging how important it is to protect Agriculture land. One way that is done is through, the Williamson Act. There are many acres in the vicinity of the City of Livingston that are in the Williamson Act. I personally know of hundreds of acres west and southwest of the City of Livingston.

This proposed project EIR inadequately addresses the direct and indirect impacts to Williamson Act Land.

This proposed project EIR concludes that the project site is not under a Williamson Act contract so it will have no impact on Williamson Act land.

Impact LUP-4: Agricultural Zoning and Williamson Act As previously noted, the project site is designated and zoned for residential development, not for agriculture. Also previously noted, the project site is not under a Williamson Act contract nor within a Farmland Security Zone. The project would have no impact on this issue. Level of Significance: No impact Mitigation Measures: None required Impact LUP-5: (12-7)

To conclude the proposed project is not on Williamson Act land so it will have no impact on Williamson Act land does not address the potential direct and indirect impact to Williamson Act land in the vicinity. What is the impact to the Williamson Act land in the area? How will it impact my land in the Williamson

Act? How will it impact my neighbor's land that is under the Williamson Act Contract?

What about the increase traffic on the roads? How will that impact Williamson Act Contract land? What impact will widening Main Street south of Peach Street out toward Prime Agriculture land have on the narrow agricultural roads?

Robin Avenue, B Street, Peach Street is congested with school traffic. This forces more traffic on country roads like Magnolia Avenue, Washington Blvd, Vinewood Avenue. How will this impact agriculture land in the Williamson Act?

Where is the Williamson Act land located? This proposed project EIR does not adequately address Williamson Act Contract land. How many acres of Williamson Act land is in the vicinity?

The proposed project EIR needs to acknowledge, identify, and locate the Williamson Act Conservation land in the surrounding area. Then the proposed project EIR can look at the potential direct and indirect impacts to the Williamson Act Conservation Land.

## **Concern 2**

What about land in a permanent agriculture easement? The 1999 General Plan and its EIR does not address land in a permanent agriculture easement. The Central Valley Farmland Trust now the California Farmland Trust came into existence after the 1999 General Plan.

This proposed project EIR must address land in a permanent agriculture easement and the direct and indirect impacts this proposed project will have on the land?

This proposed project EIR and the 1999 General Plan and its EIR do not adequately address the impacts direct and indirect to land in a permanent agriculture preserve. How many acres in the vicinity are in a permanent agriculture preserve? What will the direct and indirect impacts be? What will the cumulative affect be?

## **Concern 3**

The Williamson Act Conservation and the California Farmland Trust (permanent agriculture easement) did not exist at the time of 1999 General Plan and EIR. As this proposed project EIR states:

CEQA Guidelines Section 15152(d) states that where an EIR has been prepared and certified for a plan, a lead agency for a later project consistent with the plan should limit an EIR on the later project to effects which 1) were not examined as significant effects on the environment in the prior EIR, (12-7)

The effects on agriculture land in the Williamson Act Conservation and the California Farmland Trust were not examined at the time of the 1999 General Plan and EIR.

This proposed project EIR fails to address the impacts to agriculture land in the area under the Williamson Act Contract and California Farmland Trust.

What are the direct and indirect impacts the Williamson Act Contract agriculture land?

What are the direct and indirect impacts to agriculture land in a permanent agriculture preserve like through the California Farmland Trust?

What are the cumulative impacts to the Williamson Act land and the California Farmland Trust?

This was not addressed in the 1999 General Plan and EIR.

According to Appendix G of the CEQA Guidelines, a project may have a significant impact on land use and population if it would: • Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect, • 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, to non-agricultural use, • Conflict with existing zoning for agricultural use or a Williamson Act contract, • Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use, • Induce substantial unplanned 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), or • (12-5)

#### **Concern 4**

One of the things the court ruled against the City of Livingston in the Court-Set-Aside 2020 General Plan is that the City of Livingston failed to recognize agriculture with agriculture zoning land use designation.

This is new information since the 1999 General Plan and its EIR. However, the 1999 General Plan does not recognize agriculture with an agriculture zoning land use designation. Instead of an agriculture zoning land use designation the 1999 General Plan uses the designation of land as reserve for Urban Development. This is misleading. This is agriculture land.

Then in this proposed project EIR makes the argument that since the agriculture land is designated as a reserve for urban development it does not have to address the impacts to agriculture.

This is erroneous. The impacts to agriculture need to be addressed. The 1999 General Plan has land that is under the Williamson Act Contract and the California Farmland Trust marked as Urban Reserve in the City of Livingston's Sphere of Influence. (General Plan map P. 197 of 440 1999 General Plan and EIR).

This agriculture land is not a reserve for urban development. It is in a Conservation Contract and a Permanent Agriculture Easement. The impacts to agriculture need to be addressed.

#### **Concern 5**

There is the additional concern of the traffic on agriculture. Our ability to farm, moving equipment and farm product, planting, harvest, fumigating. What are the direct, indirect and cumulative impacts?

#### **Wastewater**

#### **Concern 1**

**This proposed project EIR is using an erroneous report.** The 2007c. City of Livingston Wastewater Collection System Master Plan. Prepared by Carollo Engineers. July 2007 is not valid. This was a supporting document to the Court-

Set-Aside 2020 General Plan. The court found the 2020 General Plan violated CEQA.

The City of Livingston is referencing the 2007 City of Livingston Wastewater Collection System Master Plan. The judge set-aside the City of Livingston 2020 General Plan for violating CEQA. This wastewater collection system master plan was a supporting document to the Court-set-aside 2020 General Plan. It did not pass the CEQA test in court. The 2007c. City of Livingston Wastewater Collection System Master Plan. Prepared by Carollo Engineers. July 2007 should not be used. It is not accurate.

### **Concern 2**

The 2007 City of Livingston Wastewater Collection System Master Plan contains the growth-inducing illegal-42-inch sewer trunk line. The illegal-42-inch sewer trunk line was never CEQA'd

The Merced County Grand Jury ruled that the City of Livingston must do a CEQA review on the illegal-42-inch sewer trunk line.

Merced County issued a cease and desist order regarding the illegal-42-inch-sewer trunk line.

The 2007c. City of Livingston Wastewater Collection System Master Plan. Prepared by Carollo Engineers. July 2007 is erroneous and violates CEQA.

### **Concern 3**

The illegal-42-inch-sewer trunk line in the 2007c. City of Livingston Wastewater Collection System Master Plan. Prepared by Carollo Engineers. July 2007 is adjacent to our agriculture Williamson Act Contract land and our Agriculture Permanent Easement under California Farmland Trust Land.

This growth-inducing illegal-42-inch sewer trunk line will have a direct and indirect impact on our conservation agriculture land under the Williamson Act Contract and California Farmland Trust.

This proposed project EIR states:



According to Appendix G of the CEQA Guidelines, a project may have a significant impact on land use and population if it would

- Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect,
- 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, to non-agricultural use,
- Conflict with existing zoning for agricultural use or a Williamson Act contract,
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use,
- Induce substantial unplanned 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), (12-5)

All of the above five criteria are met with the growth-inducing illegal-42-inch sewer trunk line that has not gone through a CEQA review.

What are the significant impacts to the Williamson Act Contract land and the California Farmland Trust land?

#### **Agriculture Concern 4**

The proposed project EIR states that it does not have to consider the impacts to agriculture land because the 1999 General Plan and EIR were certified and found there would be impacts to agriculture land would be significant and unavoidable so since a statement of overriding consideration was adopted by the City Council in conjunction with the 1999 General Plan this proposed project EIR does not have to look at the impacts to agriculture land. So it concludes the Level of Significant is Less than significant and No Mitigation Measures are required. (12-7)

**But** it goes on to state:

CEQA Guidelines Section 15152(d) states that where an EIR has been prepared and certified for a plan, a lead agency for a later project consistent with the plan should limit an EIR on the later project to effects

which 1) were not examined as significant effects on the environment in the prior EIR, or 2) are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means. The project is consistent with the General Plan designation for the site. Revisions to the project, or conditions imposed on the project, are unlikely to avoid or reduce the conversion of Farmland on the project site. Pursuant to CEQA Guidelines Section 15152(d), this environmental impact does not require additional consideration under CEQA. As such, project impacts on direct Farmland conversion are considered less than significant. Level of Significance: Less than significant Mitigation Measures: None require (12-7)

The Illegal-42-inch-sewer trunk line occurred after the 1999 General Plan and EIR. It was not examined to the significant effects on the environment in the 1999 General Plan and EIR. Number 1 in the above criteria is met. What are the impacts to agriculture land? Direct and indirect? What are the Cumulative impacts?

The illegal-42-inch sewer trunk line is in agriculture land in Merced County outside the Livingston City Limit.

## **Wastewater and Agriculture**

### **Concern 5**

Impact UTIL-3: Wastewater Treatment Capacity The project would place additional demand on the City's wastewater collection and treatment system. Based on an average flow of 2,800 gallons per day per acre for high density residential land use (City of Livingston 2007c), the amount of wastewater that would be generated by the project would be approximately 48,440 gallons per day. As indicated above, the Domestic Wastewater Treatment Plant currently has available capacity of 2.0 mgd on average. The City's wastewater treatment system appears to have adequate capacity to accommodate wastewater generated by project activities at full buildout. **The project would contribute to future expansion of the Domestic Wastewater Treatment Plant through the payment of sewer connection fees.** Project impacts on wastewater services would be less than significant. Level of Significance: Less than significant The Villages at Main EIR 16-9 March 2021 Mitigation Measures: None require (16-8)

Where will the future expansion of the Domestic Wastewater Treatment Plant occur? What is the impact on Agriculture land? What is the impact on Conservation Agriculture land under Williamson Act Contract? What is the impact on Agriculture land in a Permanent Conservation Easement in the California Farmland Trust?

This proposed project EIR is using the Court-set-Aside 2020 General Plan supporting document 2007c. City of Livingston planned on expanding the Domestic Wastewater Treatment Plant outside its 2050 Sphere of Influence onto Agriculture Land that is under a Williamson Act Contract. This is one of the reasons the Court ruled the City of Livingston 2020 General Plan violated CEQA.

The expansion of the Domestic Wastewater Treatment Plant was not covered under the 1999 General Plan and EIR.

According to:

CEQA Guidelines Section 15152(d) states that where an EIR has been prepared and certified for a plan, a lead agency for a later project consistent with the plan should limit an EIR on the later project to effects which 1) were not examined as significant effects on the environment in the prior EIR, or 2) are susceptible to substantial reduction or avoidance by the choice of specific revisions in the project, by the imposition of conditions, or other means. The project is consistent with the General Plan designation for the site. Revisions to the project, or conditions imposed on the project, are unlikely to avoid or reduce the conversion of Farmland on the project site. Pursuant to CEQA Guidelines Section 15152(d), this environmental impact does not require additional consideration under CEQA. As such, project impacts on direct Farmland conversion are considered less than significant. Level of Significance: Less than significant Mitigation Measures: None require (12-7)

This growth inducing proposed project would contribute to the expansion of the Domestic Wastewater Treatment Plant. The expansion of the Domestic Wastewater Treatment Plant is **not** consistent with the 1999 General Plan and its EIR. It was not examined in the prior EIR. And in the Court-set-Aside 2020 General Plan supporting document 2007c. City of Livingston planned on expanding the Domestic Wastewater Treatment Plant outside its 2050 Sphere of Influence onto Agriculture Land that is under a Williamson Act Contract would cause the conversion of farmland.

What are the direct, indirect, and cumulative impacts to the agriculture land with this proposed project?

This proposed project EIR states:

According to Appendix G of the CEQA Guidelines, a project may have a significant impact on land use and population if it would

- Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect,
- 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, to non-agricultural use,
- Conflict with existing zoning for agricultural use or a Williamson Act contract,
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use,
- Induce substantial unplanned 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), (12-5)

The project would contribute to future expansion of the Domestic Wastewater Treatment Plant (16-8) conflicts with the 1999 General Plan and EIR, is Prime Farmland of Statewide Importance, conflicts with existing zoning for agriculture use and Williamson Act contract, converts farmland to non-agriculture use, and will induce unplanned population growth. All five of the above criteria are met. This proposed project will have a significant impact on Agriculture and Williamson Act Land. What are the direct, indirect and cumulative impacts to agriculture land?

### Wastewater Capacity

This proposed project EIR states the capacity of the Domestic Wastewater Treatment Plant is 2.0 mg on average based on the 2007c. City of Livingston Wastewater Collection System Master Plan. Prepared by Carollo Engineers. July 2007.

Impact UTIL-3: Wastewater Treatment Capacity The project would place additional demand on the City's wastewater collection and treatment system. Based on an average flow of 2,800 gallons per day per acre for high density residential land use (City of Livingston 2007c), the amount of wastewater that would be generated by the project would be approximately 48,440 gallons per day. As indicated above, the Domestic Wastewater Treatment Plant currently has available capacity of 2.0 mgd on average. The City's wastewater treatment system appears to have adequate capacity to accommodate wastewater generated by project activities at full buildout. **The project would contribute to future expansion of the Domestic Wastewater Treatment Plant through the payment of sewer connection fees.** Project impacts on wastewater services would be less than significant. Level of Significance: Less than significant The Villages at Main EIR 16-9 March 2021 Mitigation Measures: None require (16-8)

But since the 2007 Wastewater Master Plan, The capacity at the Wastewater Treatment facility has been reduced since the State Water board told the City of Livingston it can use those ponds because of spilling wastewater in the Merced River twice within ten years. The capacity of the Domestic Wastewater Treatment Plant needs to be updated to reflect the reduced capacity. What is the current capacity with those two ponds removed?

Also according to page 10-1 there has been a Cease and Desist order issued for the Wastewater Treatment Facility.

A list of solid waste disposal sites identified by SWRCB that exhibit waste constituent levels outside the waste management unit as being above hazardous waste screening criteria did not contain any locations within the project vicinity (CalEPA 2016a). Likewise, a list by SWRCB containing sites under Cease and Desist Orders and Cleanup and Abatement Orders showed no locations at the project site – the closest such listed site is the Livingston Wastewater Treatment Facility more than two miles to the northwest (CalEPA 2016b).

## **Water**

### **Concern 1**

I question the groundwater table that is 60 to 80 feet below ground surface. This was true over twenty years ago, but existing wells have gone dry.

Also if the groundwater table is 60 to 80 feet below ground surface, why are the well depths 180 to 192 feet below ground surface?

The City relies on groundwater for its water supply, which is provided by nine active wells (see Chapter 16.0, Utilities and Energy). As noted in Chapter 8.0, Geology and Soils, the depth to the groundwater table in the Livingston area ranges from 60 to 80 feet below ground surface (DWR 2018). Near the project site, well depth ranges from 180 to 192 feet below ground surface (GeoSearch 2018b). Groundwater quality in the Livingston area is generally good, but water from one of the City's wells was found to have exceeded the State's Maximum Contaminant Level for arsenic and is currently shut down. Samples of City water were also found to exceed the State's Maximum Contaminant Level for 1,2,3-trichloropropane (11-1)

At the last City Council meeting I attended three wells had been down. Two wells were operating on a limited flow and the third well was still not operating. Also

Foster Farms contributed a significant amount of money to get the well operational again.

I also keep hearing about contaminants in the city water.

The City of Livingston has water issues.

## **Concern 2**

### **Where is the water**

The objective of the Plan is to achieve sustainable groundwater management on a long-term average basis by increasing recharge and/or reducing groundwater pumping, while avoiding undesirable results such as degraded water quality and land subsidence. The primary means for achieving sustainability in the Subbasin will be reduction in groundwater pumping achieved through implementation of a framework to allocate the sustainable yield to the GSAs (Groundwater Sustainability Agencies). This framework will be supplemented by the implementation of projects and management actions that will either increase surface water supplies to augment the sustainable groundwater yield or will increase groundwater recharge, which will in turn increase the amount of groundwater that may be sustainably used (Merced SGMA 2019) (11-3)

### **Regarding the use of Surface Water**

How are surface water supplies going to be increased? Every farmer I know wishes for surface water supplies to be increased. This year Merced Irrigation District is rationing or curtailing water to the agriculture community. To state there will be an increase in surface water supplies to augment the sustainable groundwater yield is a nice wish. But where is the increase in the surface water supply?

Please let us know where the increase in surface water is because the agriculture community is hurting.

What will the impact be to agriculture as more water is being consumed and pumped? What is the impact to Williamson Act Land and Agriculture land in a permanent agriculture easement under the California Farmland Trust? What is the cumulative, direct and indirect impact?

### **Reduce the Recharge Basin**

This proposed project will reduce the recharge basin.

Impact HYDRO-2: Groundwater Resources and Quality. Project would be served by the City's water system, which relies in part on groundwater. Project can be accommodated from City's existing supplies without requiring additional groundwater. The project would reduce recharge area but would not significantly affect recharge of local subbasin. Groundwater quality would not be affected by proposed retention basins (2-5)

### **Water and Population**

In the above statement in this proposed project EIR it will not require additional groundwater. On page 12-8 it states the estimated population for this proposed project is 2,016. How can adding over 2,000 people not require additional groundwater? Additional groundwater will be required. What is the maximum and minimum output of the wells? Currently, what is the maximum and minimum consumption rate on peak days? What is the projected maximum and minimum consumption rate on peak days?

Thank you,



Colette Alvernaz  
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95334

EXHIBIT B

CEQA FINDINGS AND  
MITIGATION MONITORING/REPORTING PROGRAM

for the

THE VILLAGES AT MAIN  
RESIDENTIAL APARTMENT COMMUNITY  
Livingston, CA

State Clearinghouse No: 2021010256

June 14, 2021

*Prepared for:*

City of Livingston  
1416 C Street  
Livingston, CA 95334





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# 1.0 INTRODUCTION

This document sets forth the findings of the City of Livingston (the "City") relating to The Villages at Main Residential Apartment Community as required by the California Environmental Quality Act in CEQA Guidelines sections 15091-15093. This document also describes the Mitigation Monitoring/Reporting Program (MMRP) for the project as required by CEQA Guidelines Section 15097.

The primary source document for the findings and MMRP is the *Environmental Impact Report for The Villages at Main Residential Apartment Community EIR* (SCH#2021010256) (the "EIR"). When referenced as such, the EIR includes the Public Review Draft EIR (the DEIR) dated March 10, 2021 and the Final EIR (the FEIR) dated June 2021 for the project, as well as any documents that have been incorporated into the DEIR and FEIR by reference.

## 1.1 PURPOSE AND SCOPE OF THIS DOCUMENT

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The California Environmental Quality Act (CEQA) requires that a Lead Agency prepare an Environmental Impact Report (EIR) when a proposed project may involve significant environmental effects, as defined by CEQA. Prior to approval of the project, the Lead Agency is required to certify that the EIR was completed in compliance with CEQA and that the Lead Agency reviewed and considered the information in the EIR before approving the project. If the EIR identifies significant or potentially significant environmental effects, CEQA requires that the Lead Agency make specified written findings regarding each of the significant effects prior to project approval.

If the Lead Agency finds that mitigation measures are not feasible for one or more of the significant environmental effects of the project, it must also adopt a Statement of Overriding Considerations. In this case, the City Council finds that one of the proposed mitigation measures is economically infeasible, and a Statement of Overriding Consideration will be prepared. The Statement of Overriding Considerations is contained in a separate document that will be adopted by the City Council in conjunction with this Findings/MMRP document prior to project approval.

With respect to the other mitigation measures recommended to address the significant environmental effects identified in the EIR, the Lead Agency is also required to adopt a Mitigation Monitoring/Reporting Program (MMRP) that lists all mitigation measures identified in the EIR and identifies those entities or persons responsible for their implementation and/or monitoring.

The proposed project that is the subject of these findings, the environmental review process, the environmental documentation prepared for the project, and the findings that the City must make to fulfill the requirements of CEQA, are discussed below. The findings and MMRP for the project are described in subsequent sections of this document, as follows:

## 2.0 Findings of the Lead Agency with Regard to the Significant Environmental Effects of the Project

### 3.0 Mitigation Monitoring/Reporting Program

As noted, the City Council's Statement of Overriding Considerations for one of the proposed mitigation measures is shown in a separate document to be adopted in concert with this document prior to project approval.

A table detailing the Lead Agency's findings with respect to each of the significant or potentially significant effects of the project, the applicable CEQA findings and the various provisions of the MMRP are shown in the Appendix.

## 1.2 PROJECT DESCRIPTION

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The project proposes the construction of a 480-unit residential apartment complex on a 17.3-acre site located southeast of the intersection of Peach Avenue and Lincoln Boulevard, adjacent to and south of the Livingston High School sports fields in southern Livingston.

Proposed development of the site would consist of 20 three-story buildings, each with 24 units ranging from one to three bedrooms in size. The complex would also include a two-story community building with approximately 6,343 square feet of floor area, along with a patio, outdoor pool, and spa. A total of 587 parking spaces, 453 of which would be covered, would be provided to serve residents and visitors. Access to the site would be provided from a driveway off Main Street, with two other access points off Main Street for emergency vehicles only. The project would connect to existing City water and wastewater lines but would install an onsite storm drainage system with two storm drainage basins in the approximate center of the site.

The City of Livingston is responsible for the primary local government approvals for the project. The project would require approval of a Conditional Use Permit by the Livingston Planning Commission and Site Plan/Design Review approval by the Livingston City Council. Permits and approvals from other public agencies, including the Merced Irrigation District (MID), whose existing canal and other facilities would be relocated in conjunction with the project, would also be required.

## 1.3 ENVIRONMENTAL REVIEW OF THE PROJECT UNDER CEQA

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The potential environmental effects of the project, the mitigation measures necessary to address significant environmental effects and alternatives to the project are discussed in detail in an EIR prepared by the City of Livingston in accordance with the requirements of CEQA. In addition to preparing the EIR document, the City has provided notice of preparation of the EIR and availability of the Draft for public review in conformance with CEQA requirements. EIR process steps for The Villages at Main project have included

preparation and distribution of a Notice of Preparation, publication and distribution of a Draft EIR for public review, preparation of a Final EIR addressing comments received during the public review period and preparation of this CEQA Findings and Mitigation Monitoring/Reporting Plan for adoption by the Livingston City Council.

The City issued a Notice of Preparation (NOP) of the EIR on January 22, 2021; the NOP was circulated for agency review as required by CEQA. Detailed information on the content, circulation and comments received by the City on the Notice of Preparation is contained in Appendix A of the Draft EIR; the Draft EIR is incorporated herein by reference.

The Public Review Draft EIR (DEIR) was prepared by the City and distributed for agency and public comment during the period from March 10, 2021 to April 23, 2021. Documentation of the distribution process is detailed in the Final EIR, which, is also incorporated into this document by reference, below. The City received three written comments on the DEIR. In response to this input, the City prepared the Final EIR, which incorporates the DEIR by reference, displays a summary the EIR, includes all of the comments received on the DEIR, provides the City's responses to those comments, and makes any required revisions to the DEIR.

The DEIR and the Final EIR for The Villages at Main Residential Apartment Community project are hereby incorporated by reference. Copies of these documents, specifically cited below, are available for review at the offices of City of Livingston, Community Development Department, Planning Division, 1416 C Street, Livingston, California 95334.

BaseCamp Environmental, 2021a. Public Review Draft Environmental Impact Report, The Villages at Main Residential Apartment Community. SCH#2021010256. March 10, 2021

BaseCamp Environmental, 2021b. Final Environmental Impact Report, The Villages at Main Residential Apartment Community. SCH #2021010256. June 2021

## 1.4 REQUIRED CEQA FINDINGS

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CEQA requires that, prior to approval of a project, the Lead Agency make specified findings related to each of the significant or potentially significant environmental effects considered in the EIR. The EIR considered the range of potential environmental effects, including all of those concerns listed in the CEQA Guidelines Appendix G Environmental Checklist. Most of these potential environmental effects were found, on analysis, to have no effect or less than significant environmental effects. These potential effects do not require City findings under CEQA. All of these potential environmental effects, which were found to be less than significant, effects are listed in the following Section 2.1.

The Villages at Main Residential Apartment Community EIR identifies several potentially significant effects on the environment and the mitigation measures needed to reduce those effects to a less than significant level. The City's findings with respect to each of these significant environmental effects, which would be reduced to a less than significant level with mitigation measures, are described in Section 2.2 and Appendix A of this document.

It is anticipated that the City will certify the EIR, adopt the EIR mitigation measures and approve the project in conjunction with its adoption of this Findings and MMRP document. With these approvals in place, all but one of the project environmental effects will be reduced to a Less Than Significant level.

The project would involve one potentially significant and unavoidable environmental effect. The EIR describes the project site as being a possible nesting site for the Swainson's hawk, a migratory hawk listed as a threatened species under the California Endangered Species Act (CESA). Mitigation for this potential project impact would involve pre-construction surveys for Swainson's hawk nesting and conformance with biologist recommendations as to actions needed to prevent impacts on hawk nesting if it occurs. These mitigation measures would reduce this potential effect to a less than significant level.

The project would also result in the loss of the existing Swainson's hawk foraging habitat value of the project site. The recommended mitigation measure would require payment of compensation fees for the loss of Swainson's hawk foraging habitat at a ratio of 1:1 by the project applicant through purchase of mitigation credits at established Swainson's hawk mitigation banks in the general project area. The applicant maintains that the required mitigation is too costly, contrary to the purposes of the project and therefore infeasible. Mitigation costs are the subject of the Statement of Overriding Considerations for the project, contained in a separate document.

The findings for The Villages at Main Residential Apartment Community project described below, as well as the Statement of Overriding Considerations, are based upon substantial evidence, comprised primarily of the information, analysis and mitigation measures described in the DEIR and FEIR and any other information incorporated into these documents by reference. Specific references to supporting information are provided in conjunction with the City's finding for each potentially significant effect of the project, as shown in the MMRP table in the Appendix.

## 2.0 FINDINGS OF THE LEAD AGENCY WITH REGARD TO ENVIRONMENTAL EFFECTS

### 2.1 ENVIRONMENTAL EFFECTS OF THE PROJECT THAT ARE LESS THAN SIGNIFICANT AND REQUIRE NO FINDINGS

---

The following environmental issues and concerns were evaluated in the EIR and were determined to have no effect or a less than significant effect on the environment. Consequently, these effects do not require findings under CEQA. Note that, although Impact TRANS-1: Conflict with Traffic Plans, Ordinances and Policies did not identify a significant environmental effect under CEQA, the project traffic study did recommend three transportation improvements.

#### 4.0 AESTHETICS AND VISUAL RESOURCES

- Impact AES-1: Scenic Vistas
- Impact AES-2: Scenic Resources
- Impact AES-3: Visual Character and Quality
- Impact AES-4: Light and Glare

#### 5.0 AIR QUALITY

- Impact AIR-1: Air Quality Plans and Standards, Construction Emissions
- Impact AIR-2: Exposure of Sensitive Receptors to Pollutants
- Impact AIR-3: Odors and Other Emissions

#### 6.0 BIOLOGICAL RESOURCES

- Impact BIO-2: Riparian and Other Sensitive Habitats Impact
- Impact BIO-3: Waters of the U.S. and Wetlands
- Impact BIO-5: Local Biological Requirements
- Impact BIO-6: Habitat Conservation Plans

#### 7.0 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES

- Impact CULT-1: Historical Resources

#### 8.0 GEOLOGY AND SOILS

- Impact GEO-1: Faulting and Seismicity
- Impact GEO-2: Other Geologic Hazards
- Impact GEO-4: Expansive Soils
- Impact GEO-6: Access to Mineral Resources

## 9.0 GREENHOUSE GAS EMISSIONS

Impact GHG-1: Project GHG Operational Emissions and Consistency with Applicable Plans and Policies

## 10.0 HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: Hazardous Material Transportation and Storage

Impact HAZ-2: Hazardous Material Releases

Impact HAZ-4: Airport Hazards

Impact HAZ-6: Wildfire Hazards

## 11.0 HYDROLOGY AND WATER QUALITY

Impact HYDRO-2: Groundwater Resources and Quality

Impact HYDRO-3: Drainage Patterns and Runoff

Impact HYDRO-4: Flood Hazards

Impact HYDRO-5: Consistency with Water Quality and Groundwater Management Plans

## 12.0 LAND USE, AGRICULTURE, AND POPULATION

Impact LUP-1: Division of Communities

Impact LUP-2: Conflict with Applicable Plans, Policies, and Regulations

Impact LUP-3: Conversion of Farmland

Impact LUP-4: Agriculture Zoning and Williamson Act

Impact LUP-5: Indirect Conversion of Agricultural Lands

Impact LUP-6: Inducement of Unplanned Population Growth

Impact LUP-7: Displacement of Housing and People

## 13.0 NOISE

Impact NOISE-4: Groundborne Vibrations

Impact NOISE-5: Airport and Airstrip Noise

## 14.0 PUBLIC SERVICES AND RECREATION

Impact PSR-1: Fire Protection Service

Impact PSR-2: Police Protection Service

Impact PSR-3: Schools

Impact PSR-4: Parks and Recreational Facilities

Impact PSR-5: Other Public Facilities

## 15.0 TRANSPORTATION

Impact TRANS-1: Conflict with Traffic Plans, Ordinances and Policies

Impact TRANS-2: Conflicts with Non-Motor Vehicle Transportation Plans

Impact TRANS-3: Consistency with CEQA Guidelines Section 15064.3(b)

Impact TRANS-4: Safety Hazards

Impact TRANS-5: Emergency Access

## 16.0 UTILITIES AND ENERGY

Impact UTIL-1: Relocation or Construction of New Facilities

Impact UTIL-2: Water Systems and Supply

Impact UTIL-3: Wastewater Treatment Capacity

Impact UTIL-4: Solid Waste

Impact UTIL-5: Energy and Telecommunications

Impact UTIL-6: Project Energy Consumption

Impact UTIL-6: Consistency with Energy Plans

## 17.0 CUMULATIVE IMPACTS

## 2.2 ENVIRONMENTAL EFFECTS OF THE PROJECT THAT REQUIRE FINDINGS

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The following environmental effects were found by the EIR to be significant and/or potentially significant prior to the application of mitigation measures. As required by CEQA, the City must make findings with respect to each of these significant effects. Each of these environmental effects would be reduced to a less than significant level with mitigation measures described in the EIR and to be adopted by the City in conjunction with its approval of the project. The City's findings specific to each significant environmental effect, and the evidence in support of those findings, are detailed in the Mitigation Monitoring/Findings table shown in the Appendix.

Impact BIO-1: Special-Status Species and Habitats

Impact BIO-4: Fish and Wildlife Migration

Impact CULT-2: Archaeological Resources

Impact CULT-3: Human Burials

Impact CULT-4: Tribal Cultural Resources

Impact GEO-3: Soil Erosion

Impact GEO-5: Paleontological Resources and Unique Geological Features

Impact NOISE-3: Increase in Noise Levels in Excess of Standards-Construction

Impact HAZ-3: Hazardous Material Sites

Impact HAZ-5: Interference with Emergency Vehicle Access and Evacuations

Impact HYDRO-1: Surface Water Resources and Quality

Impact NOISE-1: Exposure to Noise Levels in Excess of Standards, Project Operations

Impact NOISE-2: Exposure to Noise Levels in Excess of Standards, Project Construction



## 2.3 FINDINGS TABLE

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The City's findings with respect to each of the significant or potentially significant environmental effects of the project are detailed in the Mitigation Monitoring/Findings table shown in the Appendix. The findings consider each of the significant or potentially significant environmental effects of the project on an individual basis. Each environmental effect is briefly identified, all of the mitigation measures identified in the EIR are listed, and the significance of each environmental effect after application of the mitigation measures is identified. Following this, the City's finding with respect to the environmental effect, and the location of source information for the City's finding, are identified.

The findings are based upon the whole of the information and analysis included in the EIR and, in particular, on the implementation of the project mitigation measures identified in the EIR as described in the following Mitigation Monitoring/Reporting Plan. As described in the MMRP, implementation of the mitigation measures will be accomplished through incorporation in permits and approvals as well as project improvement plans and specifications. Implementation of mitigation measures will be ensured through monitoring of project activities by the Livingston Community Development and Public Works Departments. Section 5.0 of this document adopts the MMRP.

Potential findings for the significant and potentially significant effects of the project are prescribed in Sections 15091 of the State CEQA Guidelines. The three potential findings as they apply to the significant effects of the project are listed below. The findings are listed by number reference only in the appended table describing findings for the individual significant effects.

*Finding 1 Changes or alterations to the project have been required of, or incorporated into, the project that will avoid or substantially lessen the significant environmental effect, as identified in the Final EIR. (This is the finding made by the City for all but one of the significant or potentially significant environmental effects identified in the EIR.)*

*Finding 2 Changes or alterations to the project that would avoid or substantially lessen the subject environmental effect are within the responsibility and jurisdiction of another public agency and not the City. Such changes or alterations have been adopted by such other agency or can and should be adopted by such other agency. (This finding is not applied to any of the environmental effects identified in the EIR.)*

*Finding 3 Mitigation measures or alternatives that would avoid or substantially lessen the subject environmental effect are infeasible as a result of specific economic, legal, social, technological or other considerations. (This finding is applied to one of the environmental effects identified in the EIR and is the subject of the City's Statement of Overriding Considerations.)*

### 3.0 MITIGATION MONITORING/REPORTING PROGRAM

CEQA requires more than just preparing environmental documents; it also requires the governmental agency to change or place conditions on a project, or to adopt plans or ordinances for a broader class of projects, which would address potential environmental impacts. To ensure that mitigation measures within the Lead Agency's purview are actually implemented, CEQA requires the adoption of a mitigation monitoring and/or reporting program (MMRP). Specifically, CEQA Guidelines Section 15091(d) requires that a public agency, when making findings for the significant impacts of a project,

“shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.”

The EIR sets forth several mitigation measures that will be applicable to the project. The table shown in the Appendix A summarizes the environmental effects that could result from approval of the proposed project as described in the EIR. The table identifies 1) each effect, 2) how each significant effect would be mitigated, 3) the responsibility for implementation of each mitigation measure, 4) the responsibility for monitoring of the mitigation measures, and 5) the City's CEQA finding, the significance of the effect with mitigation and the source material for the finding. The table follows the same sequence as the impact analysis in the EIR. Reporting actions required to ensure that the mitigation measures are implemented are also described in the table.

Although Impact TRANS-1: Conflict with Traffic Plans, Ordinances and Policies identified the need for three transportation improvements, no significant environmental effect under CEQA was identified. The three recommended improvements are listed for the purposes of monitoring.

The significance determination for each environmental effect evaluated in the EIR was based on one or more criteria for significance developed from guidance contained in the CEQA Guidelines, or other “significance thresholds” established by federal, state, regional, or local agencies:

- A “Significant” effect is a substantial adverse change in the environment (CEQA Guidelines Section 15382).
- A “Cumulatively Significant” effect is a substantial adverse change in the environment, which results from cumulative development in the City of Livingston.
- A “Potentially Significant” effect is one that is likely to cause future substantial adverse changes to the environment.
- A “Significant and Unavoidable” effect is one for which there is no known or feasible mitigation.

- A “Not Significant” effect is one that may be adverse but does not exceed the defined significance threshold.

APPENDIX  
MITIGATION MONITORING/REPORTING PROGRAM TABLE

Impact/Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	CEQA Finding, Significance with Mitigation, Sources
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<p><b>4.0 AESTHETICS</b></p>			
<p>There are no significant or potentially significant impacts in this issue area.</p>			
<p><b>5.0 AIR QUALITY</b></p>			
<p>There are no significant or potentially significant impacts in this issue area.</p>			
<p><b>6.0 BIOLOGY</b></p>			
<p>Impact BIO-1: Special-Status Species and Habitats. This is a significant and unavoidable issue.</p>			
<p>BIO-1: If project construction commences between March 1 and September 15, a pre-construction survey for nesting Swainson's hawks shall be conducted within 0.25 miles of the project site. If active nests are found, a qualified biologist shall determine the need (if any) for temporal restrictions on construction. Any restrictions shall be implemented by the developer as specified by the biologist. The determination for restrictions shall utilize criteria set forth by the California Department of Fish and Wildlife in its "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (<i>Buteo Swainsoni</i>) in the Central Valley of California" (1994).</p>	<p>Developer will be responsible for retaining biologist to conduct pre-construction surveys. Biologist will specify actions needed to protect Swainson's hawk nesting activity. Developer will implement biologist recommendations.</p>	<p>Community Development Department will oversee biologist study and implementation of recommendations.</p>	<p>1, NS Rationale: DEIR, Pages 6-9, 6-10, 6-11</p>
<p>BIO-2: The project applicant shall compensate for the loss of Swainson's hawk foraging habitat that will result from the project prior to project completion. In accordance with the "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (<i>Buteo Swainsoni</i>) in the Central Valley of California" (1994), compensation shall occur at a ratio of 1:1. Compensation may be provided by contributions to nearby habitat mitigation banks, such as the Great Valley and Deadman Creek banks in Merced County.</p>	<p>Determined not feasible. Fee payments would be paid by the developer.</p>	<p>Community Development Department would oversee fulfillment of fee payment.</p>	<p>3, Infeasible, SU Rationale: DEIR, Pages 6-10, 6-11, Statement of Overriding Consideration</p>

Impact/Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	CEQA Finding, Significance with Mitigation, Sources
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Impact BIO-4: Fish and Wildlife Migration			
BIO-3: If project construction or vegetation removal commences during the general nesting season (March 1 through July 31), a pre-construction survey on the project site for all species of nesting birds shall be conducted. If active nests are found, work in the vicinity of the nests shall be delayed until the young have fledged.	Same as BIO-1	Same as BIO-1	1, NS Rationale: DEIR, Pages 6-11, 6-12

## 7.0 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES

Impact CULT-2: Archaeological Resources. This is a potentially significant issue.			
CULT-1: If any subsurface cultural resources are encountered during construction of the project, all construction activities within 50 feet of the encounter shall be halted until a qualified archaeologist can examine these materials, determine their significance, and if significant recommend further mitigation measures that would reduce potential effects to a level that is less than significant. Recommended mitigation measures could include, but are not limited to, 1) preservation in place, or 2) excavation, recovery, and curation by qualified professionals. The City of Livingston Community Development Department shall be notified, and the project developer shall be responsible for retaining qualified professionals, implementing recommended mitigation measures, and documenting mitigation efforts in a written report to the City's Community Development Department, consistent with the requirements of the CEQA Guidelines.	Developer will be responsible for retaining archaeologist to examine cultural resources if encountered. Archaeologist will specify actions needed to protect resources as required. Developer will implement archaeologist recommendations.	Community Development Department will oversee archaeologist study and implementation of recommendations.	1, NS Rationale: DEIR, Pages 7-5, 7-6
Impact CULT-3: Human Burials			
CULT-2: If project construction encounters evidence of human burial or scattered human remains, the contractor shall immediately notify the County Coroner and the City, which shall in turn notify the appropriate tribal representatives. The City shall notify other federal and State agencies as required. The City will be responsible for compliance with the requirements of California Health and Safety Code Section 7050.5 and with any direction provided by the County	Same as CULT-1. Developer will be responsible for immediate notification of the identified agencies.	Community Development Department will respond to notification and oversee required activities pursuant thereto.	1, NS Rationale: DEIR, Pages 7-6, 7-7

Impact/Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	CEQA Finding, Significance with Mitigation, Sources
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<p>Coroner.</p> <p>If the human remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission, which will notify and appoint a Most Likely Descendant. The Most Likely Descendant shall work with the City and a qualified archaeologist to decide the proper treatment of the human remains and any associated funerary objects in accordance with California Public Resources Code Sections 5097.98 and 5097.991. Avoidance is the preferred means of disposition of the burial resources.</p>			
<p>Impact CULT-4: Tribal Cultural Resources</p>			
<p>Implementation of Mitigation Measures CULT-1 and CULT-2</p>	<p>Same as CULT-1 and CULT-2.</p>	<p>Same as CULT-1 and CULT-2.</p>	<p>1, NS</p> <p>Rationale: DEIR, Page 7-7</p>

## 9.0 GEOLOGY AND SOILS

<p>Impact GEO-3: Soil Erosion. This is a potentially significant issue.</p>			
<p>GEO-1: Prior to commencement of construction activity, the developer shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for the project and file a Notice of Intent with the State Water Resources Control Board (SWRCB) in compliance with the Construction General Permit and City of Livingston storm water requirements. The SWPPP shall be available on the construction site at all times. The developer shall incorporate an Erosion Control Plan consistent with all applicable provisions of the SWPPP within the site improvement and building plans. The developer also shall submit the SWRCB Waste Discharger's Identification Number to the City prior to approval of development or grading plans.</p>	<p>Developer will be responsible for preparation and implementation of SWPPP requirements.</p>	<p>Public Works Department will be responsible for overseeing compliance with SWRCB requirements.</p>	<p>1, NS</p> <p>Rationale: DEIR Page 8-6, 8-7</p>

Impact/Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	CEQA Finding, Significance with Mitigation, Sources
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Impact GEO-5: Paleontological Resources and Unique Geological Features. This is a potentially significant impact.

<p>GEO-2: If any subsurface paleontological resources are encountered during construction of the project, all construction activities within 50 feet of the encounter shall be halted until a qualified paleontologist can examine these materials, determine their significance, and if significant recommend further mitigation measures that would reduce potential effects to a level that is less than significant. Recommended measures could include, but are not limited to, 1) preservation in place, or 2) excavation, recovery, and curation by qualified professionals. The City of Livingston Community Development Department shall be notified, and the project developer shall be responsible for retaining qualified professionals, implementing recommended mitigation measures, and documenting mitigation efforts in a written report to the City's Community Development Department, consistent with the requirements of the CEQA Guidelines.</p>	<p>Developer will be responsible for retaining paleontologist to examine resources if encountered. Paleontologist will specify actions needed to protect resources as required. Developer will implement paleontologist recommendations.</p>	<p>Community Development Department will oversee paleontologist study and implementation of recommendations.</p>	<p>1, NS Rationale: DEIR Page 8-7</p>
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## 10.0 HAZARDS

Impact HAZ-3: Hazardous Material Sites. This is a potentially significant issue.

<p>HAZ-1: Prior to final site plan approval, the project applicant shall conduct a Phase I Environmental Site Assessment to determine the potential presence of hazardous material storage or soil contamination on the project site, particularly of residual agricultural chemicals. If this assessment determines that such a potential exists, then a Phase II Environmental Site Assessment shall be conducted to determine the location and extent of soil contamination. The Phase II Environmental Site Assessment shall present its analysis and conclusions and, if necessary, make recommendations for remediation of any contamination determined to present a potential risk to human health. All recommendations shall be implemented prior to the start of building construction</p>	<p>Developer will be responsible for retaining qualified professional to conduct Phase I and II studies and cleanup work as required. Developer will implement cleanup recommendations.</p>	<p>Community Development Department will oversee Phase I and II studies and implementation of recommendations.</p>	<p>1, NS Rationale: FEIR Pages 10-6, 10-7</p>
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Impact/Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	CEQA Finding, Significance with Mitigation, Sources
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Impact HAZ-5: Interference with Emergency Vehicle Access and Evacuations. This is a potentially significant issue.

<p>HAZ-2: Prior to project construction involving work in off-site streets, the developer shall prepare and implement a Traffic Control Plan, which shall include such items as traffic control requirements, resident notification of any required access closure, and daily access restoration. The contractor shall specify dates and times of road closures or restrictions, if any, and shall ensure that adequate access will be provided for emergency vehicles. The Traffic Control Plan shall be reviewed and approved by the City Department of Public Works and shall be coordinated with the Livingston Police Department and the Merced County Fire Department if construction will require road closures or lane restrictions.</p>	<p>The developer will be responsible for including subject requirements in project plans and specifications.</p>	<p>The Department of Public Works will be responsible for review and approval of project plans and specifications.</p>	<p>1, NS  Rationale: DEIR Pages 10-7, 10-8</p>
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## 11.0 HYDROLOGY AND WATER QUALITY

Impact HYDRO-1: Surface Water Resources and Quality. This is a potentially significant issue.

<p>HYDRO-1: The developer shall submit a Storm Water Quality Plan for the project that shall include post-construction Best Management Practices (BMPs) as required by the City's Storm Water Management Program. The Storm Water Quality Plan shall be reviewed and approved by the City of Livingston Public Works Department prior to approval of project improvement plans.</p> <p>HYDRO-2: If required, the developer shall execute a Maintenance Agreement with the City for stormwater BMPs prior to receiving a Certificate of Occupancy. The developer shall remain the responsible party and provide funding for the operation, maintenance and replacement costs of the proposed treatment devices built for the project.</p> <p>HYDRO-3: The developer shall comply with applicable requirements of, and pay all associated fees as required by, the City's Storm Water Pollution Prevention Program as set forth in its NPDES Storm Water Permit.</p>	<p>The developer will be responsible for submittal of storm water quality plans, execution of a maintenance agreement and compliance with other Storm Water Quality Control Plan requirements.</p>	<p>The Department of Public Works will be responsible for review and approval of storm water quality plans and ensuring that required signatures and fee payments are submitted by the developer.</p>	<p>1, NS  Rationale: DEIR Pages 11-4, 11-5</p>
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Impact/Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	CEQA Finding, Significance with Mitigation, Sources
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<p><b>12.0 LAND USE, AGRICULTURE, AND POPULATION</b></p>			
<p>There are no potentially significant or significant impacts in this issue area.</p>			
<p><b>13.0 NOISE</b></p>			
<p>Impact NOISE-1: Exposure to Noise Levels in Excess of Standards – Project Operations. This is a potentially significant impact.</p>			
<p>NOISE-1: The building plans for any buildings located near the western boundary of the project site shall be reviewed by a qualified acoustical professional to ensure that interior building noise levels comply with the City’s interior noise level standard of 45 dB Ldn. If it is determined that a building does not comply with this standard, then the acoustical professional shall recommend measures that would bring the building into compliance, which the project applicant shall incorporate into the site design. Measures may include, but are not limited to, the provision of air conditioning or other suitable mechanical ventilation so that residents may close windows and doors to reduce noise levels.</p>	<p>The developer will be responsible for retaining a qualified acoustical professional to evaluate interior noise levels in the western portion of the site and to specify any required noise mitigation. The developer will be responsible for incorporating noise requirements into project plans and specifications.</p>	<p>The Community Development Department will be responsible for review and approval of the acoustical evaluation and ensuring that acoustical recommendations are included in project plans and specifications.</p>	<p>1, NS Rationale: DEIR Pages 13-5, 13-6</p>
<p>Impact NOISE-2: Exposure to Noise Levels in Excess of Standards – Project Construction. This is a potentially significant impact.</p>			
<p>NOISE-2: Project construction shall be restricted to the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday. No construction shall occur on Sundays or national holidays without prior approval from the City Planning Director.</p> <p>NOISE-3: All equipment used on the construction site during all project phases shall be fitted with mufflers in accordance with manufacturers’ specifications. Mufflers shall be installed on the equipment at all times on the construction site.</p>	<p>The developer will be responsible for incorporating these noise requirements in project plans and specifications.</p>	<p>The Community Development Department will be responsible for ensuring that noise requirements are included in project plans and specifications and for period compliance inspections of the work site.</p>	<p>1, NS Rationale: DEIR Pages 13-6, 13-7</p>

Impact/Mitigation Measures	Implementation Responsibility	Monitoring/Reporting Responsibility	CEQA Finding, Significance with Mitigation, Sources
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**14.0 PUBLIC SERVICES AND RECREATION**

There are no potentially significant or significant impacts in this issue area.

**15.0 TRANSPORTATION**

There are no potentially significant or significant impacts under CEQA in this issue area, however, there are improvement recommendations (RS-1, RS-2) based on the traffic study conducted by KD Anderson and Associates, Inc.

**Recommended Transportation Improvements for Conflict with Traffic Plans, Ordinances, and Policies**

<p>RSI-1: The project applicant shall pay a fair share of the cost of installing traffic signals at the intersections of Hammatt Avenue and State Route 99 Northbound Ramps, and Hammatt Avenue and SR 99 Southbound Ramps. Fair-share costs shall be determined by the City Engineer.</p>	<p>Developer will be responsible for payment of proportional share costs of transportation improvements as required by the Livingston City Council.</p>	<p>The Department of Public Works will be responsible for review, approval and inspection of improvements required by the Livingston City Council.</p>	<p>Rationale: DEIR Pages 15-5, 15-6</p>
<p>RSI-2: The project applicant shall pay a fair share of the cost of splitting the single-lane southbound approach at the intersection of Hammatt Avenue and F Street into a combined through/left-turn lane and an exclusive southbound-to-westbound right-turn lane. Fair-share costs shall be determined by the City Engineer.</p>			
<p>RSI-3: The project applicant will pay a fair share of the cost of installing traffic signals at the intersections of Hammatt Avenue and F Street, Hammatt Avenue and Peach Avenue, and Main Street and Peach Avenue. Fair-share costs shall be determined by the City Engineer.</p>			

**16.0 UTILITIES AND ENERGY**

There are no potentially significant or significant impacts in this issue area.

EXHIBIT C

STATEMENT OF OVERRIDING CONSIDERATIONS

FOR THE

THE VILLAGES AT MAIN  
RESIDENTIAL APARTMENT COMMUNITY

Livingston, CA

State Clearinghouse No: 2021010256

June 14,2021

Prepared for:  
CITY OF LIVINGSTON  
1416 C Street  
Livingston, CA 95334



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# 1.0 INTRODUCTION

This document sets forth the Statement of Overriding Considerations of the City of Livingston (the "City") as to one environmental impact described in the Environmental Impact Report for The Villages at Main Street project. The one impact, described below, is considered by the City to be "significant and unavoidable."

This Statement of Overriding Considerations document is closely related to the overall CEQA Findings and Mitigation Monitoring/Reporting Program for the project, which addresses the effectiveness of mitigation measures with respect to the environmental effects of the project, as required by CEQA Guidelines Sections 15091-15093 and 15097. The overall CEQA Findings and Mitigation Monitoring/Reporting Program is a separate standalone document.

## 1.1 APPLICABLE CEQA REQUIREMENTS

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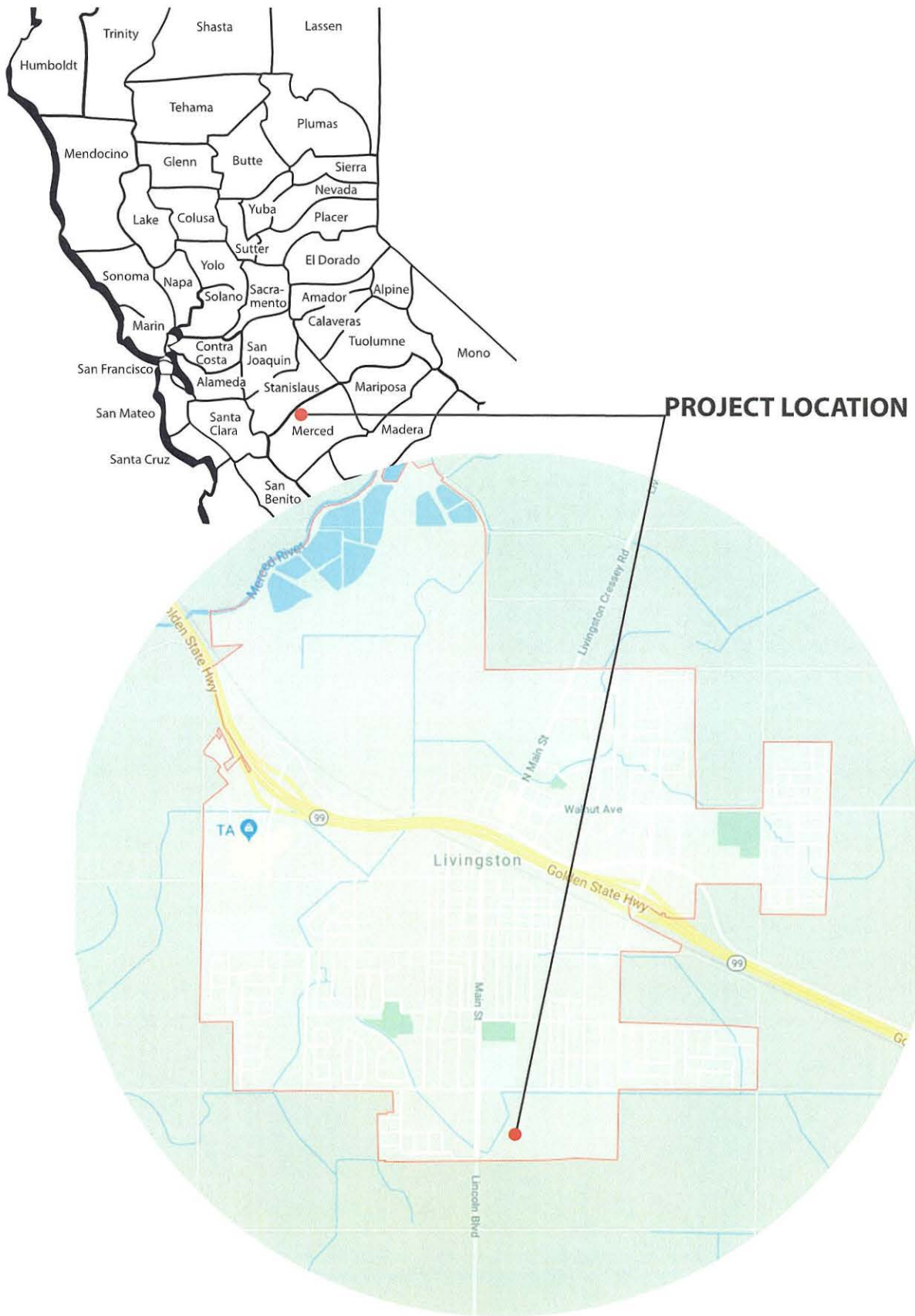
CEQA requires that a Lead Agency prepare an Environmental Impact Report (EIR) when a proposed project may involve significant environmental effects. Prior to approval of the project, the Lead Agency must certify that the EIR was completed in compliance with CEQA and that the Lead Agency reviewed and considered the EIR before approving the project.

The Villages at Main project proposes the construction of a 480-unit residential apartment complex on a 17.3-acre site located southeast of the intersection of Peach Avenue and Lincoln Boulevard, adjacent to and south of the Livingston High School playing fields, in the City of Livingston. The project is described in more detail in the project EIR. The location and site plan of the project is shown in Figures 1, 2 and 3.

The City of Livingston prepared an EIR describing the potential environmental effects of the project, mitigation measures necessary to address these effects and alternatives to the project. The City conducted the public review process for the EIR and completed the remaining EIR processing requirements of CEQA. These activities are described in more detail in Final EIR document.

When an EIR identifies significant or potentially significant environmental effects, CEQA requires that the Lead Agency make specified written findings prior to project approval. For the Villages at Main project, these written findings are contained in the CEQA Findings and Mitigation Monitoring/Reporting Program, a separate document, which is being considered for adoption by the City of Livingston.

When an EIR finds that mitigation measures are not feasible for one or more of the significant environmental effects of the project, CEQA Guidelines Section 15093 provides that the Lead Agency must adopt a Statement of Overriding Considerations before approving the project.





**SOURCE:** Google Maps





### 15093. STATEMENT OF OVERRIDING CONSIDERATIONS

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The project EIR concludes that one of the biological impacts of the project – Impact BIO-1 related to impacts on Swainson’s hawk foraging habitat - is significant, and the EIR describes mitigation measures that would reduce that impact to a less than significant level. The EIR’s recommended mitigation calls for payment of mitigation fees to nearby mitigation banks. The probable cost of mitigation fees was estimated in the EIR at \$6,000.00 to \$10,000.00 per acre.

The project applicant has indicated that the cost of the recommended mitigation is excessive and would, if adopted by the City, threaten the economic feasibility of the project. The applicant’s arguments regarding infeasibility are incorporated in and attached to this Statement of Overriding Considerations and will be considered by the Livingston City Council. If the City Council agrees that the referenced mitigation is infeasible and intends to approve the project, this Statement of Overriding Considerations will be adopted pursuant to CEQA Guidelines Section 15093.

The Draft EIR, the Final EIR and the CEQA Findings and Mitigation Monitoring/Reporting Program for the project are hereby incorporated by reference. Copies of these documents, specifically cited below, are available for review at the offices of City of Livingston, 1416 C Street, Livingston, California 95332.

BaseCamp Environmental, 2021a. Public Review Draft Environmental Impact Report for the Villages at Main Residential Apartment Community. SCH #2021010256. March 2021.

BaseCamp Environmental, 2021b. Final Environmental Impact Report for The Villages at Main Residential Apartment Community. SCH #2021010256. June 2021.

BaseCamp Environmental, 2021c. CEQA Findings and Mitigation Monitoring/Reporting Program for the Villages at Main Residential Apartment Community. SCH #2021010256. June 2021.

## 1.2 SIGNIFICANT AND UNAVOIDABLE IMPACT

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The Villages at Main project would involve one potentially significant and unavoidable environmental effect related to the project. Project development would involve impacts on foraging habitat for Swainson's hawk as described in EIR Impact BIO-1.

Impact BIO-1: Special-Status Species and Habitats. Project development would involve the potential for impacts on nesting and foraging habitat for Swainson's hawk.

The EIR describes impacts for both Swainson's hawk nesting and foraging habitat. Feasible mitigation – Mitigation Measure BIO-1 - is recommended for potential Swainson's hawk nesting impacts and would be adopted by the City in conjunction with the Mitigation Monitoring/Reporting Plan for the project.

The EIR also describes a mitigation measure – Mitigation Measures BIO-2 - for Swainson's hawk foraging habitat, which calls for payment of mitigation fees to nearby mitigation banks at an estimated cost of approximately \$6,000.00-10,000 per acre of habitat.

BIO-2: The project applicant shall compensate for the loss of Swainson's hawk foraging habitat that will result from the project prior to project completion. In accordance with the "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo Swainsoni*) in the Central Valley of California" (1994), compensation shall occur at a ratio of 1:1. Compensation may be provided by contributions to nearby habitat mitigation banks, such as the Great Valley and Deadman Creek banks in Merced County.

Mitigation Measure BIO-2 could be implemented, but the mitigation measure is not considered economically feasible by the applicant. The applicant's documentation of economic infeasibility is attached to this document.

As discussed above, if the Livingston City Council elects to approve the project without adopting Mitigation Measures BIO-2, it must adopt a Statement of Overriding Considerations addressing its reasons for approving the project despite the fact that it would involve a significant environmental effect that is not mitigated. The City's Statement of Overriding Considerations and related information is presented in Section 2.0 below. When a City proposes to adopt a Statement of Overriding Considerations, it is also required to make findings with respect to the alternatives to the proposed project. These findings are set forth in Section 3.0 of this document.

The Statement of Overriding Considerations for the proposed project is based upon substantial evidence, including the information, analysis and mitigation measures described in the EIR. Information in these foregoing documents is incorporated into this document by reference. Additional information related to overriding considerations considered by the City Council is detailed in Section 2.0 and the appendices to this document.

## 2.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The City of Livingston finds that the potential Swainson's hawk foraging effects of the Villages at Main project described as a portion of Impact BIO-1 in Chapter 6.0 of the Public Review Draft EIR are potentially significant and cannot feasibly be mitigated to Less Than Significant by the mitigation measure BIO-2. The City also finds in Section 3.0 that none of the project alternatives have the potential to reduce or avoid the Swainson's hawk foraging effects of the project except the No Project Alternative. The No Project Alternative is entirely inconsistent with the project objectives.

As a result, the City Council hereby adopts and makes the following Statement of Overriding Considerations (SOC) pursuant to the requirements of Section 15093 of the CEQA Guidelines, shown in its entirety above. The SOC describes the anticipated economic, legal, social, technological and/or other benefits or considerations that warrant the City Council's decision to approve the project even though all of the environmental effects of the project are not fully mitigated.

More specifically, the City Council finds that the potential Swainson's hawk foraging effects of the Villages at Main project are considered acceptable in light of overriding social, economic and other benefits or considerations related to the project, as described below. That is, the social, economic, and other benefits or considerations of the project outweigh the potential effect of the project on Swainson's hawk foraging. The City Council considers the following items to be the overriding social, economic, and other benefits or considerations of the project.

- The project site has been in the City of Livingston for the purposes of urban development for more than 20 years.
- The project site is within the Livingston City Limits and is designated for High-Density Residential development by the 1999 Livingston General Plan. No annexation of lands outside the City limits, in particular prime agricultural lands, would need to be annexed to permit project development.
- Areas designated for High-Density Residential development may be developed at an allowable residential density ranging from 12 to 29 units per gross acre. Larger or higher-density projects, such as the proposed project, require approval of a Conditional Use Permit (CUP). The proposed project includes a request for City approval of a CUP.
- The project site is presently zoned R-3 High-Density Residential. The R-3 zone allows multifamily development by right at densities ranging from 12 to 29 dwelling units per gross acre. Larger or higher-density projects, including the proposed project, require approval of a CUP, which has been requested as a part of the project.
- Economic development and job creation are among the core objectives of the Livingston General Plan.

- The project is in compliance with 1999 Livingston General Plan policies supporting infill growth on lands with existing transportation and utility services, thereby preventing unnecessary urban expansion into greenfield areas on the periphery of Livingston.
- The project is consistent with the goals and policies of the 1999 Livingston General Plan and the 2016-2024 Housing Element, which is designed to encourage housing development adequate to meet the needs of all residents. Specifically, the project is consistent with the following goals and policies:
  - Encourage the development of a variety of housing types at various prices to maintain a diverse housing stock for residents of all income levels (Policy 1.1).
  - Maintain an adequate housing stock to accommodate increases in the work force (Policy 1.6).
  - Encourage both commercial and residential development in Livingston to maintain a balance between jobs and housing (Policy 1.7).
  - Encourage the development of housing to meet the needs of lower- and moderate-income households, particularly those with special needs (Goal 3).
  - Increase the availability of rental housing, particularly larger 3-bedroom units.
  - Promote safe and healthy living environments for all residents regardless of income level, through the development of safe and suitable housing as well as economic opportunities (Policy 8.2).
- The project would generate development impact and public facility fees that would support the provision of public services by the City and other public agencies both for the project and for the City overall. Specifically, the project would pay development impacts fees to the Livingston Unified School District and to the Merced Union High School District to support new or expanded school facilities, and fees for new or expanded fire protection and police facilities as needed.
- The project would pay its fair share of costs to improving City intersections and installing traffic signals, as well as widen the segment of Main Street fronting the project site and add bicycle and pedestrian facilities, thereby improving flow and safety of the City's transportation system for residents, visitors, and commercial and industrial activities. Specifically, pedestrian facilities would be extended from the project site to Pearl Avenue, thereby providing safe pedestrian access to Livingston High School for students residing within the proposed project.
- All potential project impacts were determined to be less than significant or would be reduced to less than significant level with proposed mitigation measures, except for the potential impact on Swainson's hawk foraging. Mitigation measures are identified and included in the attached Mitigation Monitoring and Reporting Plan that would reduce all but one of the significant or potentially significant environmental effects of the project to Less Than Significant.

- The DEIR considered a range of feasible alternatives to the proposed project. None of the alternatives would result in a reduction in the potential effects of the project on Swainson's hawk foraging.

The previously-described economic, legal, social, technological and other benefits or considerations of the project outweigh the environmental effects of the project that may remain unmitigated or are considered to be unavoidable. These environmental effects of project implementation are, therefore, considered to be acceptable.

## 3.0 FINDINGS REGARDING ALTERNATIVES

CEQA Guidelines Section 15126.6(a) requires an EIR to include a discussion of a reasonable range of alternatives to the proposed project or to the location of the project. Alternatives to the proposed project were addressed in Chapter 18.0 of the DEIR. When a Lead Agency finds that mitigation measures needed to reduce a significant effect to less than significant, or to substantially reduce it, are infeasible, the Lead Agency must also describe the specific reasons for rejecting alternatives that could meet the same need. Consequently, the City Council makes the following findings with regard to project alternatives.

### 3.1 ALTERNATIVES NOT ADDRESSED IN DETAIL

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The DEIR considered several alternatives but did not address them in detail as they were not considered “feasible” alternatives under CEQA. These “Alternative Not Addressed In Detail: 1) would not meet most of the basic objectives of the project, or 2) were clearly infeasible, or 3) did not have the ability to avoid or substantially lessen the significant environmental effects of the project as discussed below.

The alternatives not considered feasible included alternative sites. An alternative site would avoid the impacts on Swainson’s hawk foraging habitat at the project site. However, development of an alternative site would not be consistent with existing developer control of the subject properties. There are no parcels in Livingston of similar size that are available for multifamily development such as proposed by the project. Other impacts, including comparable biological resource impacts, may occur at alternative sites. For these reasons, an alternative site was considered infeasible.

### 3.2 NO PROJECT ALTERNATIVE

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The DEIR defined the “No Project” Alternative as no development as proposed by the project, and no future urban development of the project site.

This alternative would avoid most of the potential adverse environmental effects of the proposed project. However, this alternative would meet none of the objectives of the proposed project, and it would be inconsistent with both the City of Livingston General Plan and existing zoning for the site, which anticipate the eventual urban development of the project site, and the purpose of annexation of the site to the City. It also would be contrary to policies in the Housing Element that encourage multifamily development and could adversely affect housing availability, affordability, and overcrowding in Livingston.

Undeveloped vacant land may have adverse aesthetic impacts, as it may attract illegal dumping and transient use. Also, grasses and weeds that remain on the project site would

require ongoing maintenance to avoid potential fire hazards. While the project site contains Farmland as defined in CEQA Guidelines Appendix G, the site has been annexed for the purposes of urban development and is not zoned for agricultural use. Continue agricultural use of this land could lead to conflicts with nearby urban as it occurs.

The City Council hereby rejects the No Project Alternative because it would not meet the objectives of the project and could cause some environmental impacts that would not occur with the proposed project. The evidence in support of this finding is provided in DEIR Chapter 18.0.

### 3.3 REDUCED DEVELOPMENT ALTERNATIVE

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Under this alternative, the proposed number of apartment units would be reduced. Based on the minimum density of 12 units per gross acre on property designated High Density Residential, nine buildings could be constructed with a total of 216 apartment units, or 264 fewer units than under the proposed project.

Many of the environmental impacts of the Reduced Development Alternative would be less than under the proposed project, such as traffic, air quality, noise, soil disturbance, and impacts on the Arena Canal. In general, however, the environmental impacts of this alternative would be similar to those of the proposed project, including impacts on Swainson's hawk habitat. This alternative would be inconsistent with the general objective of the proposed project which is to provide increased rental housing that is more affordable. Therefore, development under this alternative would not have as great an impact on housing availability and affordability in Livingston.

The City Council hereby rejects the Reduced Development Alternative because it would not fully achieve the objectives of the project while continuing to have a significant and unavoidable impact on Swainson's hawk habitat. The evidence in support of this finding is provided in DEIR Chapter 18.0.

### 3.4 ALTERNATIVE SITE DESIGN

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This alternative would involve site designs for the proposed project that would avoid or substantially lessen one or more of its potentially significant effects. Two options could be pursued: adding apartment units to some buildings on the project site, or relocating buildings close to Main Street to another portion of the project site. The number of apartment units would remain the same as under the proposed project.

In general, impacts would be the same as under the proposed project, which would mean that environmental impacts would require the same mitigation, impacts on the Arena Canal could be avoided. This would mean that impacts on Swainson's hawk foraging habitat would still occur and would remain significant and unavoidable. In addition, the alternative site designs proposed above may generate their own significant environmental impacts on issues such as visual impacts, soil disturbance, and open space. Relocation of



buildings may be difficult, as the project site would have limited space available and may generate impacts related to utilities.

The City Council hereby rejects the Alternative Site Design because it would continue to have a significant and unavoidable impact on Swainson's hawk habitat while potentially generating other significant environmental impacts. The evidence in support of this finding is provided in DEIR Chapter 18.0.



**GDR ENGINEERING, INC.**  
ENGINEERING / SURVEYING / PLANNING

SINCE 1978

MAX M. GARCIA, PLS  
JASON K. CHAPMAN, RCE  
SEAN P. HARP, PLS

June 23, 2021

City of Livingston  
Community Development  
1416 "C" Street  
Livingston, CA 95334

Project Name: The Villages at Main  
Project No.: 18075

To Whom It May Concern,

Our clients have requested we prepare this letter on their behalf. Our clients are proposing a well-planned and designed market rate rental apartment project. This project will help the City of Livingston in meeting its critical housing needs. To be able to achieve the goals of both the City and our client, we are requesting the City Council recognize the economic considerations and social benefits surrounding this project. We request that these overriding considerations be supported in order to relieve the project area of any mitigation measures related to the Swainson's Hawk. It was estimated by Basecamp Environmental that the cost of contributing to a viable mitigation bank could be upwards of \$10,000 per acre, with project area being approximately 17.2 acres. This project cannot bear that cost and still meet its goal of providing attainable market rate housing to the people of Livingston. This extra cost would have to be absorbed and would result in higher rental rates to offset, hindering the aforementioned goal.

Without relief from these fees, it will be very difficult to financially justify the project. Another factor that must be considered is the substantial offsite improvements required. These would include the undergrounding of the MID Arena Canal, with an estimated cost of \$750,000 to \$900,000, as well as any needed improvements to Main Street. These alone will already have a significant impact on project finances, and subsequently future rental rates.

On behalf of our client and ourselves, we would like to thank you for your time and consideration regarding this key matter.

Sincerely,

Max M. Garcia  
GDR Engineering, Inc.

**RESOLUTION 2021-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
APPROVING SITE PLAN AND DESIGN REVIEW 2019-04 FOR  
THE VILLAGES AT MAIN APARTMENT COMMUNITY**

**WHEREAS**, pursuant to Livingston Municipal Code (“LMC”) Section 5-6-7, Sake Sanghera, Harvinder & Salinder Bhangu / Sukhinder & Kulvinder Sanghera applicants and owners, have applied for a Site Plan and Design Review approval to develop The Villages at Main Residential Apartment Community (“the Project”) for 480 apartment units, 20 three-story apartment buildings, a two-story community building, and associated improvements known as The Villages at Main Project on APNs 047-280-020 and APN 047-280-029 in the City of Livingston, immediately east of Main Street south of its intersection with Peach Avenue; and

**WHEREAS**, the site is zoned R-3 (High Density Residential), and has a General Plan designation of High Density Residential according to the official Zoning Map of the City of Livingston and the 1999 Livingston General Plan; and

**WHEREAS**, LMC Section 5-6-7 requires the approval of a Site Plan and Design Review for new structures within the R-3 district to assure compatibility, harmony in appearance in neighborhoods, reduction of negative impacts of nonaesthetic development, and orderly development of the community; and

**WHEREAS**, a public hearing for the proposed project has been properly noticed by posting, a newspaper ad and a mailing to adjacent properties within 300 feet of the site; and

**WHEREAS**, the City Council has considered the environmental effects of the project and has Certified the Environmental Impact Report, adopted CEQA Findings and a Mitigation Monitoring / Reporting Program, and a Statement of Overriding Considerations; and

**WHEREAS**, Staff has reviewed the project with reference to the 1999 General Plan, the Zoning Ordinance (specifically Sections 5-6-7 “C” thru “E”) and the adopted Livingston Design Guidelines; and finds that, based on the evidence documented within the associated staff report and proceedings of the public hearing, the proposed use, its site plan and design, is consistent with the General Plan, complies with the Zoning Ordinance in that the site plan and design meets the zoning standard and requirements (including those specifically referenced above), and meets the intent and guidance of the Livingston Design Guidelines; and

**WHEREAS**, The Planning Commission has reviewed this Project at a Public Hearing and has unanimously recommended that the City Council approve the Project; and

**WHEREAS**, the City Council has reviewed and considered any and all comments on the Site Plan and Design Review made at the public hearing.

**NOW, THEREFORE, BE IT RESOLVED** that the Livingston City Council hereby adopts Resolution 2021-\_\_\_, approving the Site Plan and Design Review of the subject new development.

**BE IT FURTHER RESOLVED**, that the Conditions of Approval within City Council Resolution 2021-\_\_\_, Exhibit A, attached are hereby approved.

Passed and adopted this 21<sup>st</sup> day of September, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Juan Aguilar Jr., 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 21st day of September, 2021.

---

Leticia Vasquez-Zurita, City Clerk  
of the City of Livingston

**Exhibit A**  
**Conditions of Approval**

1. The Developer shall comply with all federal, state and local laws, policies, standards and requirements applicable to this use and obtain a building permit and all other permits applicable to this use and shall pay all fees and exactions applicable to such a use; and
2. Public improvements shall conform to the latest edition of the City of Livingston Improvement Standards and all applicable federal, state, and local laws and regulations; and
3. The Developer shall submit improvement plans showing all water, sewer, storm drain, grading, and utility locations and their connection to the City system; provide plans for each subphase of the project; and
4. The Developer shall provide a soils report for the project site prepared by a California registered geotechnical engineer; and
5. The Developer shall obtain grading and encroachment permits for the project paying the permit fees, plan check and inspection fees, and furnish improvement securities pursuant to the City's improvement standards, municipal code, and ordinances; and
6. The Developer shall pay all applicable development impact fees for Municipal Facilities, Police, Fire Protection, Streets and Bridges, Water, Domestic Wastewater, Storm Drainage, and Parks; and
7. The Developer shall annex this Project into the Community Facilities District CFD# 2017-1 prior to the issuance of the Certificate of Occupancy, including the payment of administrative costs associated with the annexation; and
8. The Developer shall relocate the Arena Canal currently on the site to an underground pipeline meeting MID standards in a deeded exclusive easement in a possible new alignment to better accommodate the proposed Project as determined by MID; and
9. The Developer shall replace and reroute the Well Site 20A pipeline per the standards and requirements of MID; and
10. The Developer shall ensure that any water users that receive their irrigation water through the subject property retain their ability to do so; and
11. The Developer shall not allow any structures or trees within the MID pipeline easements; and
12. The construction of on-site storm retention or detention basins are subject to approval by MID; and
13. The Developer shall conform to any other standards and requirements of MID; and

14. The Developer shall insure that all connections to water and sewer systems shall be subject to the confirmation of availability capacity for each utility system, and per the requirements of the City; and
15. The Developer shall comply with requirements for street lighting throughout the length of Project limits along Main Street; and
16. The Developer shall include residential sprinklers in the development consistent with the requirements of the Merced County Fire Department and shall comply with other Fire Department requirements and standards; and
17. The Developer shall indemnify, defend and hold harmless the City and its officials, officers, employees, agents, and consultants from any and all legal or administrative actions or other proceedings challenging this approval or any subsequent approval associated with this project; and
18. The development of the site shall be consistent with approved plans, elevations, and colors. Minor variations from approved plans, elevations, and colors may be allowed at the review and approval of City staff; and
19. All exterior lighting fixtures shall be directed to areas on the subject property itself and shall avoid shining toward adjacent residential properties; and
20. The Developer and/or operator shall keep the site free from trash and debris and shall maintain the premises in a clean and orderly manner during construction; and
21. The Developer shall construct all frontage improvements and dedications per the requirements of the City Engineer; and
22. The Developer shall repair any damage to City facilities such as curb, gutter, sidewalk, streets and alleys caused by construction; and
23. The developer shall submit landscape plans for each phase of the Project prior to the issuance of an occupancy / or final permit for City staff review and approval specifying plant selection, size and irrigation prior to installation. Such plans shall be consistent with the approved plans and the City's landscape guidelines, and shall provide a screen 36" high adjacent to Main Street. Once installed, the developer shall request City inspection and approval of the landscaping and pay landscape inspection fees; and
24. The developer shall submit the plans for the trash enclosures for City staff review and approval after access to the enclosure has been approved by Gilton Solid Waste Management; and

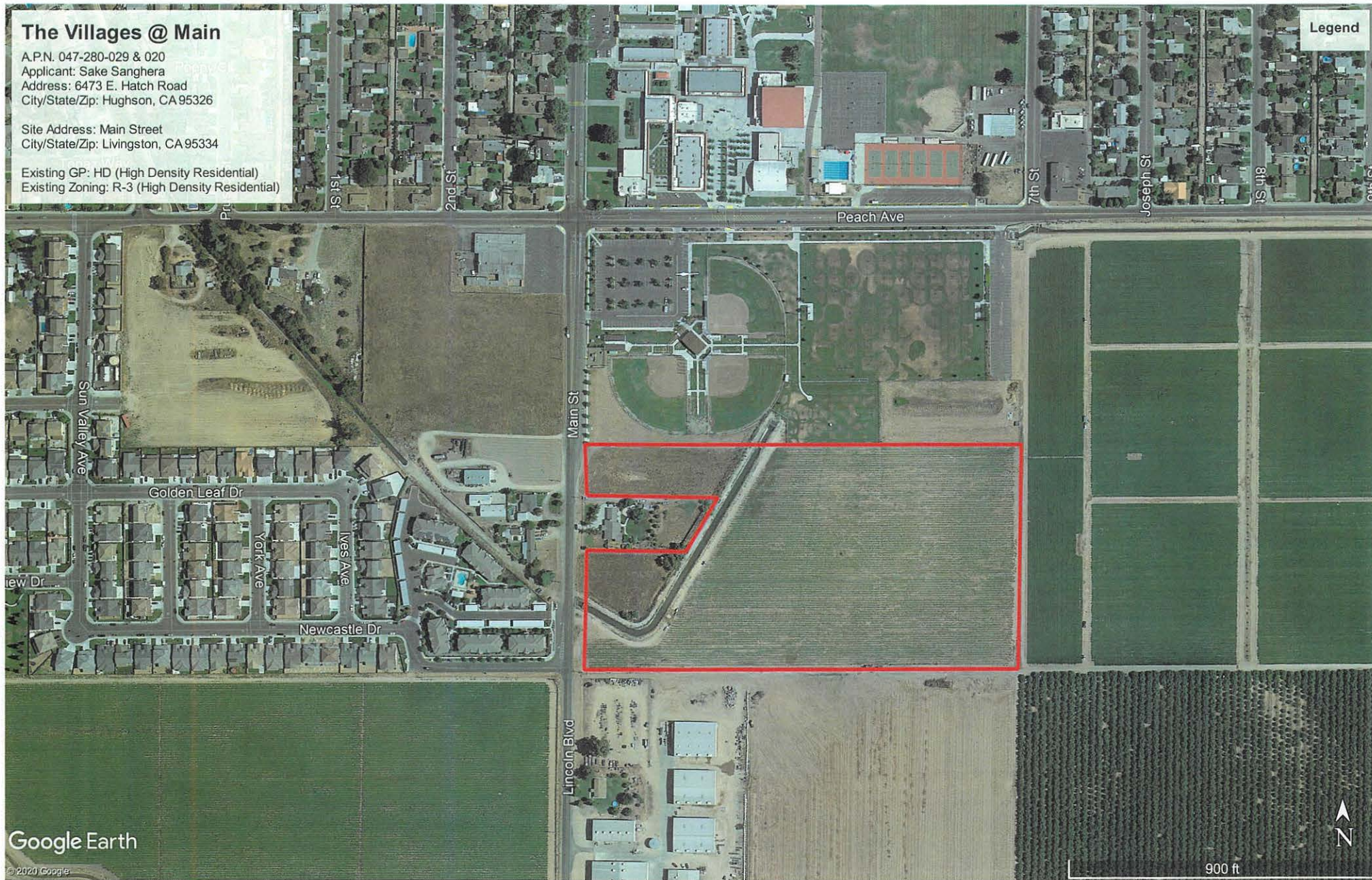
# The Villages @ Main

A.P.N. 047-280-029 & 020  
Applicant: Sake Sanghera  
Address: 6473 E. Hatch Road  
City/State/Zip: Hughson, CA 95326

Site Address: Main Street  
City/State/Zip: Livingston, CA 95334

Existing GP: HD (High Density Residential)  
Existing Zoning: R-3 (High Density Residential)

## Legend



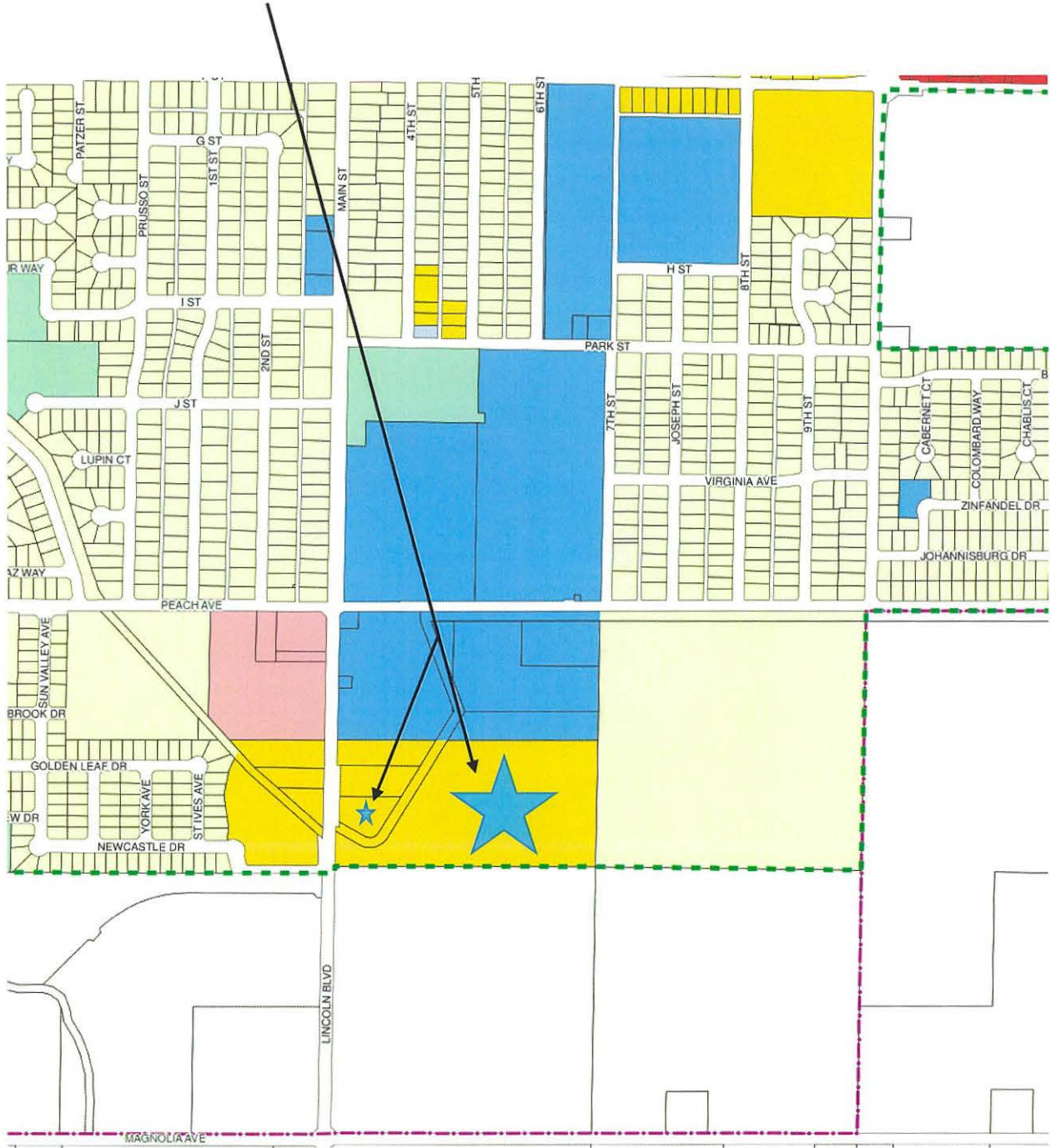
Google Earth

© 2020 Google

900 ft



**THE VILLAGES AT MAIN  
RESIDENTIAL APARTMENT COMMUNITY  
APN#S: 047-280-020 AND 047-280-029  
ZONING: R-3, HIGH DENSITY RESIDENTIAL**



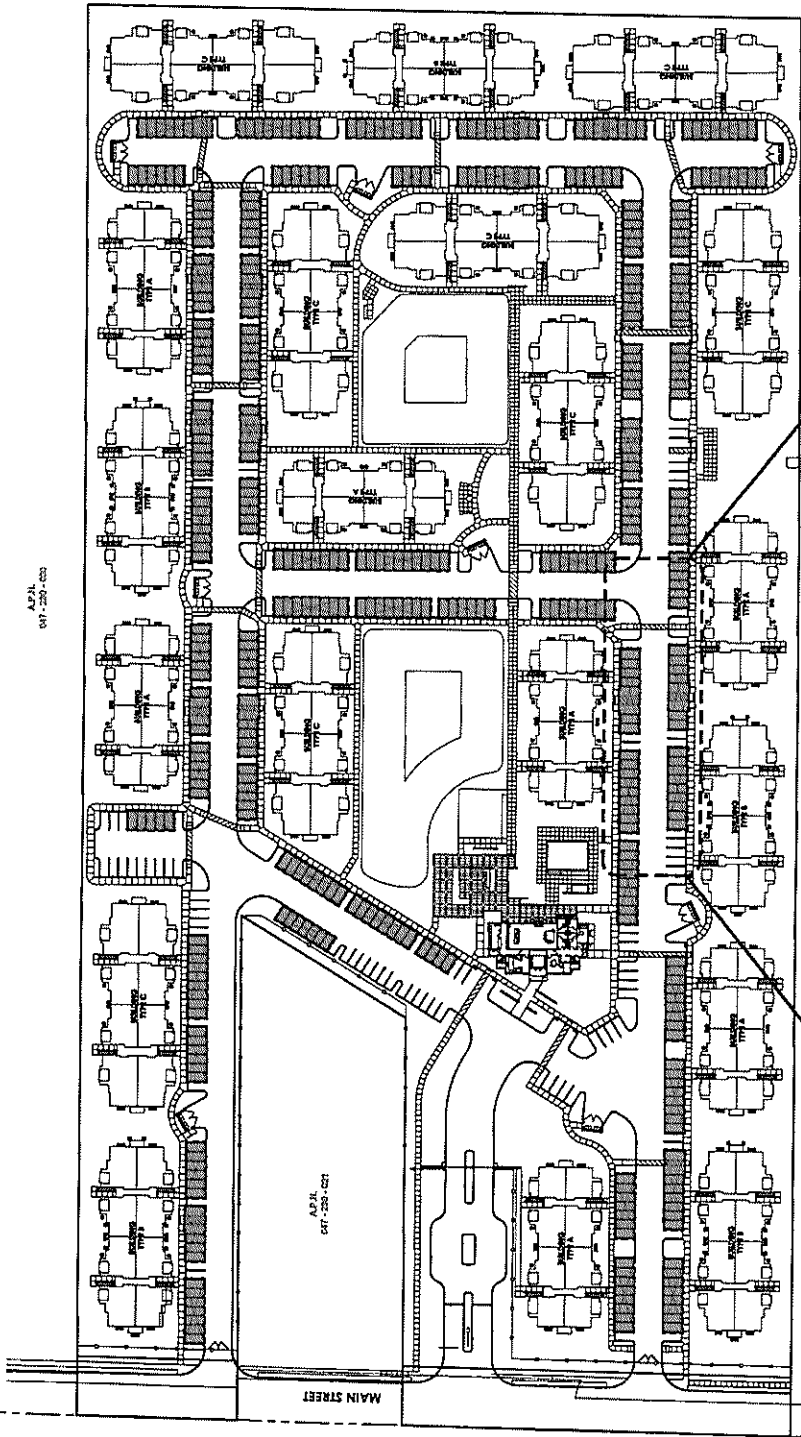


PEACH AVENUE

ALPHA  
047-220-020

ALPHA  
047-220-021

MAIN STREET



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MAR 20 2020  
PLANNING

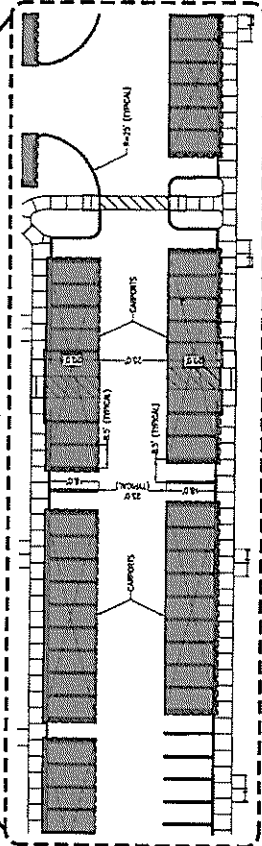


PROPOSED PROJECT:  
PARKING STALLS PER UNIT:  
1 UNITER SPACE / 10 UNITS  
TOTAL SPACES REQUIRED: 300 SPACES

PARKING STALLS PROVIDED:  
450 STALLS  
150 STALLS  
150 STALLS  
50 STALLS

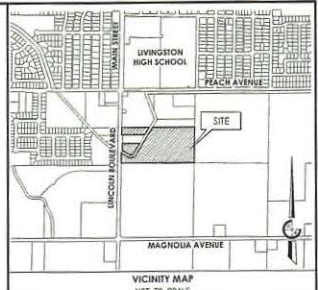
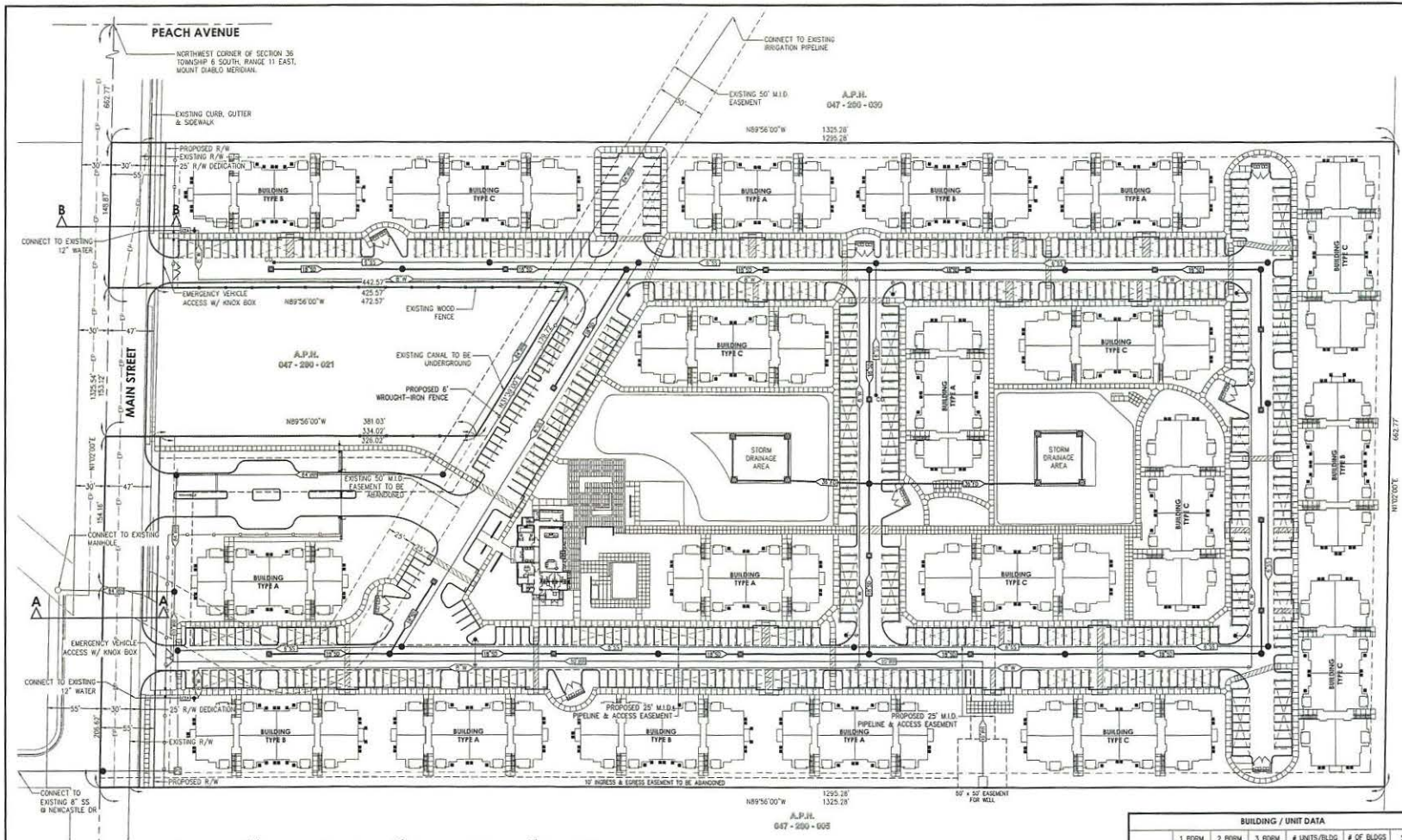
MARKUP STALLS: 30 STALLS  
PARKING STALL DIMENSIONS: 8.5' x 16' (TYPICAL)  
PARKING RATE: 1.5 STALLS PER UNIT

ALPHA  
047-220-020  
TYPICAL PARKING DIMENSIONS  
SCALE: 1" = 20'



**GDR ENGINEERING, INC.**  
ENGINEERING / PLANNING / ARCHITECTURE  
10325 MICHAEL ROAD, SUITE 500, GAITHERSBURG, MD 20878  
TEL: (301) 234-3300 FAX: (301) 234-3370  
WWW.GDRENGINEERING.COM

PROPOSED PARKING PLAN  
DATE: 10/20/2019  
SCALE: 1" = 20'



**PROPERTY OWNER / APPLICANT**  
 PROPERTY OWNER(S): HARVINDER S. & SALINDER K. SHANDU / SURINDER S. & NULINDER SANGHERA  
 CONTACT: SAKI SANGHERA 209.577.4661  
 ADDRESS: 6473 E. HATCH ROAD HUGHSON, CA 95326  
 CITY/STATE/ZIP: HUGHSON, CA 95326  
 PROJECT ADDRESS: MAIN STREET LIVINGSTON, CA 95334  
 CITY/STATE/ZIP: LIVINGSTON, CA 95334

**PROJECT TEAM**  
 NAME: API ARCHITECTURE PLLC, INC.  
 CONTACT: JOE SMITH  
 ADDRESS: 4335-B NORTH STAR WAY MODESTO, CA 95336  
 CITY/STATE/ZIP: MODESTO, CA 95336  
 PHONE: 209.577.4661  
 EMAIL: jsmith@apiproc.com

NAME: KLA, INC.  
 CONTACT: MATT HAWKS  
 ADDRESS: 151 N. NORLON STREET SONOMA, CA 95070  
 CITY/STATE/ZIP: SONOMA, CA 95070  
 PHONE: 209.532.2856  
 EMAIL: matt@klo-cs.com

**EXISTING CONDITIONS**  
 A.P.N.: 047-280-020 & 047-280-029  
 EXISTING PARCELS: 2  
 EXISTING ACREAGE: 418.7 ACRES (GROSS)  
 417.3 ACRES (AS SHOWN ON ASSESSORS' PARCEL MAP)

EXISTING GENERAL PLAN: RD (HIGH DENSITY RESIDENTIAL)  
 EXISTING ZONING: R-3 (HIGH DENSITY RESIDENTIAL)

**PROPOSED PROJECT**  
 (20) 3 STORY BUILDINGS WITH 24 UNITS EACH = 480 TOTAL UNITS  
 (1) TWO STORY COMMUNITY CENTER

DENSITY: 27.7 UNITS PER ACRE

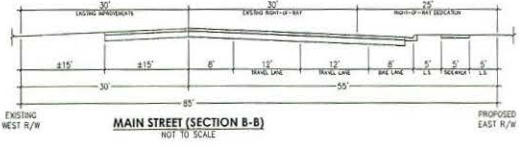
**PARKING STALLS REQUIRED:**  
 480 STALLS  
 1 VISITOR SPACE / 10 UNITS = 48 STALLS  
 TOTAL SPACES REQUIRED: 528 STALLS

**PARKING STALLS PROVIDED:**  
 COVERED: 453 STALLS  
 UNCOVERED: 134 STALLS  
 TOTAL SPACES PROVIDED: 587 STALLS

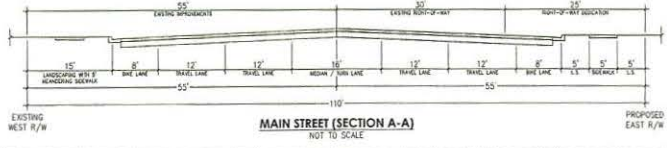
PARKING RATIO: 1.22 STALLS PER UNIT

**NOTES**  
 WATER: CITY OF LIVINGSTON  
 SANITARY SEWER: CITY OF LIVINGSTON  
 STORM DRAINAGE: CITY OF LIVINGSTON

1. DEVELOPER RESERVES THE RIGHT TO DEVELOP PROJECT IN MULTIPLE PHASES.  
 2. PHASE 1: 100% COMPLETE



MAIN STREET (SECTION B-B)  
NOT TO SCALE



MAIN STREET (SECTION A-A)  
NOT TO SCALE



BUILDING / UNIT DATA	BUILDING / UNIT DATA			# OF BLDGS	# OF STORES
	1 BDRM	2 BDRM	3 BDRM		
BUILDING A	84	84	--	24	7
BUILDING B	--	120	--	24	5
BUILDING C	--	96	96	24	8
COMMUNITY	N/A	N/A	N/A	N/A	1
<b>UNIT TOTAL</b>	<b>84 (17%)</b>	<b>300 (63%)</b>	<b>96 (20%)</b>	<b>480</b>	

**LEGEND**

EXISTING	DOMESTIC WATER	PROPOSED	BACKFLOW PREVENTER
IRIG	FIRE WATER	CD	CLEAN OUT
IRIG	JURIGATION LINE	CCDA	DOUBLE CHECK DETECTOR ASSEMBLY
IRIG	SANITARY SEWER	EP	EDGE OF PAVEMENT
IRIG	STORM DRAINAGE	FD	FRENCH DRAIN
IRIG	FRENCH DRAIN	IRIG	FIRE WATER
IRIG	EDGE OF PAVEMENT	IRIG	IRRIGATION
IRIG	WATER VALVE	IRIG	PUBLIC UTILITY EASEMENT
IRIG	WATER METER	IRIG	RIGHT OF WAY
IRIG	BACKFLOW PREVENTER	IRIG	STORM DRAIN
IRIG	DOUBLE CHECK DETECTOR ASSEMBLY	IRIG	SANITARY SEWER
IRIG	FIRE HYDRANT	IRIG	TRASH ENCLOSURE
IRIG	MANHOLE	IRIG	WATER
IRIG	CATCH BASIN	IRIG	WATER METER
IRIG	SEWER CLEAN OUT		
IRIG	EASEMENTS		
IRIG	CURB & GUTTER		

**ABBREVIATIONS**

BFP BACKFLOW PREVENTER  
 CO CLEAN OUT  
 CCDA DOUBLE CHECK DETECTOR ASSEMBLY  
 EP EDGE OF PAVEMENT  
 FD FRENCH DRAIN  
 IRIG FIRE WATER  
 IRR IRRIGATION  
 P.U.E PUBLIC UTILITY EASEMENT  
 R/W RIGHT OF WAY  
 SD STORM DRAIN  
 SS SANITARY SEWER  
 TE TRASH ENCLOSURE  
 W WATER  
 WM WATER METER

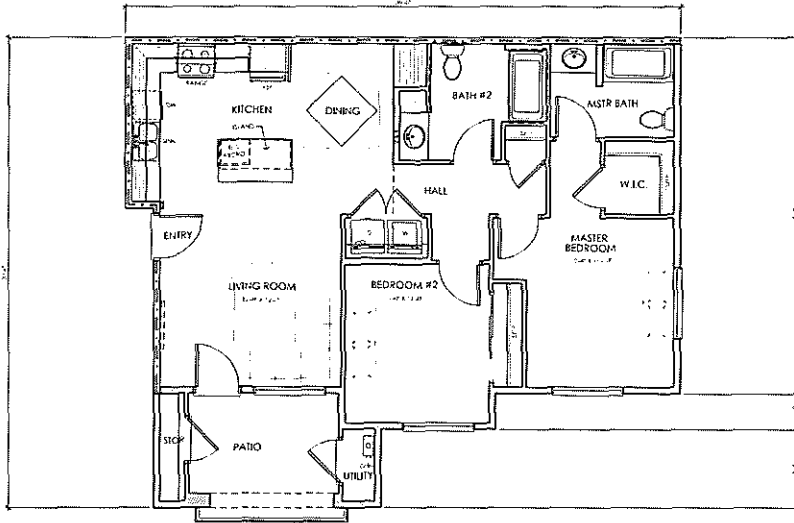
*Jason K. Chapman*  
 JASON K. CHAPMAN  
 No. 68134  
 CIVIL  
 STATE OF CALIFORNIA  
 3/16/2020  
 DATE SIGNED:

**RECEIVED**  
 MAR 16 2021  
 PLANNING

**GDR ENGINEERING, INC.**  
 ENGINEERING/SURVEYING/PLANNING  
 3525 MITCHELL ROAD, SUITE G CERES, CA 95307  
 TELEPHONE: (209) 538-3360 FAX: (209) 538-7370  
 WWW.GDRENGINEERING.COM

**CONCEPTUAL SITE PLAN & UTILITY PLAN**  
 FOR THE VILLAGES @ MAIN

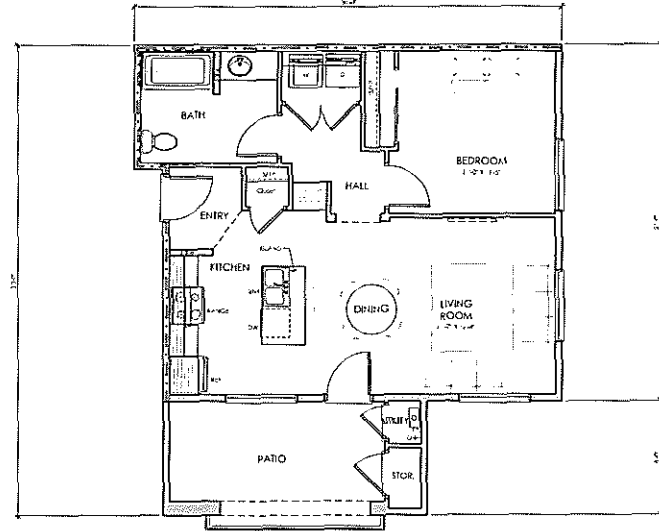
SCALE: 1"=50'  
 FILE NO. 18073 3RD PHASE 2020-05-16-04  
 DATE: 03/04/2020  
 DRAWN: J. JANTY  
 CHECKED: J. DOPHAN  
 SHEET NO. 11 OF 11  
 FILE NO. 18073



**UNIT 2 - 2 BEDROOM / 2 BATH**

SCALE 3/8"=1'-0"

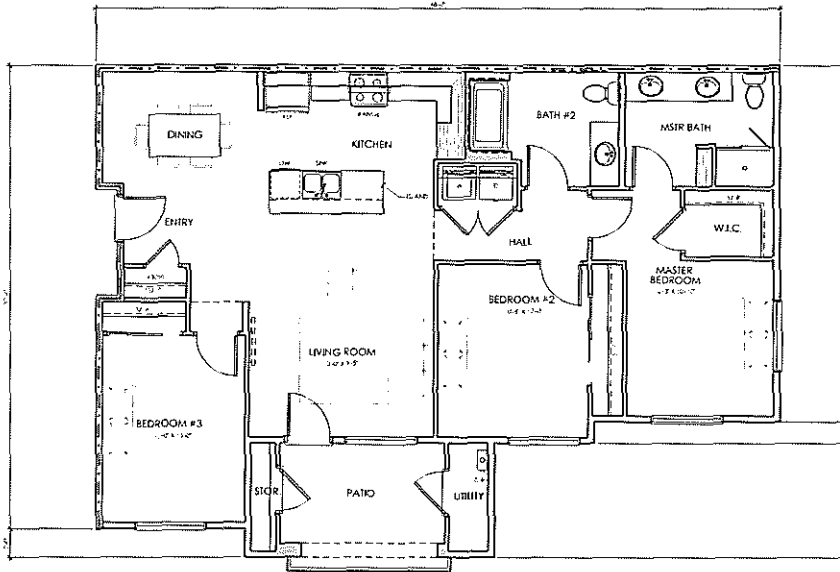
FLOOR AREA  
 CONDITIONED AREA 1,172.5  
 UNFINISHED AREA 172.5  
 TOTAL 1,345.0



**UNIT 1 - 1 BEDROOM / 1 BATH**

SCALE 3/8"=1'-0"

FLOOR AREA  
 CONDITIONED AREA 714.0  
 UNFINISHED AREA 142.8  
 TOTAL 856.8



**UNIT 3 - 3 BEDROOM / 2 BATH**

SCALE 3/8"=1'-0"

FLOOR AREA  
 CONDITIONED AREA 1,302.5  
 UNFINISHED AREA 212.5  
 TOTAL 1,515.0

PROPOSED DEVELOPMENT:  
**The Villages at Main**  
 Lincoln Blvd.  
 Livingston, CA.

PLANNING ■■■  
 ARCHITECTURE ■■■

**api**

ARCHITECTURE PLUS INC  
 4335 B NORTH STAR WAY  
 MODESTO, CA 95356

ph 209.577.4661  
 fx 209.577.0213

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SHEET:

**A2**

OF 13

DATE PLOTTED: 11/11/2010 10:00 AM



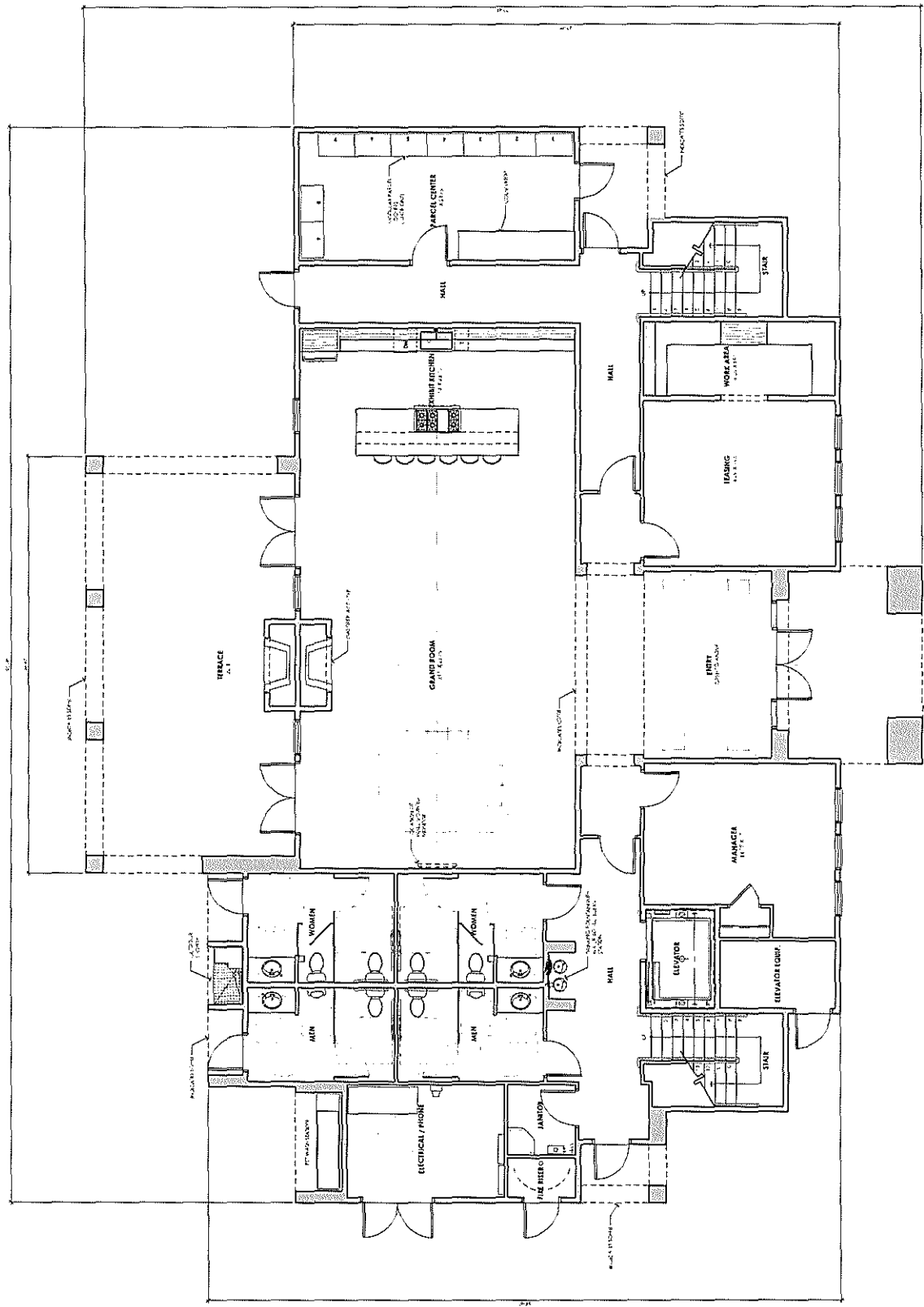
PROPOSED DEVELOPMENT:  
**The Villages at Main**  
 Lincoln Blvd.  
 Livingston, CA.

PLANNING ARCHITECTURE



ARCHITECTURE PLUS INC.  
 4334 NORTH STAR WAY  
 MODESTO, CA 95356  
 PH: 209.577.4661  
 FX: 209.577.0213  
 www.apicon.com

ENGINEER:  
**A9**  
 OF 13



**PROPOSED MAIN FLOOR PLAN - COMMUNITY CENTER**  
 SCALE: 1/8" = 1'-0"

ROOM AREA	AREA
REARCE	1,341.17
GRAND ROOM	2,511.17
OFFICE	1,341.17
REARCE	1,341.17
REARCE	1,341.17
REARCE	1,341.17

PROPOSED DEVELOPMENT:  
**The Villages at Main**  
 Lincoln Blvd.  
 Livingston, CA.

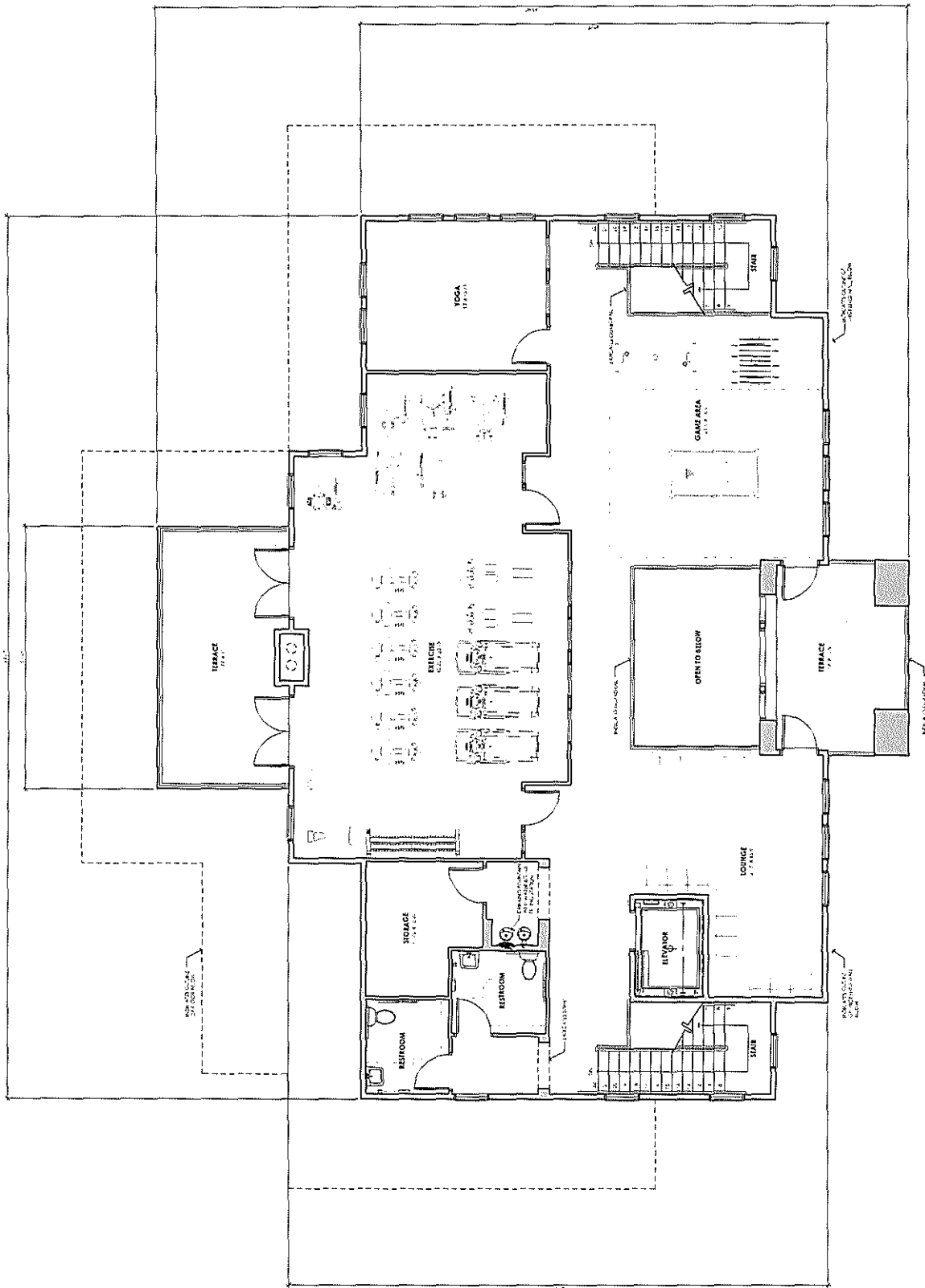
PLANNING ARCHITECTURE



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 4335 B NORTH STAR WAY  
 MODESTO, CA 95356  
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 FX: 209.577.0213  
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SHEET:

**A10**  
 OF 13



NORTH

PROPOSED UPPER FLOOR PLAN - COMMUNITY CENTER

FLOOR AREA	3,344 SF
WALKWAY	4,347 SF
STAIR	4,347 SF
LOUNGE	1,100 SF
TERRACE	1,312 SF



**BUILDING A - FRONT EXTERIOR ELEVATION** (FRONT ELEVATION SHALAK)

SCALE: 1/8" = 1'-0"



**BUILDING A - RIGHT SIDE EXTERIOR ELEVATION** (RIGHT SIDE ELEVATION SHALAK)

SCALE: 1/8" = 1'-0"

**FINISH LEGEND**

PRIMARY COLOR SHERWIN WILLIAMS PURE WHITE SW 7005	ACCENT COLOR 1 SHERWIN WILLIAMS GOLDENRAZE SW 7028	ACCENT COLOR 2 SHERWIN WILLIAMS REFUGE GRAY SW 7018
TRIM COLOR SHERWIN WILLIAMS SORBUS WHITE SW 7145	METAL COLOR ANODIZED ALUMINUM DARK BRONZE	ROOFING 15 YEAR ANTICO LANDSCAPE PREMIUM GEORGETOWN GRAY

PROPOSED  
DEVELOPMENT:  
**The Villages  
at Main**  
Lincoln Blvd.  
Livingston, CA.



ARCHITECTURE PLUS INC.  
4335-B NORTH STAR WAY  
MODESTO, CA 95356

ph. 209.577.4661  
fx. 209.577.0213

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SHEET:

**A12**

OF 13



COMMUNITY BUILDING - FRONT EXTERIOR ELEVATION

SCALE 1/8" = 1'-0"



COMMUNITY BUILDING - LEFT SIDE EXTERIOR ELEVATION

SCALE 1/8" = 1'-0"



COMMUNITY BUILDING - RIGHT SIDE EXTERIOR ELEVATION

SCALE 1/8" = 1'-0"



COMMUNITY BUILDING - REAR EXTERIOR ELEVATION

SCALE 1/8" = 1'-0"

FINISH LEGEND


PROPOSED DEVELOPMENT:

# The Villages at Main

Lincoln Blvd.  
Livingston, CA.

PLANNING ARCHITECTURE



ARCHITECTURE PLUS INC.  
4335-B NORTH STAR WAY  
MODESTO, CA 95356

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SHEET:

# A13

OF 13

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## STAFF REPORT

**AGENDA ITEM:**       **ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON ESTABLISHING NEW RATES FOR WATER SERVICE (CONTINUED FROM AUGUST 17, 2021 CITY COUNCIL MEETING)**

**MEETING DATE:**     **September 21, 2021**

**PREPARED BY:**      **Vanessa L. Portillo, Finance Director  
Catherine Hansford, Consultant**

---

### **RECOMMENDATION:**

Staff recommends that the City Council take one the following actions:

1. Waive first reading and introduce Ordinance No. \_\_\_\_, establishing new rates for Water Service, effective November 4, 2021.
2. Postpone the Water Rate implementation.

### **BACKGROUND:**

In 1996, California voters approved Proposition 218, the “Right to Vote on Taxes Act,” which added Articles X111C and XIID to the California Constitution. Since its adoption, various court cases in 2005 and 2006, most notably *Bighorn-Desert View Water Agency v. Verjil*; *Richmond v. Shasta Community Services District*; and the *Howard Jarvis Taxpayers Association v. City of Fresno*, extended the application of Proposition 218 from general taxes and assessments to utility user fees provided by public agencies (i.e., sewer, water and waste collection, etc.).

The City contracted the services of Hansford Economic Consulting (HEC) in 2014 and retained its services again in 2019 to prepare the rate study for its water, sewer, and sanitation units. However, no action was taken in response to earlier studies. For reference, the previous rate increases were adopted by the City in 2014.

In December 2020, staff contacted HEC to prepare an updated rate study. HEC presented its findings and report to the Utilities Stakeholders Committee and City Council on meetings held on March 30 and April 6 respectively. On April 20, City Council approved staff’s recommendation to continue with the Proposition 218 process.

The City held three (3) public workshops (May 25<sup>th</sup>, June 3<sup>rd</sup>, and June 7<sup>th</sup> of 2021) regarding the proposed water rate increase; one workshop was conducted in English, one in Spanish, and one in Punjabi.

Proposition 218 (Article XIID of the California Constitution) required notification to affected property owners at least forty-five (45) days prior to the scheduled hearing. Staff sent property owners and affected tenants such notice.

The Proposition 218 hearing was held June 15, 2021. At the hearing, the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and

imposition of the proposed rate increases to the Water Service Rates. Upon close of the hearing, the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Water Service Rates from a majority of the affected property owners and tenants directly liable for the payment of the Water Service Rates. However, City Council continued the item to the August 17, 2021 and a second continuation to the September 21, 2021 Council meeting for further discussion.

It is important to note that the current rate study document does not address the water conservation measures mandated by the State due to the drought declaration. In addition, it has been found that under the current study the base water allocation of 25 thousand gallons does not equitably distribute the water charges to the City’s residents. A revised study should take into account a more equitable water rate based on consumption rather than fixed allocations.

**ANALYSIS**

***REASON FOR INCREASE IN RATES.*** The water rates increase is proposed to:

1. Install identified capital improvements that will improve water quality.
2. Provide a reliable, safe operating water system.
3. Fully fund the operating costs of the system leaving more funding available for other essential City services.

**Projected Five-Year Water Rate Schedule**

Charges	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Base Charge</b>						
1" and smaller	\$25.13	\$28.64	\$29.79	\$30.98	\$32.22	\$33.52
1.5"	\$50.27	\$57.29	\$59.58	\$61.96	\$64.45	\$67.04
2"	\$80.43	\$91.66	\$95.32	\$99.14	\$103.11	\$107.26
3"	\$175.94	\$200.51	\$208.52	\$216.86	\$225.56	\$234.63
4"	\$301.61	\$343.73	\$357.46	\$371.76	\$386.68	\$402.23
6"	\$628.35	\$716.10	\$744.70	\$774.51	\$805.58	\$837.98
8"	\$1,206.43	\$1,374.92	\$1,429.82	\$1,487.05	\$1,546.72	\$1,608.91
10"	\$1,910.18	\$2,176.95	\$2,263.88	\$2,354.50	\$2,448.97	\$2,547.45
<b>Meter Fee</b>						
1" and smaller	\$3.05	\$3.30	\$3.39	\$3.47	\$3.56	\$3.65
1.5"	\$11.11	\$7.79	\$7.99	\$8.18	\$8.39	\$8.60
2"	\$12.13	\$14.88	\$15.25	\$15.63	\$16.02	\$16.42
3"	\$25.74	\$18.56	\$19.03	\$19.50	\$19.99	\$20.49
4"	\$40.61	\$43.94	\$45.04	\$46.17	\$47.32	\$48.51
6"	\$56.33	\$75.94	\$77.83	\$79.78	\$81.77	\$83.82
8"	\$89.50	\$123.82	\$126.91	\$130.09	\$133.34	\$136.67
10"	\$204.51	\$159.79	\$163.78	\$167.88	\$172.07	\$176.38
<b>Service Charge Monthly Water Allowance</b>						
Attached Residential (per Unit)	10,000	gallons				
Detached Residential (per Unit)	25,000	gallons				
Non-Residential (per Meter)	35,000	gallons				
<b>Consumption Charge per 1,000 gallons of water in excess of allowance each month</b>						
All Customers	\$1.57	\$1.64	\$1.72	\$1.80	\$1.89	\$1.98
Construction Water	\$1.17	\$1.88	\$1.97	\$2.06	\$2.15	\$2.25

Source: City of Livingston and 2021 HEC rate study.

sched

\* Water rate schedules 1.5x outside City limits.

**FISCAL IMPACT**

Adopting the recommended rates will provide sufficient levels of funding (revenues) to cover ongoing operational costs including Capital Improvement Projects outlined in utility rate study.

#### Alternative Scenarios

The City may make decisions between now and the date of the public hearing that would affect the calculated rates, specifically:

- Moving forward with a power purchase agreement to install solar facilities at the wastewater treatment plant, and
- Utilizing American Recovery Plan (ARP or Covid Relief) funds to pay for certain water and wastewater infrastructure improvements.

The City is contemplating using ARP funds to cover the expenses associated with Well 12 conveyance and treatment, which are estimated at \$2.0 million. Water rates would be lower with Covid Relief funding applied.

#### ATTACHMENTS

1. Ordinance No. \_\_\_\_, Establishing Rates for Water Services.
2. 2021 Utility Rate Study Report

3796276.1

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
ESTABLISHING NEW RATES FOR WATER SERVICE,  
EFFECTIVE NOVEMBER 4, 2021

**WHEREAS**, the City of Livingston (the “City”) provides water services to its residents; and

**WHEREAS**, the City charges customers of this utility a charge to fund the on-going operation and maintenance of the water services; and

**WHEREAS**, Chapter 9-5 entitled “Water Service Regulations” of the Livingston Municipal Code provides for the establishment and operation of a water system and the imposition and collection of certain fees and charges from recipients of water services; and

**WHEREAS**, water services provided by the City include, but are not limited to, collecting, pumping, treating, storing, and distributing water obtained from City wells; and

**WHEREAS**, Section 9-5-27 of the Livingston Municipal Code provides for the setting of water charges, fee, and assessments by resolution or ordinance; and

**WHEREAS**, Chapter 9-5 of the Livingston Municipal Code addresses various aspects of the City water service and requirements governing its use, including applications for service, deposits, meter installation and use, charges, meter readings, billing, discontinuance of service, and unpaid accounts, including provisions in Section 9-5-27, paragraph (D) of the Livingston Municipal Code establishing that all unpaid accounts for water delivered at any premises “shall constitute a lien against the same and shall be subject to collection all as provided by the Revenue Bond Law of 1941;” and

**WHEREAS**, the City of Livingston determined to undertake a rate study to analyze the revenue requirements and the rate structure that should be adopted to proportionately allocate the costs of providing water service to its water customers. The rate study was prepared by Hansford Economic Consulting Inc., and has been on file at Livingston City Hall since the notices to property owners and customers were sent out on April 30, 2021; and

**WHEREAS**, charges for local agency water service have been held to be “property related fees or charges” subject to the requirements of Article XIID of the California Constitution, also known as Proposition 218, pursuant to the holding in *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 C4th 205; and

**WHEREAS**, Section 6 of Article XIID of the California Constitution provides that imposing or increasing any property related fee or charge requires identifying the parcels on which the fee or charge will be imposed, and providing notice by mail of the proposed fee or charge to the record owner of each identified parcel indicating the amount of the fee or charge to be imposed on each parcel, the basis on which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, and the date, time and location of a public hearing on the proposed fee or charge; and

**WHEREAS**, Section 53756 of the California Government Code provides that agencies providing water and sewer service may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water, sewage treatment, or wastewater treatment or inflation adjustments, subject to requirements specified in that section; and

**WHEREAS**, Section 6 of Article XIID of the California Constitution further provides that hearings on proposed property-related fees or charges must be conducted at least forty-five (45) days after mailed notice to the owners of each identified parcel on which the fee or charge is proposed to be imposed, and that at the hearing, the local agency must consider all protests against the proposed fee or charge, and that if written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge; and

**WHEREAS**, the City Council directed that notice of a hearing (“Hearing”) thereon be given to the property owners and tenants in the City, with such notice to include, among other matters, the information required to be included pursuant to California Constitution Article XIII D section 6; and

**WHEREAS**, such notice has been mailed to those persons, at least forty-five (45) days before the Hearing; and

**WHEREAS**, the Revenue Bond Law of 1941, codified in section 54300 and following of the California Government Code, includes provisions that provide for the enforcement and collection of amounts due for utility services, subject to notice requirements that apply when delinquent charges are made a lien on the property that received the services; and

**WHEREAS**, Section 54354.5 of the California Government Code prescribes that adoption of local agency resolutions or ordinances revising charges for utility services subject to the imposition of liens under the Revenue Bond Law and follow the notice and a hearing in accordance with that section, including publication of notice of the time and place of a hearing on the proposed resolution or ordinance specifying that any interested person, including all persons owning property in the jurisdiction of the local agency, may appear and be heard on any matter relating to the proposed ordinance or the proposed rates or charges; and

**WHEREAS**, the notice required under Government Code section 54354.5 must be published at least once each week for two (2) weeks prior to the hearing in a newspaper published within the local agency jurisdiction, with the first publication occurring at least fifteen (15) days prior to the hearing; and

**WHEREAS**, such notice has been published once each week for two (2) weeks, in accordance with Government Code section 54354.5, in the Merced Sun-Star on May 30, 2021 and June 6, 2021, as evidenced by Proofs of Publication on file with the City Clerk, prior to the public hearing held for this Ordinance; and

**WHEREAS**, City staff has worked closely with a Stakeholders’ Committee, a Committee formed by the City Council, made up of two (2) Council Members and members of the community, to analyze the City’s water service needs and draft rate studies; and

**WHEREAS**, the City held several workshops to inform the public of the proposed water service rates; and

**WHEREAS**, the City held workshops regarding the utility rate study in English, Spanish, and Punjabi. The workshops were held in the City Council Chambers as follows: May 25, 2021, June 3, 2021 and June 7, 2021; and

**WHEREAS**, the Hearing was held June 15, 2021; and

**WHEREAS**, at the Hearing, the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the Water Service Rates; and

**WHEREAS**, upon close of the Hearing, the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Water Service Rates from a majority of the affected property owners and tenants directly liable for the payment of the Water Service Rates; and

**WHEREAS**, the City Council continued the item to the September 21, 2021 Council meeting for further discussion; and

**WHEREAS**, the proposed water service rates are not discriminatory or excessive, are sufficient under Government Code section 54515, comply with the provisions or covenants of any outstanding revenue bonds of the City payable from the revenues of the water enterprise, comply with the provisions of Title 5, Division 2, Part 1, Chapter 6 of the Government Code, and are in compliance with all other applicable law; and

**WHEREAS**, the revenues derived from the proposed Water Service Rates will not exceed the funds required to provide the water services and shall be used exclusively for the water service system; and

**WHEREAS**, the amount of the proposed water service rates will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

**WHEREAS**, the proposed water service rates will not be imposed on a parcel unless the water services are actually used by, or immediately available to, the owner of the parcel; and

**WHEREAS**, this Ordinance shall supersede all other previous resolutions and/or ordinances that may conflict with, or be contrary to, this Ordinance respecting the Water Service Rates described more particularly herein.

**THE CITY COUNCIL OF THE CITY OF LIVINGSTON DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS**

The foregoing recitals are true and correct and made a part of this Ordinance.

**SECTION 2. WATER SERVICE RATES ADJUSTMENT**

The City Council of the City of Livingston does hereby approve the Water Service Rates set forth in the attached **Exhibit A**. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Service Fees set forth herein effective on November 4, 2021.

**SECTION 3. DELINQUENT CHARGES CONSTITUTE A LIEN**

Delinquent charges and penalties when recorded in accordance with the provisions of the Revenue Bond Law shall constitute a lien upon the real property served.

**SECTION 4. CEQA**

The City Council hereby finds that the levy of the proposed water service rates as supported by a water rate study prepared by Hansford Economic Consulting Inc. (which is incorporated herein by reference), is exempt from CEQA review under Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273 because the proposed water service rates are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the City’s water system, are necessary to maintain service within the City’s existing service area, and will not result in expansion of the system. The City Council further finds that the action entails the creation of a government funding mechanism which is exempt from CEQA as not being a “project” pursuant to CEQA guidelines section 15378. The City Council authorizes the City Clerk to file a notice of exemption with the County Clerk to that effect.

**SECTION 5. GENERAL AUTHORIZATION**

The City Manager is hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver any and all documents, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to effect the purposes of this Ordinance. All actions heretofore taken by officers, employees, and agents of the City that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

**SECTION 6. SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION 7. SUPERSESION/REPEAL**

Ordinance No. 614 adopted June 3, 2014, and any and all other resolutions or ordinances and parts thereof in conflict with the provisions of this Ordinance are superseded and repealed, effective on the effective date of this Ordinance. However, violations, rights accrued, liabilities accrued, or appeals taken, prior to the effective date of this Ordinance, under any chapter, ordinance, or part of an ordinance, or resolution or part of a resolution, shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceedings, with respect to any such violation, right, liability or appeal.

**SECTION 8. EFFECTIVE DATE**

This Ordinance shall become effective thirty (30) days after its final passage and adoption. The increased Water Service Rates, as attached hereto as Exhibit A, shall become effective on November 4, 2021.

Introduced: June 15, 2021

Passed and Adopted:

\_\_\_\_\_  
Juan Aguilar, Jr., Mayor  
of the City of Livingston



ATTEST:

State of California)  
County of Merced)  
City of Livingston)

I, hereby certify that the foregoing Ordinance was duly introduced at a Regular Meeting of the City Council of the City of Livingston on the 15<sup>th</sup> day of June, 2021, and was passed and adopted at a Regular Meeting of the City Council of the City of Livingston this \_\_\_\_ day of \_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
LETICIA VASQUEZ-ZURITA,  
City Clerk of the City of Livingston

3795211.1

# EXHIBIT A

Total calculated rates include the fixed monthly service charges, meter replacement fees, and consumption charges. The calculated water rate schedule is provided in **Table 10** below.

**Table 10**  
**Calculated New Water Rates Schedule**

Charges	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Base Charge</b>						
1" and smaller	\$25.13	\$28.64	\$29.79	\$30.98	\$32.22	\$33.52
1.5"	\$50.27	\$57.29	\$59.58	\$61.96	\$64.45	\$67.04
2"	\$80.43	\$91.66	\$95.32	\$99.14	\$103.11	\$107.26
3"	\$175.94	\$200.51	\$208.52	\$216.86	\$225.56	\$234.63
4"	\$301.61	\$343.73	\$357.46	\$371.76	\$386.68	\$402.23
6"	\$628.35	\$716.10	\$744.70	\$774.51	\$805.58	\$837.98
8"	\$1,206.43	\$1,374.92	\$1,429.82	\$1,487.05	\$1,546.72	\$1,608.91
10"	\$1,910.18	\$2,176.95	\$2,263.88	\$2,354.50	\$2,448.97	\$2,547.45
<b>Meter Fee</b>						
1" and smaller	\$3.05	\$3.30	\$3.39	\$3.47	\$3.56	\$3.65
1.5"	\$11.11	\$7.79	\$7.99	\$8.18	\$8.39	\$8.60
2"	\$12.13	\$14.88	\$15.25	\$15.63	\$16.02	\$16.42
3"	\$25.74	\$18.56	\$19.03	\$19.50	\$19.99	\$20.49
4"	\$40.61	\$43.94	\$45.04	\$46.17	\$47.32	\$48.51
6"	\$56.33	\$75.94	\$77.83	\$79.78	\$81.77	\$83.82
8"	\$89.50	\$123.82	\$126.91	\$130.09	\$133.34	\$136.67
10"	\$204.51	\$159.79	\$163.78	\$167.88	\$172.07	\$176.38
<b>Service Charge Monthly Water Allowance</b>						
Attached Residential (per Unit)	10,000	gallons				
Detached Residential (per Unit)	25,000	gallons				
Non-Residential (per Meter)	35,000	gallons				
<b>Consumption Charge per 1,000 gallons of water in excess of allowance each month</b>						
All Customers	\$1.57	\$1.64	\$1.72	\$1.80	\$1.89	\$1.98
Construction Water	\$1.17	\$1.88	\$1.97	\$2.06	\$2.15	\$2.25

Source: City of Livingston and 2021 HEC rate study.

sched

\* Water rate schedules 1.5x outside City limits.

In compliance with California SB-7, which requires all new multi-family residential development to be individually metered or sub-metered, any newly constructed units will pay the same base rate per unit as all current detached residential units unless the owner of the building(s) sub-meters each unit and performs its own internal water billing of each unit.

**City of Livingston**

**Water, Wastewater and  
Solid Waste Rate Study**

June 7, 2021

HEC No. 190294

The following report was prepared by Hansford Economic Consulting LLC.

The analyses and findings contained within this report are based on primary data provided by the City of Livingston, as well as additional secondary sources of data available as of the date of this report. Updates to information used in this report could change or invalidate the findings contained herein. While it is believed that the primary and secondary sources of information are accurate, this is not guaranteed.

Every reasonable effort has been made in order that the data contained in this study reflect the most accurate and timely information possible. No responsibility is assumed for inaccuracies in reporting by the client, its consultants and representatives, or any other data source used in the preparation of this study. No warranty or representation is made that any of the projected values or results contained in this study will actually be achieved. There will usually be differences between forecasted or projected results and actual results due to changes in events and circumstances.

Changes in economic and social conditions due to events including, but not limited to, major recessions, droughts, major environmental problems or disasters that would negatively affect operations, expenses and revenues may affect the result of the findings in this study. In addition, other factors not considered in the study may influence actual results. Any applications for financing, or bond sales analyses, should re-evaluate the financial health and projection of revenues and expenses at the time of the application or preparation for bond sale.

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## **Section 1: INTRODUCTION AND SUMMARY OF FINDINGS**

### **1.1 PURPOSE OF THE STUDY**

The City of Livingston (City) provides three utility services to the residents and businesses of the City; water, wastewater, and solid waste. The purpose of this Utilities Rate Study (Study) is to determine the level of funding required over the next five years to adequately fund each of the utility systems and to determine a schedule of monthly property-related fees to support that level of funding.

This report provides an explanation and justification of the calculated utility rates for the next five years and it documents adherence to the law regarding setting of rates by a municipality. Per California Constitution Article 13D, these types of utility rates shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

- (1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.
- (2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.
- (3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.
- (4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted.
- (5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library, services, where the service is available to the public at large in substantially the same manner as it is to property owners.

The utility financial models presented in this Study project revenues and expenses and calculate rates for the next five fiscal years with the first change in utility rates implemented on the July 2021 billing cycle (August bills).

### **1.2 BACKGROUND**

The City last conducted utility rate studies in the 2012 to 2014 time period. New solid waste rates were adopted in spring 2013, and new water and wastewater rates were adopted in spring 2014. A utility systems rate study is necessary at this time to a) ensure revenue sufficiency of the utility systems for the next five years, and b) demonstrate the City's ability to repay State loans for funding of the water system.

Rate studies are typically conducted every three to five years to ensure revenue sufficiency. A cost of service analysis, which not only allows for revenue sufficiency, but also examines whether customers are paying for their share of system costs and adjusts rates and customer classifications to achieve equity to the maximum extent practicable, is advisable whenever there has been a shift in the economic base of the community, and whenever proportional cost of service is in question. As part of the regular periodic review of the rates, best practices include maintaining financially self-sustaining utilities, setting policies or guidelines on an appropriate reserve levels, including depreciation in the rates, and continual customer outreach to educate on the value of the City services provided.

This Study incorporates all three major elements of cost-based rate making; revenue requirement analysis, cost of service analysis, and rate-design analysis. In determining appropriate rate structures for Livingston that would meet the requirements of Proposition 218, the following key objectives were considered:

- Rates must be capable of generating sufficient revenues to meet all annual financial obligations of the utility enterprise funds;
- Changes to the rate structures must be administratively feasible (compatible with the existing billing system and straightforward to explain to customers);
- The rate structures should be as reflective of local customer use of the services as possible; and
- Revised rates must be supportive of City goals, including meeting target reserve levels and keeping within affordability guidelines.

This report presents the result of the analysis and rate structures that best meets these objectives under current and projected conditions.

### **1.3 RATE SETTING PRINCIPLES AND REPORT ORGANIZATION**

This report was prepared using the principles established by the American Water Works Association (AWWA), the Water Environment Federation (WEF), and Government Finance Officers Association (GFOA).

The AWWA “Principles of Water Rates, Fees, and Charges: Manual of Water Supply Practices M1 (the “M1 Manual”) establishes commonly accepted professional standards for cost of service studies. This manual is referenced in the water rate study.

The wastewater rate study uses the functional cost allocation methodology to determine rates<sup>1</sup>, as presented in WEF Manual of Practice No. 27 and guidelines prepared by the California State Water Resources Control Board for State Revolving Fund financing.

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<sup>1</sup> Chapter 6, pages 110-120, Financing and Charges for Wastewater Systems, Manual of Practice No. 27.

The GFOA publishes guidelines on sufficient cash balances for enterprise funds. Minimum cash balance targets for each utility fund in this Study are based on the GFOA guidelines.

The Study is presented in four sections. Following this introduction and summary of findings, Section 2 provides the water rate study. Section 3 provides the wastewater rate study, and Section 4 provides the solid waste rate study. For each utility study, the analysis begins with a description of the utility fund and its customers, followed by calculation of the revenue requirement, detailed calculations of the utility rates, projected cash flow and bill impacts to customers.

**Appendix A** includes support tables for the water rate study.

**Appendix B** includes support tables for the wastewater rate study.

**Appendix C** includes support tables for the solid waste rate study.

#### **1.4 WATER RATE STUDY FINDINGS**

Water rate study summary and key findings are summarized here:

- The City provides water supply, treatment, and distribution to the residents and businesses of Livingston. Monthly water rates pay for 99% of the annual costs of the water fund.
- The water fund has had net positive revenues for the last four years. The last water rate study included several capital improvement project costs that have not yet been incurred; therefore, revenues have deliberately been significantly greater than expenses. In the next five-year period cash reserves will be used to pay for capital improvement projects.
- The vast majority of the water system customer base is single family residential (93%); however, this customer category only uses 23% of the water. In contrast, the industrial customer category uses 65% of the water but holds less than 1% of the customer accounts. Although the residential customers use significantly more water during the peak summer months than winter months, their use is more than doubled by industrial use throughout the year. Industrial use is very steady month-to-month which makes the City less vulnerable to swings in revenues due to summer use; however, the City's largest industrial user, Foster Farms, is responsible for about 65% of the annual water fund revenue stream.
- The functional allocation of costs in the cost of service analysis determines that 36% of the costs should be collected in base "fixed" monthly charges; this is rounded to 35% of costs collected in base monthly charges. In the 2014 water rate study it was determined that 35% was the most appropriate percentage to use because such a large amount of use of the system is from industrial users. The industrial customers do not have many water meters; therefore, capacity of the system, as measured by instantaneous flow through water meters, is much less significant in determining use of the system than it is for most water systems. Note, the functional allocation provides a guideline, not a rule, for allocating costs between base monthly charges and variable use charges.

- There are no proposed changes to the water rate structure except however that the methodology to calculate the construction water variable use rate (which is not a property-related service, and which fee is not included in the public hearing process) has been revised. The change in methodology increases the construction water rate proportionately more than the property-related fees.
- Due to updated pricing provided by the City's water meter supplier, the monthly meter fees for 1.5", 3", and 10" meters are reduced. All other monthly meter fees increase.
- A higher than minimum cash balance at the end of five years would be prudent for the water fund because of the multiple number of CIP projects planned in the next five years. Cash reserves can be used, if necessary, to pay for project cost overruns; it can also be used to pay off State loans early and complete other system rehabilitation projects not currently in the CIP.
- The calculated August 2021 water rates result in an increase of \$3.77 per month during winter months for residential customers, and about \$4.46 per month during summer months. The impact to Foster Farms of the August 2021 rate increase is approximately \$109,000 (a 4.6% increase).

The updated water rate schedule is provided in **Table A** on the following page. Water bills are based on usage in the preceding month; therefore, the August 2021 water bill will be calculated on the end of July water meter read.

**Table A  
Proposed Five-Year Water Rate Schedule**

<b>Charges</b>	<b>Current</b>	<b>Aug-21</b>	<b>Jul-22</b>	<b>Jul-23</b>	<b>Jul-24</b>	<b>Jul-25</b>
<b>Base Charge</b>						
1" and smaller	\$25.13	\$28.64	\$29.79	\$30.98	\$32.22	\$33.52
1.5"	\$50.27	\$57.29	\$59.58	\$61.96	\$64.45	\$67.04
2"	\$80.43	\$91.66	\$95.32	\$99.14	\$103.11	\$107.26
3"	\$175.94	\$200.51	\$208.52	\$216.86	\$225.56	\$234.63
4"	\$301.61	\$343.73	\$357.46	\$371.76	\$386.68	\$402.23
6"	\$628.35	\$716.10	\$744.70	\$774.51	\$805.58	\$837.98
8"	\$1,206.43	\$1,374.92	\$1,429.82	\$1,487.05	\$1,546.72	\$1,608.91
10"	\$1,910.18	\$2,176.95	\$2,263.88	\$2,354.50	\$2,448.97	\$2,547.45
<b>Meter Fee</b>						
1" and smaller	\$3.05	\$3.30	\$3.39	\$3.47	\$3.56	\$3.65
1.5"	\$11.11	\$7.79	\$7.99	\$8.18	\$8.39	\$8.60
2"	\$12.13	\$14.88	\$15.25	\$15.63	\$16.02	\$16.42
3"	\$25.74	\$18.56	\$19.03	\$19.50	\$19.99	\$20.49
4"	\$40.61	\$43.94	\$45.04	\$46.17	\$47.32	\$48.51
6"	\$56.33	\$75.94	\$77.83	\$79.78	\$81.77	\$83.82
8"	\$89.50	\$123.82	\$126.91	\$130.09	\$133.34	\$136.67
10"	\$204.51	\$159.79	\$163.78	\$167.88	\$172.07	\$176.38
<b>Service Charge Monthly Water Allowance</b>						
Attached Residential (per Unit)	10,000	gallons				
Detached Residential (per Unit)	25,000	gallons				
Non-Residential (per Meter)	35,000	gallons				
<b>Consumption Charge per 1,000 gallons of water in excess of allowance each month</b>						
All Customers	\$1.57	\$1.64	\$1.72	\$1.80	\$1.89	\$1.98
Construction Water	\$1.17	\$1.88	\$1.97	\$2.06	\$2.15	\$2.25

Source: City of Livingston and 2021 HEC rate study.

sched

\* Water rate schedules 1.5x outside City limits.

## **1.5 WASTEWATER RATE STUDY FINDINGS**

Wastewater rate study summary and key findings are summarized here:

- The City provides wastewater collection, treatment, and disposal services to the residents and businesses of Livingston. Monthly wastewater rates pay for 96% of the annual costs of the wastewater fund.
- The wastewater fund is currently covering all expenses and debt service coverage requirements of existing bond covenants. The wastewater fund has adequate cash reserves.

- Wastewater fee collections need to increase beginning August 2021 to pay for increased operating expenses, equipment and vehicle purchases, and the planned wastewater CIP.
- The cost of service study demonstrates a shift in the customer base. Since 2014, the City has experienced growth, particularly in the non-residential customer categories (hotels, gas stations, and other businesses).
- The shift in the customer base, as well as updated cost allocation factors used in the rate calculations causes some customer rates to increase proportionately more than others.

The updated wastewater rate schedule is provided in **Table B** below. Since the draft rate study report, a new customer classification has been added, Industrial Laundromat. This class was added as the Light Industrial classification (where the customer was originally counted) does not properly capture the user characteristics of the laundromat. Although this sub-customer category was not included in the Proposition 218 notice, it can be included in the new rate schedule because the rates are lower than those in the notice for Light Industrial.

**Table B**  
**Proposed Five-Year Wastewater Rate Schedule**

Customer Category	Billing Basis <i>New Rates on Bills -----&gt;</i>	Current	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26
			Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Residential</b>	<b>per unit</b>	<b>\$43.84</b>	<b>\$46.05</b>	<b>\$47.76</b>	<b>\$51.86</b>	<b>\$52.09</b>	<b>\$53.25</b>
<b>Non-Residential</b>							
Churches/Temples/Comm.Ctrs.	per account	\$42.28	\$47.39	\$49.14	\$53.35	\$53.59	\$54.78
Schools (with cafeteria)	per student	\$1.46	\$1.74	\$1.81	\$1.96	\$1.97	\$2.01
Hotel/Motel	per room	\$17.22	\$18.99	\$19.70	\$21.38	\$21.48	\$21.96
Light Industrial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
Commercial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
<b>Variable Charges for Non-Residential Only</b>							
Light Industrial	per gallon	\$0.010417	\$0.010023	\$0.010397	\$0.011291	\$0.011343	\$0.011599
Industrial Laundromat [1]	per gallon	n.a.	\$0.005444	\$0.005647	\$0.006132	\$0.006159	\$0.006298
Commercial	per gallon	\$0.003837	\$0.005783	\$0.006090	\$0.006712	\$0.006843	\$0.007099

Source: 2021 HEC rate study.

sum

[1] New customer category.

## 1.6 SOLID WASTE RATE STUDY FINDINGS

Solid waste study summary and key findings are summarized here:

- Solid waste rates pay for garbage pickup and disposal by Gilton Waste Management (hereafter “Gilton”). About 78% of annual sanitation fund expenses pay for services provided by Gilton. The remaining annual expenses pay for City-provided sanitation services, including street sweeping.

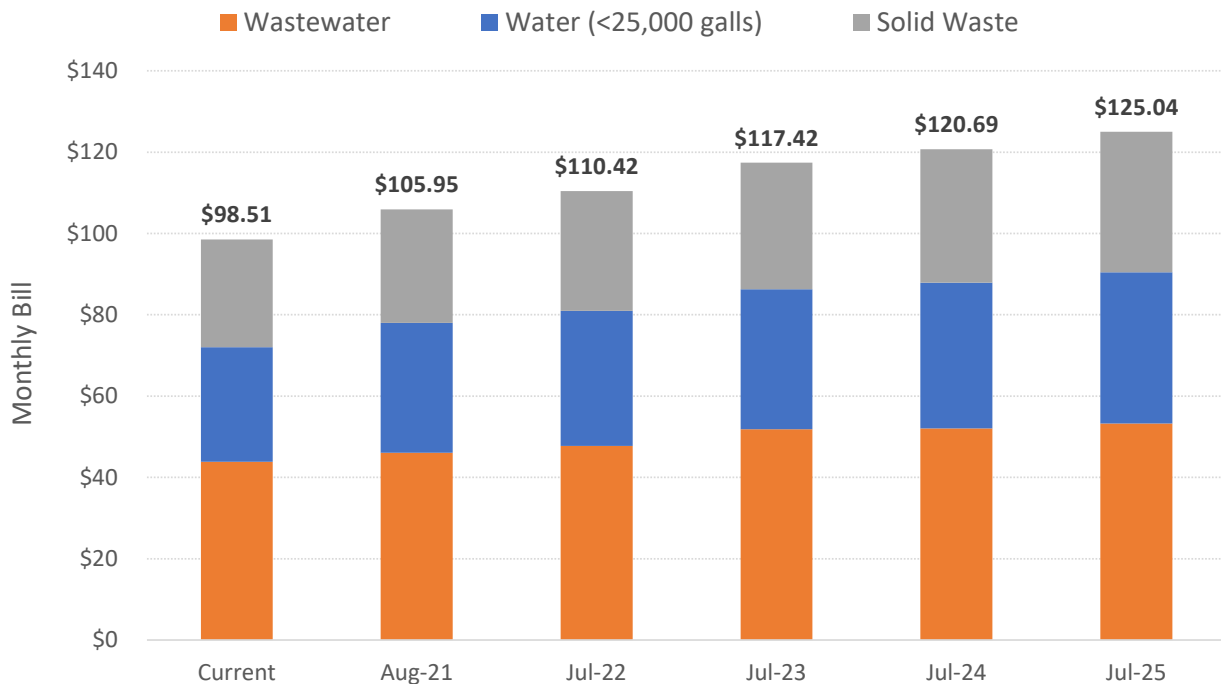
- Solid waste rates need to increase 5.5% per year to pay for the projected costs of solid waste and street sweeping services.
- The calculated rates for the next five years will pay for all of the operating costs that are currently incurred, plus new costs that may be generated by the passage of Senate Bill (SB) 1383. It is anticipated that implementation of SB 1383 will increase legal, education, outreach, enforcement and inspection costs. The City may need to hire a recycling coordinator.

The updated solid waste rate schedule is provided in **Table C** on the next page.

### 1.7 COMBINED UTILITIES BILL IMPACTS

Livingston residents receive monthly utility bills that include water, wastewater, and solid waste service costs; therefore, it is important to look at the combined impact on customer bills. **Figure A** below shows the total monthly bill impact to a typical home in Livingston using less than 25,000 gallons. In total, monthly bills would increase 7.6% August 2021, and between 2.8% and 6.3% each year for the following four fiscal year adjustments.

**Figure A**  
**Combined Utility Bill Impact for a Typical Home**



Bill impacts to other customer categories are addressed in each study.

**Table C**  
**Proposed Five-Year Solid Waste Rate Schedule**

Service Type	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
	<i>Rate Increase ---&gt;</i>	5.5%	5.5%	5.5%	5.5%	5.5%
<i>Rates do not include charges for special services that are scheduled between the customer and provider such as off schedule pick up, container maintenance, and delivery charges.</i>						
<b>Single Family Residential</b>		<b>Once per week pickup</b>				
96 gal. cart	\$25.16	\$26.54	\$28.00	\$29.54	\$31.17	\$32.88
Add'l cart	\$5.97	\$6.30	\$6.64	\$7.01	\$7.40	\$7.80
96 gal. cart greenwaste	\$1.33	\$1.40	\$1.48	\$1.56	\$1.65	\$1.74
Add'l greenwaste cart	\$5.97	\$6.30	\$6.64	\$7.01	\$7.40	\$7.80
<b>Multi-Family, Commercial, and Organic</b>		<b>Once per week pickup</b>				
1 cubic yard container	\$47.36	\$49.96	\$52.71	\$55.61	\$58.67	\$61.90
2 cubic yards container	\$94.41	\$99.60	\$105.08	\$110.86	\$116.96	\$123.39
3 cubic yards container	\$139.86	\$147.55	\$155.67	\$164.23	\$173.26	\$182.79
4 cubic yards container	\$179.04	\$188.89	\$199.28	\$210.24	\$221.80	\$234.00
6 cubic yards container	\$251.71	\$265.55	\$280.16	\$295.57	\$311.82	\$328.97
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	\$71.41	\$75.34	\$79.48	\$83.85	\$88.46	\$93.33
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$513.10	\$541.32	\$571.09	\$602.50	\$635.64
4 cubic yards container	n/a	\$650.83	\$686.62	\$724.39	\$764.23	\$806.26
<b>Multi-Family, Commercial, and Organic</b>		<b>Twice per week pickup</b>				
1 cubic yard container	\$93.90	\$99.06	\$104.51	\$110.26	\$116.33	\$122.72
2 cubic yards container	\$187.14	\$197.43	\$208.29	\$219.75	\$231.83	\$244.58
3 cubic yards container	\$264.56	\$279.11	\$294.46	\$310.66	\$327.74	\$345.77
4 cubic yards container	\$348.86	\$368.05	\$388.29	\$409.65	\$432.18	\$455.95
6 cubic yards container	\$490.40	\$517.37	\$545.83	\$575.85	\$607.52	\$640.93
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	n/a	\$150.65	\$158.94	\$167.68	\$176.90	\$186.63
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$988.83	\$1,043.21	\$1,100.59	\$1,161.12	\$1,224.98
4 cubic yards container	n/a	\$1,245.84	\$1,314.36	\$1,386.65	\$1,462.91	\$1,543.37
<b>Multi-Family, Commercial, and Organic</b>		<b>Three times per week pickup</b>				
1 cubic yard container	n/a	\$148.00	\$156.14	\$164.73	\$173.79	\$183.35
2 cubic yards container	n/a	\$297.64	\$314.01	\$331.28	\$349.50	\$368.72
3 cubic yards container	\$398.63	\$420.55	\$443.69	\$468.09	\$493.83	\$520.99
4 cubic yards container	\$545.64	\$575.65	\$607.31	\$640.71	\$675.95	\$713.13
6 cubic yards container	\$750.40	\$791.67	\$835.21	\$881.15	\$929.61	\$980.74
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	n/a	\$225.98	\$238.41	\$251.53	\$265.36	\$279.95
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$1,484.74	\$1,566.40	\$1,652.55	\$1,743.44	\$1,839.33
4 cubic yards container	n/a	\$1,979.65	\$2,088.53	\$2,203.40	\$2,324.59	\$2,452.44

Source: City of Livingston and HEC.

sum



## 1.8 RATE SCHEDULES UNDER ALTERNATIVE SCENARIOS

Tables A, B, and C present the proposed rates included in the Proposition 218 public hearing notice mailed to all customers of record. These are the maximum rates that the City Council would be authorized to adopt barring a majority protest upon close of the public hearing on June 15, 2021. At its April 20th, 2021 City Council meeting, in addition to receiving the draft rate study report, the City was informed of actions that could reduce the proposed water and wastewater rates (solid waste rates would not be affected). Specifically, these include:

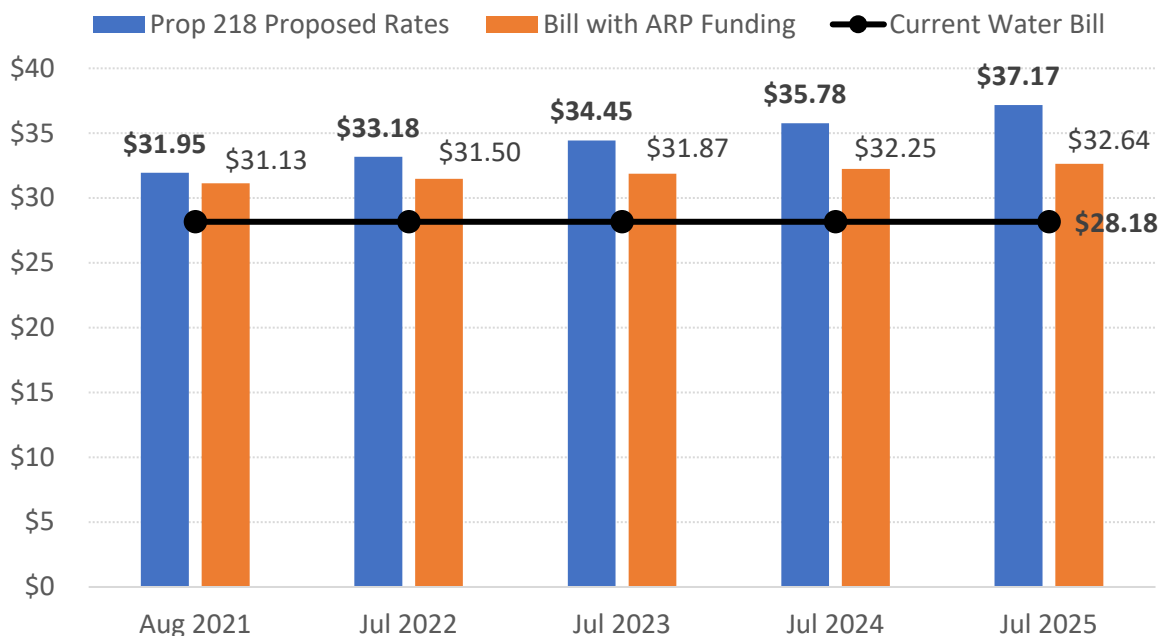
- Moving forward with a power purchase agreement to install solar facilities at the wastewater treatment plant. ***The City has done this.***
- Utilizing American Recovery Plan (ARP or Covid Relief) funds to pay for certain water and wastewater infrastructure improvements. ***The City may still decide to do this.***

### Water

The City is contemplating using ARP funds to cover the expenses associated with Well 12 conveyance and treatment, which are estimated at \$2.0 million. **Table A.2** on the next page shows the calculated rates with Covid Relief funding applied.

Water rates are lower with Covid Relief funding applied. **Figure B** compares the water bill for a home using 20,000 gallons in a month under the two rate schedules. Currently, a home pays \$28.18 per month provided water consumption is under 25,000 gallons.

**Figure B**  
**Water Bill Comparison under Alternative Rate Scenarios**



**Table A.2  
Calculated Water Rates with Covid Relief Funding**

Charges	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Base Charge</b>						
1" and smaller	\$25.13	\$27.83	\$28.11	\$28.40	\$28.70	\$29.00
1.5"	\$50.27	\$55.65	\$56.22	\$56.80	\$57.39	\$57.99
2"	\$80.43	\$89.04	\$89.95	\$90.88	\$91.83	\$92.79
3"	\$175.94	\$194.78	\$196.77	\$198.80	\$200.87	\$202.98
4"	\$301.61	\$333.91	\$337.32	\$340.80	\$344.35	\$347.96
6"	\$628.35	\$695.64	\$702.75	\$710.00	\$717.39	\$724.91
8"	\$1,206.43	\$1,335.63	\$1,349.28	\$1,363.20	\$1,377.38	\$1,391.83
10"	\$1,910.18	\$2,114.75	\$2,136.37	\$2,158.40	\$2,180.85	\$2,203.74
<b>Meter Fee</b>						
1" and smaller	\$3.05	\$3.30	\$3.39	\$3.47	\$3.56	\$3.65
1.5"	\$11.11	\$7.79	\$7.99	\$8.18	\$8.39	\$8.60
2"	\$12.13	\$14.88	\$15.25	\$15.63	\$16.02	\$16.42
3"	\$25.74	\$18.56	\$19.03	\$19.50	\$19.99	\$20.49
4"	\$40.61	\$43.94	\$45.04	\$46.17	\$47.32	\$48.51
6"	\$56.33	\$75.94	\$77.83	\$79.78	\$81.77	\$83.82
8"	\$89.50	\$123.82	\$126.91	\$130.09	\$133.34	\$136.67
10"	\$204.51	\$159.79	\$163.78	\$167.88	\$172.07	\$176.38
<b>Service Charge Monthly Water Allowance</b>						
Attached Residential (per Unit)	10,000	gallons				
Detached Residential (per Unit)	25,000	gallons				
Non-Residential (per Meter)	35,000	gallons				
<b>Consumption Charge per 1,000 gallons of water in excess of allowance each month</b>						
All Customers	\$1.57	\$1.59	\$1.62	\$1.65	\$1.68	\$1.72
Construction Water	\$1.17	\$1.82	\$1.85	\$1.88	\$1.91	\$1.94

Source: City of Livingston and 2021 HEC rate study.

sched

\* Water rate schedules 1.5x outside City limits.

## Wastewater

The City received bids for installation of solar facilities at the wastewater treatment plant and has taken action to move forward with the project. Once complete, solar generation will reduce electricity bills for the wastewater treatment plant. **Table B.2** on the next page provides the calculated rates with solar installation.

**Table B.2**  
**Wastewater Rates with Solar Installation**

Customer Category	Billing Basis	Current	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26
			Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Residential</b>	<b>per unit</b>	<b>\$43.84</b>	<b>\$44.89</b>	<b>\$47.03</b>	<b>\$51.21</b>	<b>\$51.42</b>	<b>\$52.62</b>
<b>Non-Residential</b>							
Churches/Temples/Comm.Ctrs.	per account	\$42.28	\$46.19	\$48.39	\$52.69	\$52.90	\$54.13
Schools (with cafeteria)	per student	\$1.46	\$1.70	\$1.78	\$1.94	\$1.94	\$1.99
Hotel/Motel	per room	\$17.22	\$18.51	\$19.39	\$21.12	\$21.20	\$21.70
Light Industrial (Base)	per account	\$43.84	\$44.89	\$47.03	\$51.21	\$51.42	\$52.62
Commercial (Base)	per account	\$43.84	\$44.89	\$47.03	\$51.21	\$51.42	\$52.62
<b>Variable Charges for Non-Residential Only</b>							
Light Industrial	per gallon	\$0.010417	\$0.009770	\$0.010236	\$0.011149	\$0.011196	\$0.011461
Industrial Laundromat [1]	per gallon	n.a.	\$0.005307	\$0.005560	\$0.006055	\$0.006080	\$0.006223
Commercial	per gallon	\$0.003837	\$0.005637	\$0.005996	\$0.006628	\$0.006754	\$0.007014

Source: 2021 HEC rate study.

sum

[1] New customer category.

The City is also considering funding the disc and ripper tractor, which is estimated to cost \$222,525 in the next fiscal year, with Covid Relief funding. **Table B.3** provides the calculated rates with solar installation and Covid Relief funding.

**Table B.3**  
**Wastewater Rates with Solar Installation and Covid Relief Funding**

Customer Category	Billing Basis	Current	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26
			Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Residential</b>	<b>per unit</b>	<b>\$43.84</b>	<b>\$44.06</b>	<b>\$45.72</b>	<b>\$49.91</b>	<b>\$50.00</b>	<b>\$51.03</b>
<b>Non-Residential</b>							
Churches/Temples/Comm.Ctrs.	per account	\$42.28	\$45.34	\$47.04	\$51.35	\$51.44	\$52.50
Schools (with cafeteria)	per student	\$1.46	\$1.67	\$1.73	\$1.89	\$1.89	\$1.93
Hotel/Motel	per room	\$17.22	\$18.17	\$18.85	\$20.58	\$20.62	\$21.05
Light Industrial (Base)	per account	\$43.84	\$44.06	\$45.72	\$49.91	\$50.00	\$51.03
Commercial (Base)	per account	\$43.84	\$44.06	\$45.72	\$49.91	\$50.00	\$51.03
<b>Variable Charges for Non-Residential Only</b>							
Light Industrial	per gallon	\$0.010417	\$0.009590	\$0.009951	\$0.010867	\$0.010889	\$0.011116
Industrial Laundromat [1]	per gallon	n.a.	\$0.005209	\$0.005405	\$0.005902	\$0.005913	\$0.006035
Commercial	per gallon	\$0.003837	\$0.005533	\$0.005829	\$0.006460	\$0.006569	\$0.006803

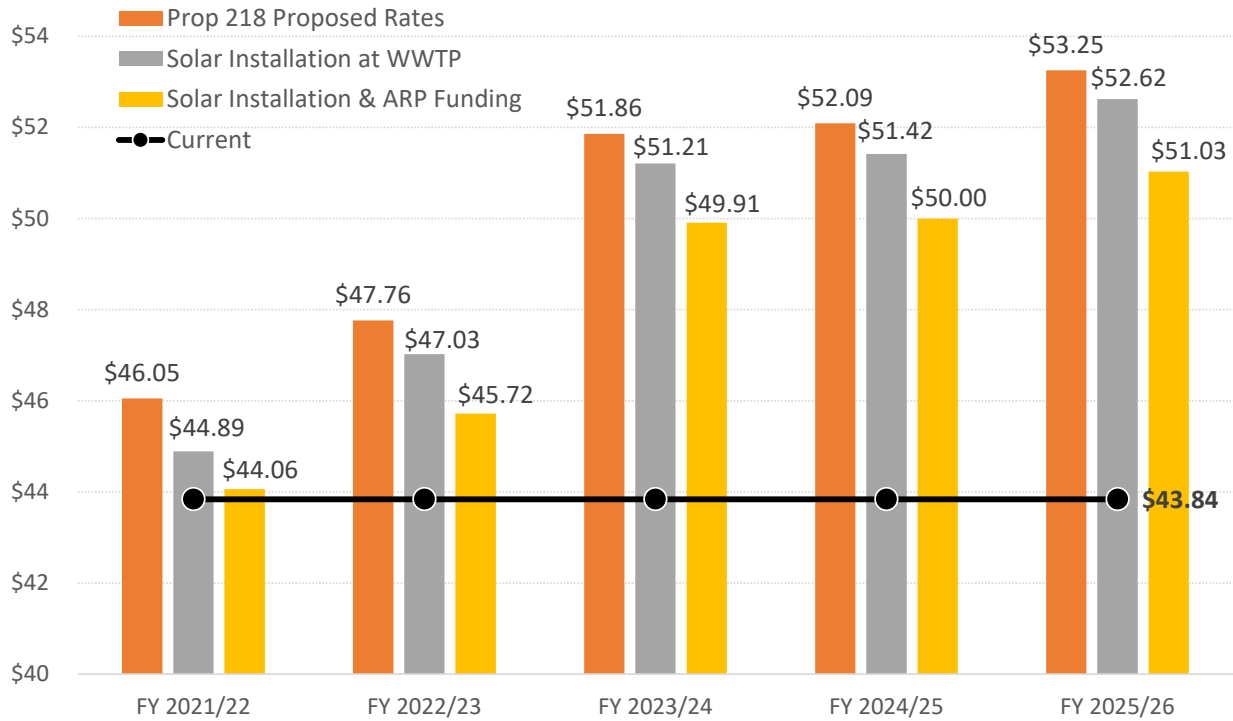
Source: 2021 HEC rate study.

sum

[1] New customer category.

**Figure C** compares the sewer bill for a single family home under all three scenarios over the five-year projection period. The current bill is \$43.84 per month.

**Figure C**  
**Sewer Bills under Alternative Rate Scenarios**



## Section 2: WATER RATE STUDY

### 2.1 THE WATER FUND AND ITS CUSTOMERS

The City’s water enterprise fund accounts for the revenues and expenses associated with provision of water service. An enterprise fund is a fund that is intended to recover its costs through user fees and charges for a specific service. Money collected for an enterprise fund cannot be spent on other services. Generally accepted accounting principles (GAAP) require state and local government to use the enterprise fund type to account for “business type activities”. As a business type fund, enterprise funds must be self-sufficient. Enterprise funds also provide the repayment capacity for, and make debt service payments on, any debt incurred for capital projects; therefore, any water enterprise fund bond-funded projects do not diminish the City’s general fund debt capacity.

It is important for enterprise funds to be self-sufficient, without subsidies from other funds, including the City’s General Fund. General Fund cash should be used to protect against factors that could limit the City’s ability to provide critical services. Decreasing General Fund reserves could leave the City financially vulnerable, reducing funds necessary to recover from a natural disaster, for example.

**Table 1** shows historical revenues and expenses for the water operating fund for fiscal years 2017 through 2020. Net revenues have been positive each year. The last water rate study included several capital improvement project costs that have not yet been incurred; therefore, revenues have deliberately been significantly greater than expenses. In the next five-year period cash reserves will be used to pay for capital improvement projects.

**Table 1**  
**Water Fund Historical Revenues and Expenses**

Revenues and Expenses	Fiscal Year Ending			
	2017 actual	2018 actual	2019 actual	2020 unaudited
Revenue	\$3,484,226	\$3,736,933	\$3,873,948	\$4,381,278
Expense	\$1,868,403	\$1,952,499	\$2,009,274	\$2,399,786
<b>Net Income</b>	<b>\$1,615,824</b>	<b>\$1,784,434</b>	<b>\$1,864,674</b>	<b>\$1,981,491</b>
less Transfers Out	\$0	\$1,773,333	\$0	\$0
<b>Net Revenue after Transfers</b>	<b>\$1,615,824</b>	<b>\$11,102</b>	<b>\$1,864,674</b>	<b>\$1,981,491</b>

Appendix A Tables A-1 and A-2 show the details of historical water fund revenues and expenses.

**2.1.1. Revenues**

Water system operations are funded through monthly rates, meter installation fees, interest income, utility penalties, and other small miscellaneous revenues. In some years, the City receives intergovernmental revenues for special regional projects.

Rate revenue is generated by application of the water rate schedule shown in **Table 2** below. Under the current rate schedule all customers pay fixed monthly charges (which include a service charge and meter replacement fee) by meter size, and a use charge according to the quantity of water used each month. Water is measured in thousands of gallons. All customers pay the same rate for every unit of water consumed above their base allowance. The monthly base allowance varies by customer category.

**Table 2  
Current Water Rates Schedule**

Charges	2019 (Current) Water Rates	
	Inside City *	
	Base Charge	Meter Fee
<b>Fixed Monthly Charges</b>		
1" and smaller	\$25.13	\$3.05
1.5"	\$50.27	\$11.11
2"	\$80.43	\$12.13
3"	\$175.94	\$25.74
4"	\$301.61	\$40.61
6"	\$628.35	\$56.33
8"	\$1,206.43	\$89.50
10"	\$1,910.18	\$204.51
<b>Service Charge Monthly Water Allowance</b>		
Attached Residential (per Unit)	10,000	gallons
Detached Residential (per Unit)	25,000	gallons
Non-Residential (per Meter)	35,000	gallons
Construction	0	gallons
<b>Consumption Charge per 1,000 gallons of water in excess of allowance each month</b>		
All Customers except Construction	\$1.57	
Construction	\$1.17	

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\* Water rate schedules 1.5x outside City limits.

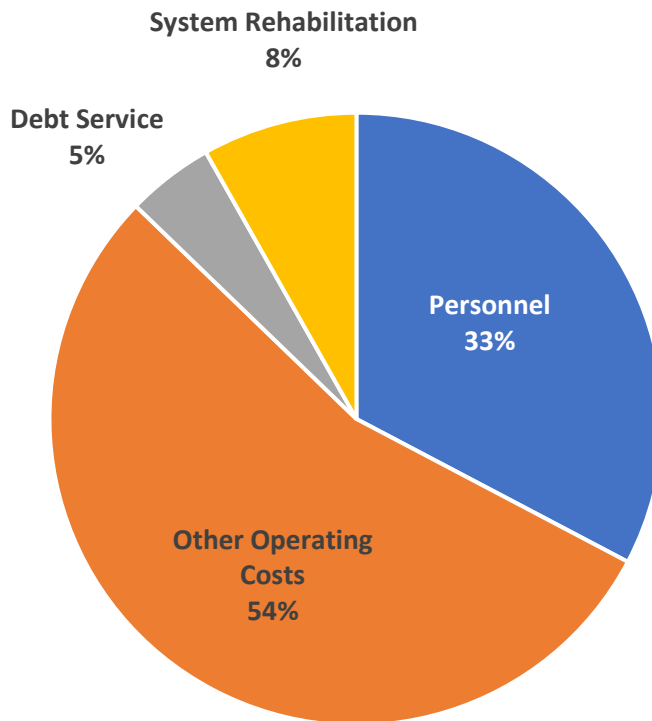
### 2.1.2. Expenses

Annual operating costs include all water system operating expenses, capital outlay, and debt service. Expenditures were grouped into five categories:

- Personnel (Payroll and Benefits)
- System Rehabilitation
- Debt Service
- New Infrastructure Projects
- Other Operating Costs

Personnel and other operating costs comprise the largest cost items budgeted for fiscal year ending 2021, which is the base year for the study. Fiscal year 2021 costs are illustrated in **Figure 1**.

**Figure 1**  
**Historical Water Fund Operating Expenses**

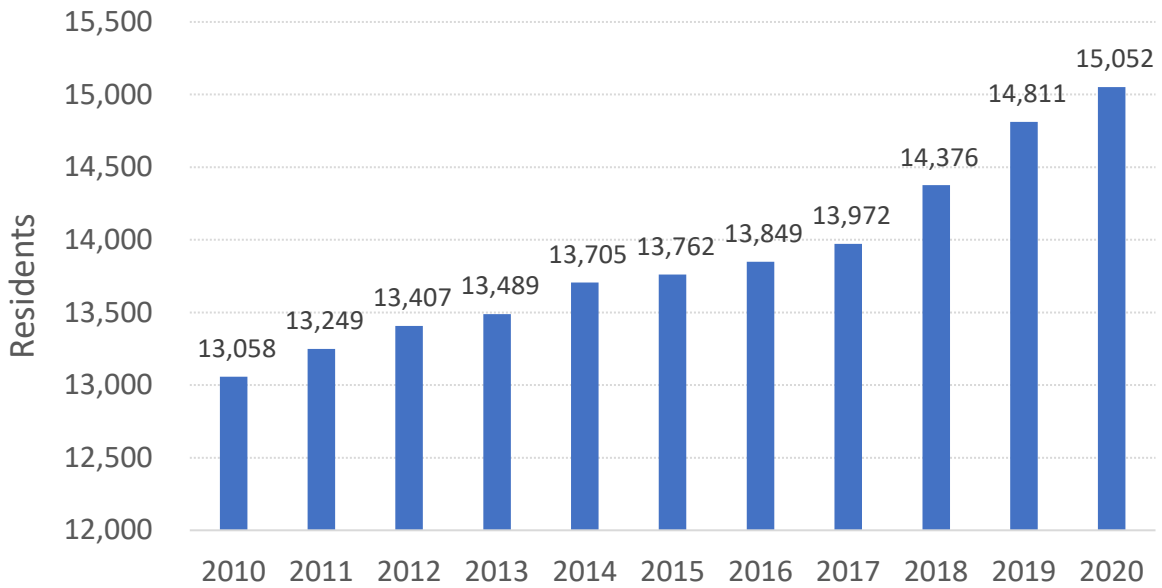


### 2.1.3. Customer Base

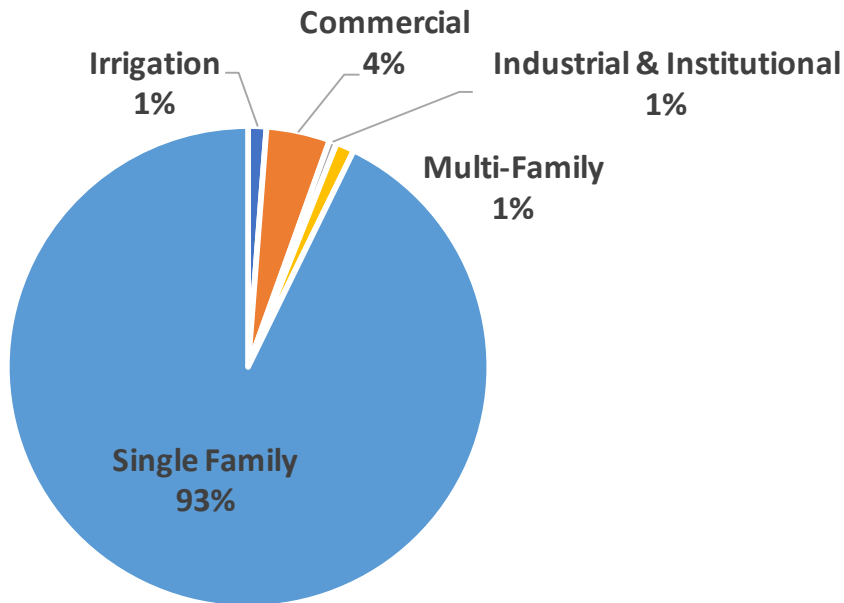
Per the California Department of Finance, Livingston has a population of approximately 15,100, and it has sustained an annual average population increase of 1.8% since 2000. Population growth is shown in **Figure 2** on the next page.

The City serves water to about 3,100 households and 200 non-residential establishments, including large customers such as Foster Farms, and several irrigation-only customers. A pie chart illustrating the customer base is provided in **Figure 3** on the next page. As the pie chart shows, the City's water customers are primarily (93%) single family residential.

**Figure 2**  
**Population Growth**



**Figure 3**  
**Customer Base**

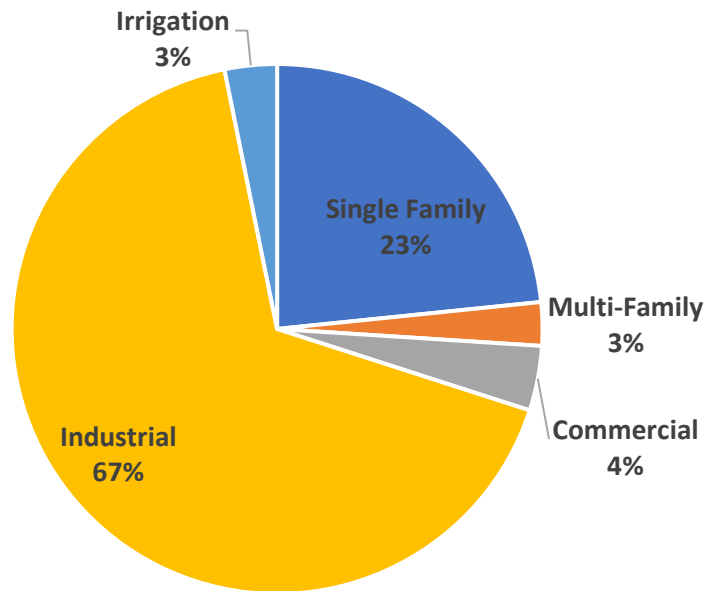




#### 2.1.4. Water Consumption and Production

Figure 4 shows total water consumption by customer category. Although single family residential makes up 93% of the customer base, this group uses 23% of annual water consumption. Industrial customers, which make up less than 1% of the customer base, use 67% of total water consumed.

Figure 4  
Water Consumption by Customer Category

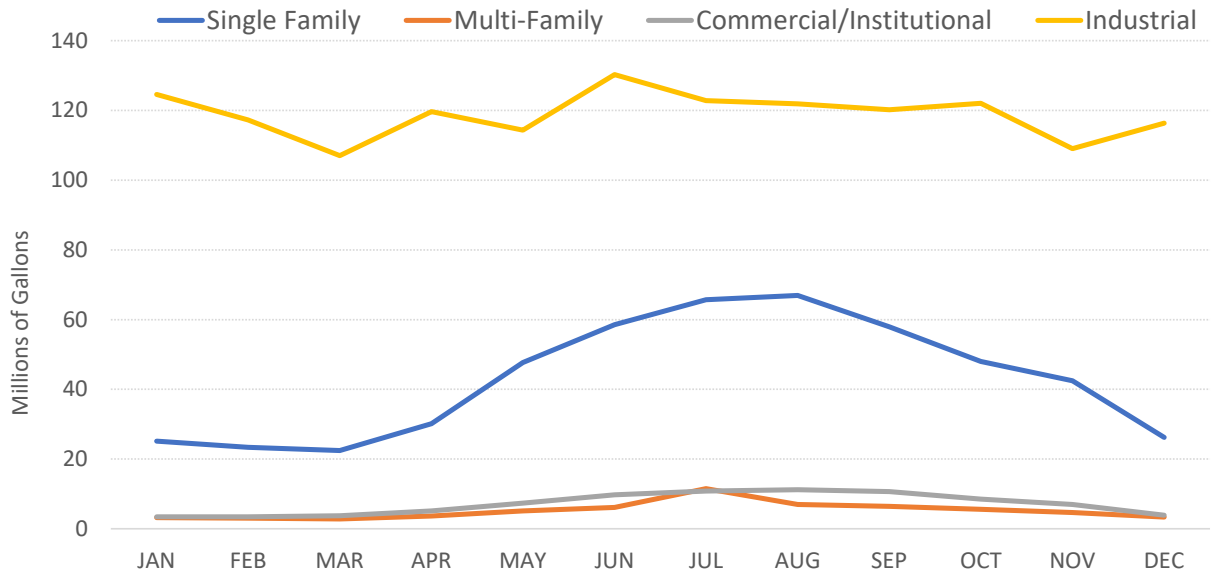


The City's water supply is 100% groundwater. Water use fluctuates from year to year depending on several factors including, but not limited to, growth, the weather, sustained drought, plumbing retrofits, and pricing of water. Historical average water use for 2015-2019 by customer category is used as the basis on which to project water use in the rate study. Historical potable water consumption is provided in **Appendix Table A-3**.

Like most cities in the western U.S., Livingston experiences greater water demand in the summer than the winter due to outside applications of water. **Figure 5** shows water use by month using 2017 through 2019 water use data provided by the City. Greater demand during the summer is driven by the single family customer category. Because such a large quantity of water is consumed by the industrial customers, with a steady water demand throughout the year, the City is not as susceptible to large swings in water use as many central valley communities.

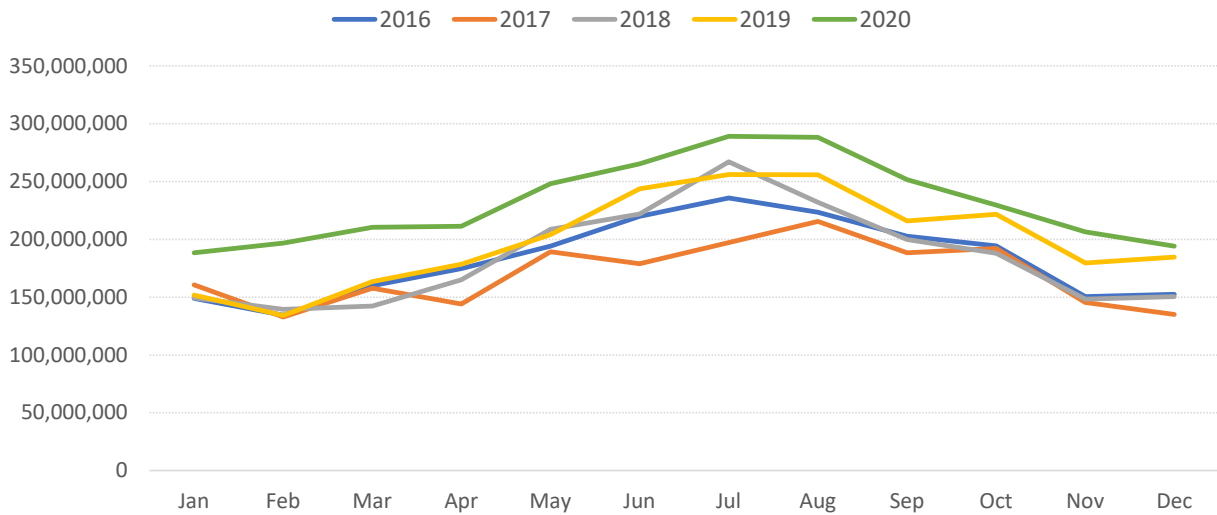
Well production data is provided in **Appendix Table A-4**. Approximately 84% of annual water production is for year-round water consumption, and approximately 16% of annual water production is additional water for increased demand during the summer months. Typically, central valley communities use 60%-65% of water for year-round demand, and 35%-40% of water additionally during the summer. Livingston has a higher year-round consumption due to water use by a large industrial customer, Foster Farms. **Figure 6** shows seasonal water production for the last three years.

**Figure 5**  
**Water Use Patterns by Customer Category**



System-wide annual water production by month in gallons is shown in **Figure 7**.

**Figure 6**  
**Annual Water Production – Seasonal Trend**



## 2.2 REVENUE REQUIREMENT

According to the American W M1 Manual, the first step in the ratemaking analysis is to determine the adequate and appropriate funding of a utility. This is referred to as the “revenue requirements” analysis. This analysis considers the short-term and long-term service objectives of the utility over a

given planning horizon, including capital facilities and system operations and maintenance, to determine the adequacy of a utility's existing rates to recover its costs. A number of factors may affect these projections, including: the number of customers served, water-use trends, nonrecurring sales, weather, conservation, use restrictions, inflation, interest rates, wholesale contracts, capital finance needs, and other changes in operating and economic conditions.

After determining a utility's revenue requirements, a utility's next step is determining the cost of service. Utilizing a public agency's approved budget, financial reports, operating data, and capital improvement plans, a rate study generally categorizes (functionalizes) the costs, expenses, and assets of the water system among major operating functions to determine the cost of service.

After the assets and the costs of operating those assets are properly categorized by function, the rate study allocates those "functionalized costs" to the various customer classes (e.g., single-family residential, multi-family residential and commercial) by determining the characteristics of those classes and the contribution of each to incurred costs such as peaking factors or different delivery costs, service characteristics and demand patterns. Rate design is the final part of the M1 Manual's rate-making procedure and generally uses the revenue requirement and cost of service analysis to determine appropriate rates for each customer class.

The revenue requirement refers to the amount of money that must be raised for revenue sufficiency of the water fund through rates. The projection of the revenue requirement is the cornerstone for the calculation of rates. This section explains the derivation of revenue requirement for this study. Components of the revenue requirement include:

- Capital Improvements
- Debt Service
- Operations Expenses and Reserves
- System Rehabilitation

Non-water sales revenue projections are credited against projected operations costs. Non-water sales include meter replacement fees, meter installation fees, fines and forfeitures (penalties), interest income, and miscellaneous revenue.

### **2.2.1. Capital Improvements**

Water system capital costs in any one year are dependent on the state of the current infrastructure to serve existing customers and necessary improvements to accommodate potential new customers. Over the next five years, total water system capital improvement costs are estimated at \$25.27 million. The largest project cost is anticipated to be for wells 13 and 17 conveyance, treatment plant and storage tank (\$9.02 million). The new well 11 (estimated cost \$1.23 million) will be constructed and paid for by Foster Farms under agreement with the City.

**Table 3** summarizes the total estimated costs and anticipated funding sources. Total estimated costs are in future dollars (cost estimates were provided in 2020 dollars; the rate study inflates the cost estimates by 3% each year per the 10-year historical average increase in the Engineering News

Record (ENR) Construction Cost Index (CCI)). **Appendix Tables A-5 and A-6** provides greater detail of the CIP items and costs.

A \$4.0 million loan has already been executed with the State Water Resources Control Board (SWRCB) for wells 14 and 16 treatment and conveyance facilities. Improvements to wells 8, 9, 13, and 17 are anticipated to be funded with additional loans from the SWRCB. All other capital improvement projects will be funded with reserves (currently accumulated and future collections of water rate revenues), and the park surface water irrigation project will be partially funded with a grant.

Two projects are estimated to benefit future water users; 25% of the well 8 and 9, as well as the well 13 and 17 project costs, are allocated to future users. These two projects are anticipated to be funded by SRF loans; therefore, 25% of annual debt service will be paid for with accumulated water connection fees.

**Table 3**  
**Summary of CIP Costs Fiscal Years Ending 2022-2026**

	Estimated Cost in Inflated Dollars	Funding
	2021-2026	Source
Well 8 - New Well	\$1,060,900	Reserves
Well 9 - New Well	\$1,236,000	Reserves
Well 11 - New Well	\$1,236,000	Foster Farms
Well 12 Conveyance & Treatment	\$1,993,951	Reserves
Well 8 & 9 Conveyance & Treatment Plant	\$4,774,050	SRF Loan [1]
Well 14 & 16 Conveyance & Treatment Plant - secured loan	\$4,120,000	SRF Loan
Well 13 & 17 Conveyance, Treatment Plant & Storage Tank	\$9,017,650	SRF Loan [1]
Water Line Replacement Ph 4 (Walnut, Davis, White, N Main)	\$1,454,769	Reserves
Park Surface Water Irrigation	\$381,924	Reserves [2]
<b>Total Estimated Water Improvements Cost</b>	<b>\$25,275,245</b>	

Source: City of Livingston January 2021.

cip sum

[1] A portion of debt service to be repaid with connection fees.

[2] A portion of this project will be funded by a grant.

### **2.2.2. Debt Service**

The City has two existing loans with the SWRCB for wells 13 (\$1.35 million) and wells 14 and 16 (\$4.00 million). Repayment schedules are provided in **Appendix A Tables A-7 and A-8**.

New debt service is assumed to be incurred for wells 8 and 9 (total \$3.61 million), as well as wells 13 and 17 (total \$8.76 million). The City does not yet know what the terms of financing will be; the rate study assumes 2.50% interest with a 30-year amortization. The State requires one year of debt service be held in reserve for debt payments. The City can either collect this up-front or increase debt service 10% for the first ten years of payments. The rate study assumes that an additional 10% per year is collected for the first ten years for both of these projects. Debt calculations associated with the estimated additional two new SWRCB loans is provided in **Appendix A Table A-9**.

In addition, the City has executed an agreement with TRANE for energy efficiency projects Citywide. A portion of the total projects cost is to upgrade water system components to be more energy efficient. The water system's share of debt service associated with these projects is estimated at \$47,000 per year.

### **2.2.3. Operating Expenses and Reserves**

Future year operating expenses are based on budgeted fiscal year 2021 operating expenses. Personnel costs are increased 6.0% each year, utilities costs are increased 4.0% each year, and all other annual expenses are increased 2.5%, 3.0%, or 3.5% each year. These cost increases were based on historical cost increases and discussions with City staff. In the past four years, City water operating expenses have increased about 7.0% per year. It is very typical for water utility annual costs, and therefore water rates, to outstrip inflation. In May 2019, the American Water Works Association released an article, "Rate survey: water cost increases outpacing other U.S. goods and services" in which it documented that between 2014 and 2018 water rates increased 5.1% per year and wastewater rates increased 5.6% per year. In June 2020 the National Association of Clean Water Agencies determined that the cost of wastewater service more than doubled the rate of inflation over the past twelve months, the 18<sup>th</sup> consecutive year that the increase in charges has outpaced inflation.

In addition to historical types of costs incurred by the water fund, the City is adding new operations and maintenance costs for (1) new personnel, and (2) facilities included in the CIP. New personnel costs include half of the costs of a new Water/Wastewater Manager, as well as one-third of the costs of a new Account Clerk. The costs of these positions are shared with the wastewater fund and the wastewater fund and solid waste fund, respectively. The estimated additional operations and maintenance costs are provided in **Appendix Table A-6**.

### **2.2.4. System Rehabilitation**

Depreciation is used as the basis on which to collect rates to cover system rehabilitation costs. Inclusion of system rehabilitation costs demonstrates fiscal responsibility toward the assets to potential future investors and helps to establish good credit<sup>2</sup>. Depreciation is calculated based on

---

<sup>2</sup> Per Governmental Accounting Standards Board (GASB) 34, local governments must report on the value of their infrastructure assets and plan for asset maintenance (including collecting sufficient revenue) to obtain good credit when issuing bonds or procuring other forms of financing for long-term construction projects.

existing water facilities and new facilities built in the next five-year period. **Table 4** shows the total annual amount included in the rates for system rehabilitation. The estimated cost includes replacement of existing assets and assets that are estimated to be constructed during the study time period. The water rates include 50% depreciation; in many years not all of the money collected is spent; in these years the additional amount is kept in the reserves and spent in another year in which capital costs exceed collections for system rehabilitation.

**Table 4**  
**System Rehabilitation Annual Budget Estimate**

Depreciation	Fiscal Year Ending					
	2021	2022	2023	2024	2025	2026
		Year 1	Year 2	Year 3	Year 4	Year 5
Current Depreciation [1]	\$183,000	\$183,000	\$183,000	\$183,000	\$183,000	\$183,000
New Depreciation	\$756,000	\$756,000	\$756,000	\$756,000	\$756,000	\$756,000
<b>Total Depreciation</b>	<b>\$939,000</b>	<b>\$939,000</b>	<b>\$939,000</b>	<b>\$939,000</b>	<b>\$939,000</b>	<b>\$939,000</b>
	50%	50%	50%	50%	50%	50%
Amount in Rev. Req.	\$469,500	\$469,500	\$469,500	\$469,500	\$469,500	\$469,500

Source: City of Livingston and HEC.

depr

[1] Current book value of all water assets minus wells which are to be replaced.

### 2.2.5. Calculated Revenue Requirement

**Table 5** provides the projection of annual costs and revenues and the resulting revenue requirement through fiscal year 2026. Over the next five years, the revenue requirement is projected to continue to increase to account for inflation, to fund capital expenditures and depreciation, and to account for new debt. The total revenue requirement is projected to increase from \$2.52 million in fiscal year 2021 to \$6.25 million in fiscal year 2026. A portion of the revenue requirement will be met with use of cash reserves; to account for this use and to smooth out the rate increases over the five-year period; the water rates will need to increase 5.0% per year.

The amount to be raised each year by water rates is the “user fees” line underneath the revenue requirement line in **Table 5**. Note that although the amount to be raised by rates increases 5.0% in the first year, not all customer categories will have the same percentage increase. The difference in customer category increases is due to the cost of service analysis.

**Table 5**  
**Projected Revenue Requirement**

Expenses and Credits	Inflator	2021	2022	2023	2024	2025	2026
		budget	Year 1	Year 2	Year 3	Year 4	Year 5
<b>Operating Expenses</b>							
Personnel	6.0%	\$897,994	\$951,873	\$1,008,986	\$1,069,525	\$1,133,696	\$1,201,718
New Personnel [1]	6.0%		\$77,400	\$82,044	\$86,967	\$92,185	\$97,716
Contract Services	3.0%	\$130,000	\$133,900	\$137,917	\$142,055	\$146,316	\$150,706
Utilities	4.0%	\$600,000	\$624,000	\$648,960	\$674,918	\$701,915	\$729,992
less Electricity Savings [2]	4.0%		(\$75,000)	(\$78,000)	(\$81,120)	(\$84,365)	(\$87,739)
SGMA Regulatory Fee	2.5%	\$50,000	\$51,250	\$52,531	\$53,845	\$55,191	\$56,570
Infrastructure O&M	3.5%	\$456,000	\$471,960	\$488,479	\$505,575	\$523,270	\$541,585
Other Operating Costs	2.5%	\$259,820	\$266,316	\$272,973	\$279,798	\$286,793	\$293,962
New Infrastructure Op. Costs	Table A-6	\$0	\$97,850	\$100,786	\$103,809	\$106,923	\$110,131
<b>Total Operating Expenses</b>		<b>\$2,393,814</b>	<b>\$2,599,549</b>	<b>\$2,714,675</b>	<b>\$2,835,371</b>	<b>\$2,961,925</b>	<b>\$3,094,641</b>
<b>Debt Service</b>							
SRF D15-02037 (\$1.35 Mill - well 13)	secured	\$78,778	\$78,778	\$78,778	\$78,778	\$78,778	\$78,778
SRF D18-02003 (\$4.0 Mill -wells 14 & 16)	secured	\$47,358	\$172,989	\$172,989	\$172,989	\$172,989	\$172,989
Energy Retrofits [3]	estimate		\$47,000	\$47,000	\$47,000	\$47,000	\$47,000
New Debt - Wells 13 & 17	estimate			\$355,520	\$355,520	\$355,520	\$355,520
New Debt - Wells 8 & 9	estimate			\$188,210	\$188,210	\$188,210	\$188,210
<b>Subtotal Debt Service</b>		<b>\$126,136</b>	<b>\$298,767</b>	<b>\$842,497</b>	<b>\$842,497</b>	<b>\$842,497</b>	<b>\$842,497</b>
<b>System Rehabilitation and New Projects</b>							
Meter Replacement		\$140,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000
Equipment Purchase		\$59,100	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
Vehicle Replacement		\$25,000	\$12,000	\$12,000	\$12,000	\$12,000	\$12,000
Wells GAC		\$0	\$0	\$424,360	\$0	\$675,305	\$0
Cash-Funded Capital Projects		\$0	\$1,236,000	\$1,259,693	\$1,454,769	\$0	\$1,993,951
<b>Subtotal System Rehabilitation and New Projects</b>		<b>\$224,100</b>	<b>\$1,333,000</b>	<b>\$1,781,053</b>	<b>\$1,551,769</b>	<b>\$772,305</b>	<b>\$2,090,951</b>
Additional Collection for Depreciation		\$0	\$469,500	\$469,500	\$469,500	\$469,500	\$469,500
<b>Total Costs</b>		<b>\$2,744,050</b>	<b>\$4,700,816</b>	<b>\$5,807,725</b>	<b>\$5,699,138</b>	<b>\$5,046,227</b>	<b>\$6,497,589</b>
<b>Credits</b>							
Meter Replacement Fees	2.5%	\$165,635	\$166,373	\$170,532	\$174,795	\$179,165	\$183,644
Meter Installation Fees	estimate	\$0	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Fines & Forfeitures	3.0%	\$42,000	\$43,260	\$44,558	\$45,895	\$47,271	\$48,690
Interest Income	0.0%	\$4,040	\$4,040	\$4,040	\$4,040	\$4,040	\$4,040
Loss of Highway Irrigation Area Revenue [4]	4.5%		(\$16,000)	(\$16,720)	(\$17,472)	(\$18,259)	(\$19,080)
Miscellaneous Revenue	0.0%	\$8,125	\$8,125	\$8,125	\$8,125	\$8,125	\$8,125
<b>Subtotal Credits</b>		<b>\$219,800</b>	<b>\$225,798</b>	<b>\$230,535</b>	<b>\$235,383</b>	<b>\$240,343</b>	<b>\$245,419</b>
<b>Revenue Requirement</b>		<b>\$2,524,250</b>	<b>\$4,475,018</b>	<b>\$5,577,190</b>	<b>\$5,463,755</b>	<b>\$4,805,884</b>	<b>\$6,252,171</b>
Increase in User Fees [5]			5.00%	5.00%	5.00%	5.00%	5.00%
<b>User Fees</b>		<b>\$3,864,360</b>	<b>\$4,057,578</b>	<b>\$4,260,457</b>	<b>\$4,473,480</b>	<b>\$4,697,154</b>	<b>\$4,932,011</b>

Source: City of Livingston fiscal year 2021 budget, and HEC.

rev req

[1] Includes the water fund's portion of two new positions: water/wastewater manager and account clerk.

[2] TRANE estimate is \$79,953 in first year. This has been rounded down to the nearest \$5,000.

[3] Bank estimate of annual payments is \$46,694. This has been rounded up to the nearest \$1,000.

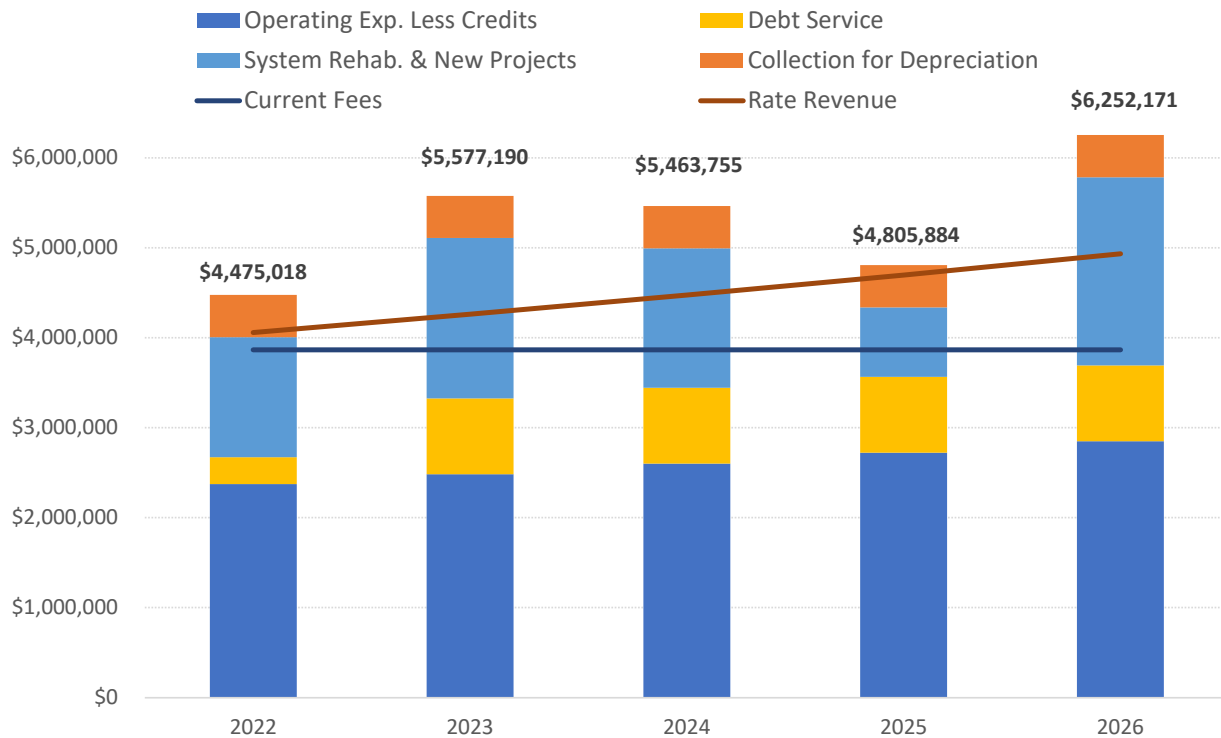
[4] Well 15 will be removed from domestic consumption supplies due to poor water quality; however, it will continue to provide irrigation water.

At this time, it is unknown what revenues might be collected from the well 15 irrigation system.

[5] The amount to be raised from water sales is increased each year by a percentage to smooth out the changes.

Components of revenue requirement and projected water sales revenues are illustrated in **Figure 7**. The total revenue requirement decreases in 2025 because of a decrease in cash spending on capital improvement projects during that year.

**Figure 7**  
**Components of Revenue Requirement**



One of the credits in the revenue requirement is revenue generated by the monthly meter replacement fee. City crews replace older water meters that are near the end of their useful life, or which are inaccurately measuring water flow. The cost to replace meters by size of meter was used to determine appropriate monthly collection of fees to support routine meter replacements in **Appendix Table A-10**. Projected meter replacement fee revenue by year is shown in **Appendix Table A-11**.

The next step in calculating water rates is performing functional cost allocation and cost of service. Functional cost allocation is provided in **Appendix A, Tables A-12 and A-13**. The cost classification provides a *guideline* for the City in determining the portion of revenue requirement to collect through service charges versus usage charges. There is no set formula for determining exactly how much to collect in the service charge versus the use charge.



City water system costs were classified into two categories; fixed (service) and variable (use) costs.

- **Fixed Costs.** Included in this category are costs associated with customer-driven costs and the water system’s readiness to serve, which includes a portion of the water system’s capacity costs for typical non-peaking water use. Thirty-six percent of annual costs were determined to be fixed costs after performing a functional allocation of the 2020 actual water fund expenses.

Fixed costs are allocated to customers based on the number of equivalent meters, determined by the relative hydraulic capacity of the meter size relative to a 1-inch meter. **Table A-14** shows the calculation of equivalent meters. Note that the number of equivalent meters is calculated using current number of billing meters (rather than total number of meters) on the water system at any one time.

- **Variable Costs.** These costs vary with the quantity of water consumed. They include the peaking portion of capacity costs and commodity costs. Commodity costs are expenses that increase or decrease almost directly with the amount of water supplied. Operations and maintenance variable costs primarily include well pumping electricity costs, but also a portion of administrative costs, debt service and other costs as determined in the functional allocation. Variable costs are recovered through use charges applied per thousand gallons above the base allowance each month.

**Table 6** shows allocation of the amount to be collected in user fees each year between service and use charges in the rate model for the study. The amount to be collected in monthly service charges (the “fixed” fee component) is rounded to 35%. In the last water rate study, which was conducted in 2014, it was determined that 35% was the most appropriate percentage to use because such a large amount of use of the system is from industrial users. The industrial customers do not have many water meters; therefore, capacity of the system, as measured by instantaneous flow through water meters, is much less significant in determining use of the system than it is for most water systems.

**Table 6**  
**Allocation of User Fees**

Allocated Rev. Requirement	Fiscal Year Ending					
	2020	2021	2022	2023	2024	2025
Revenue Requirement	\$3,754,022	\$3,922,953	\$4,099,486	\$4,283,963	\$4,476,741	\$4,678,195
Fixed            35%	\$1,313,908	\$1,373,034	\$1,434,820	\$1,499,387	\$1,566,860	\$1,637,368
Variable        65%	\$2,440,115	\$2,549,920	\$2,664,666	\$2,784,576	\$2,909,882	\$3,040,827

Source: City of Livingston November 2019 and HEC.

rev alloc

## 2.3 WATER RATE CALCULATIONS

The calculation of monthly service charges is shown in **Table 7** below. Monthly service charges are applied to customers based on the size of their meter.

**Table 7**  
**Calculation of Monthly Service Charges**

Base Meter Fee	Fiscal Year Ending				
	2022	2023	2024	2025	2026
Total Costs	\$1,420,152	\$1,491,160	\$1,565,718	\$1,644,004	\$1,726,204
Meter Equivalents	4,132	4,172	4,212	4,252	4,292

Meter Size	Ratio	Monthly Service Charge per Meter				
1" and smaller	1	\$28.64	\$29.79	\$30.98	\$32.22	\$33.52
1.5"	2	\$57.29	\$59.58	\$61.96	\$64.45	\$67.04
2"	3	\$91.66	\$95.32	\$99.14	\$103.11	\$107.26
3"	7	\$200.51	\$208.52	\$216.86	\$225.56	\$234.63
4"	12	\$343.73	\$357.46	\$371.76	\$386.68	\$402.23
6"	25	\$716.10	\$744.70	\$774.51	\$805.58	\$837.98
8"	48	\$1,374.92	\$1,429.82	\$1,487.05	\$1,546.72	\$1,608.91
10"	76	\$2,176.95	\$2,263.88	\$2,354.50	\$2,448.97	\$2,547.45

Source: City of Livingston and HEC.

base fees

The calculation of use charges is shown in **Table 8** on the next page. Beginning with the July billing cycle (the August 2021 water bill), water use greater than the monthly allowance would be billed at \$1.64 per thousand gallons.

**Table 8**  
**Calculation of Use Costs per Thousand Gallons**

Customer Category	Fiscal Year Ending				
	2022	2023	2024	2025	2026
<b>Allocated Costs</b>	<b>\$2,637,426</b>	<b>\$2,769,297</b>	<b>\$2,907,762</b>	<b>\$3,053,150</b>	<b>\$3,205,807</b>
Annual Demand (Thousands of Gallons)	2,160,001	2,167,815	2,175,738	2,183,772	2,191,919
<b>Gallons Above Monthly Allowance</b>					
<b>Residential</b>	<i>All figures in thousands of gallons</i>				
Single Family	53,056	53,677	54,305	54,941	55,584
Multi-Family	16,595	16,595	16,595	16,595	16,595
<b>Subtotal Residential</b>	<b>69,651</b>	<b>70,271</b>	<b>70,900</b>	<b>71,535</b>	<b>72,178</b>
<b>Non-Residential</b>					
Commercial	42,537	43,448	44,378	45,328	46,298
Industrial	1,436,712	1,436,712	1,436,712	1,436,712	1,436,712
Irrigation	60,164	60,164	60,164	60,164	60,164
<b>Subtotal Non-Residential</b>	<b>1,539,414</b>	<b>1,540,324</b>	<b>1,541,254</b>	<b>1,542,204</b>	<b>1,543,174</b>
<b>Gallons Above Monthly Allowance</b>	<b>1,609,064</b>	<b>1,610,596</b>	<b>1,612,154</b>	<b>1,613,739</b>	<b>1,615,352</b>
Estimated Total Water Billed	74%	74%	74%	74%	74%
<b>Cost per 1,000 Gallons above Base Allowance</b>	<b>\$1.64</b>	<b>\$1.72</b>	<b>\$1.80</b>	<b>\$1.89</b>	<b>\$1.98</b>
Construction Water	\$1.88	\$1.97	\$2.06	\$2.15	\$2.25

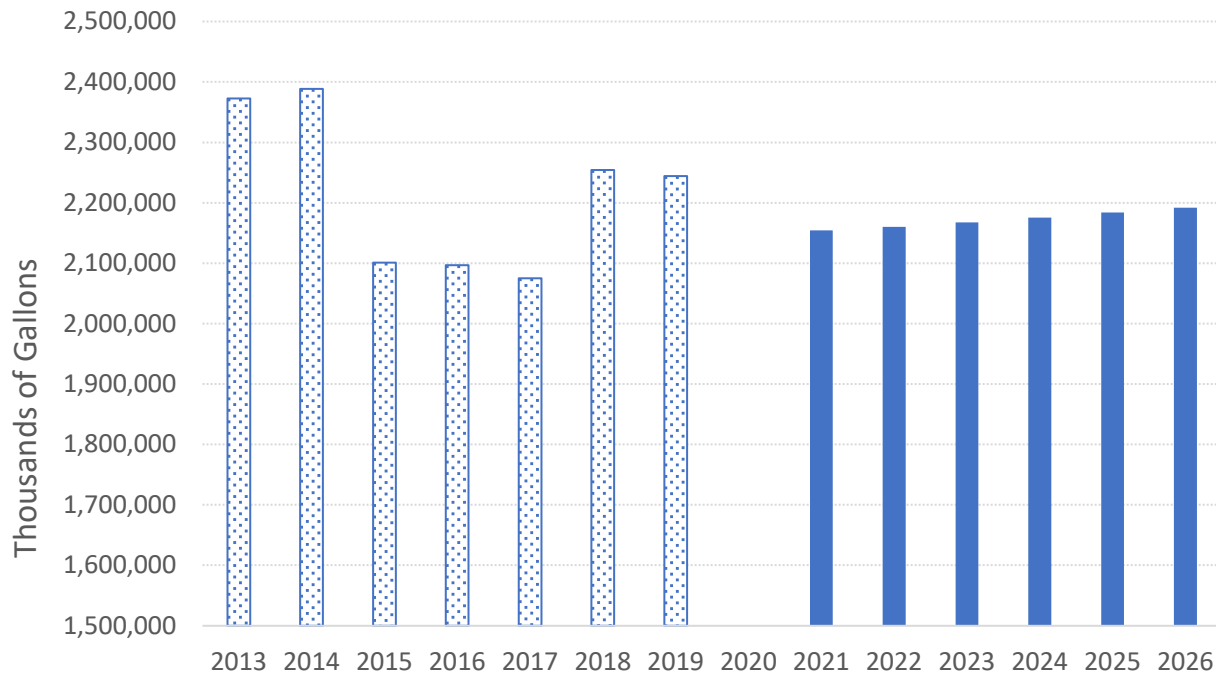
Source: City of Livingston and HEC January 2021.

use fees

The calculation of use charges is based on allocated cost and projected water demand for each customer category. Total projected water demand is shown in **Figure 8** on the next page and by customer category in **Appendix Table A-15**. The projection of water demand is based on average water use for the past three years plus the assumed growth of 45 new one-inch or smaller water meters per year. In addition, the projected water use accounts for customers' reactions to price increases. The relationship between increased prices and decreased demand is referred to as price elasticity. Price elasticity varies by geography due to many micro-economic variables. HEC applied industry knowledge to establish assumed price elasticity factors for the Study. Price elasticity analysis is shown in **Tables A-16** and **A-17**.

Construction water use fees for water pulled off fire hydrants, and which are not property-related fees, are calculated as the average cost per gallon for all water service costs excluding meter replacement. This methodology is updated from the 2014 water rate study which is why the cost increase is greater than for other water customers.

**Figure 8**  
**Historical and Projected Annual Water Demand**



The calculated meter replacement fees are shown in **Table 9**. Due to updated pricing provided by the City’s water meter supplier, the monthly meter fee for 1.5”, 3”, and 10” meters decreased. All other monthly meter fees increased.

**Table 9**  
**Calculated Meter Replacement Fees by Meter Size**

Meter Size	Current	Fiscal Year Ending				
		2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<i>Annual Escalator 2.5%</i>						
1"	\$3.05	\$3.30	\$3.39	\$3.47	\$3.56	\$3.65
1-1/2"	\$11.11	\$7.79	\$7.99	\$8.18	\$8.39	\$8.60
2"	\$12.13	\$14.88	\$15.25	\$15.63	\$16.02	\$16.42
3"	\$25.74	\$18.56	\$19.03	\$19.50	\$19.99	\$20.49
4"	\$40.61	\$43.94	\$45.04	\$46.17	\$47.32	\$48.51
6"	\$56.33	\$75.94	\$77.83	\$79.78	\$81.77	\$83.82
8"	\$89.50	\$123.82	\$126.91	\$130.09	\$133.34	\$136.67
10"	\$204.51	\$159.79	\$163.78	\$167.88	\$172.07	\$176.38

Source HEC.

meter fee

Total calculated rates include the fixed monthly service charges, meter replacement fees, and consumption charges. The calculated water rate schedule is provided in **Table 10** below.

**Table 10**  
**Calculated New Water Rates Schedule**

Charges	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Base Charge</b>						
1" and smaller	\$25.13	\$28.64	\$29.79	\$30.98	\$32.22	\$33.52
1.5"	\$50.27	\$57.29	\$59.58	\$61.96	\$64.45	\$67.04
2"	\$80.43	\$91.66	\$95.32	\$99.14	\$103.11	\$107.26
3"	\$175.94	\$200.51	\$208.52	\$216.86	\$225.56	\$234.63
4"	\$301.61	\$343.73	\$357.46	\$371.76	\$386.68	\$402.23
6"	\$628.35	\$716.10	\$744.70	\$774.51	\$805.58	\$837.98
8"	\$1,206.43	\$1,374.92	\$1,429.82	\$1,487.05	\$1,546.72	\$1,608.91
10"	\$1,910.18	\$2,176.95	\$2,263.88	\$2,354.50	\$2,448.97	\$2,547.45
<b>Meter Fee</b>						
1" and smaller	\$3.05	\$3.30	\$3.39	\$3.47	\$3.56	\$3.65
1.5"	\$11.11	\$7.79	\$7.99	\$8.18	\$8.39	\$8.60
2"	\$12.13	\$14.88	\$15.25	\$15.63	\$16.02	\$16.42
3"	\$25.74	\$18.56	\$19.03	\$19.50	\$19.99	\$20.49
4"	\$40.61	\$43.94	\$45.04	\$46.17	\$47.32	\$48.51
6"	\$56.33	\$75.94	\$77.83	\$79.78	\$81.77	\$83.82
8"	\$89.50	\$123.82	\$126.91	\$130.09	\$133.34	\$136.67
10"	\$204.51	\$159.79	\$163.78	\$167.88	\$172.07	\$176.38
<b>Service Charge Monthly Water Allowance</b>						
Attached Residential (per Unit)	10,000 gallons					
Detached Residential (per Unit)	25,000 gallons					
Non-Residential (per Meter)	35,000 gallons					
<b>Consumption Charge per 1,000 gallons of water in excess of allowance each month</b>						
All Customers	\$1.57	\$1.64	\$1.72	\$1.80	\$1.89	\$1.98
Construction Water	\$1.17	\$1.88	\$1.97	\$2.06	\$2.15	\$2.25

Source: City of Livingston and 2021 HEC rate study.

sched

\* Water rate schedules 1.5x outside City limits.

In compliance with California SB-7, which requires all new multi-family residential development to be individually metered or sub-metered, any newly constructed units will pay the same base rate per unit as all current detached residential units unless the owner of the building(s) sub-meters each unit and performs its own internal water billing of each unit.

## 2.4 CASH FLOW AND FUND BALANCE

**Table 11** below shows the projected cash flow for the water enterprise fund through fiscal year 2026. With adoption of the calculated rates, it is anticipated that the City will be able to meet all water enterprise fund obligations, including existing and potential debt service coverage requirements, and achieve a target of at twelve months of operating expenses in unrestricted cash each year.

**Table 11**  
**Projected Cash Flow**

Revenues and Expenses	Fiscal Year Ending					
	2021	2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<b>Revenues</b>						
User Fees [1]	\$3,864,360	\$4,025,375	\$4,260,457	\$4,473,480	\$4,697,154	\$4,932,011
Meter Replacement Fees	\$165,635	\$166,250	\$170,532	\$174,795	\$179,165	\$183,644
Meter Installation Fees	\$0	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
Fines & Forfeitures	\$42,000	\$43,260	\$44,558	\$45,895	\$47,271	\$48,690
Interest Income	\$4,040	\$4,040	\$4,040	\$4,040	\$4,040	\$4,040
Miscellaneous Revenue	\$0	\$8,125	\$8,125	\$8,125	\$8,125	\$8,125
<b>Total Revenues</b>	<b>\$4,076,035</b>	<b>\$4,267,050</b>	<b>\$4,507,712</b>	<b>\$4,726,335</b>	<b>\$4,955,755</b>	<b>\$5,196,510</b>
Operating Expenses	\$2,393,814	\$2,599,549	\$2,714,675	\$2,835,371	\$2,961,925	\$3,094,641
<b>Net Income before Debt Service</b>	<b>\$1,682,221</b>	<b>\$1,667,501</b>	<b>\$1,793,036</b>	<b>\$1,890,964</b>	<b>\$1,993,831</b>	<b>\$2,101,870</b>
Debt Service	\$126,136	\$298,767	\$842,497	\$842,497	\$842,497	\$842,497
<i>Debt Coverage</i>	<i>13.3</i>	<i>5.6</i>	<i>2.1</i>	<i>2.2</i>	<i>2.4</i>	<i>2.5</i>
System Rehab & New Projects Cash-Funded	\$224,100	\$1,333,000	\$1,781,053	\$1,551,769	\$772,305	\$2,090,951
<b>Net Revenue</b>	<b>\$1,331,985</b>	<b>\$35,734</b>	<b>(\$830,513)</b>	<b>(\$503,303)</b>	<b>\$379,028</b>	<b>(\$831,579)</b>
Beginning Cash Balance [1]	\$5,333,343	\$6,665,328	\$6,701,062	\$6,006,481	\$5,639,111	\$6,154,071
Net Revenue	\$1,331,985	\$35,734	(\$830,513)	(\$503,303)	\$379,028	(\$831,579)
Transfer In from Capital Fund for Debt			\$135,933	\$135,933	\$135,933	\$135,933
<b>Estimated Ending Cash Balance</b>	<b>\$6,665,328</b>	<b>\$6,701,062</b>	<b>\$6,006,481</b>	<b>\$5,639,111</b>	<b>\$6,154,071</b>	<b>\$5,458,425</b>
Restricted Balance [2]	\$126,136	\$298,767	\$842,497	\$842,497	\$842,497	\$842,497
<b>Unrestricted Balance</b>	<b>\$6,539,192</b>	<b>\$6,402,295</b>	<b>\$5,163,984</b>	<b>\$4,796,613</b>	<b>\$5,311,574</b>	<b>\$4,615,927</b>
Min. Unrestricted Balance [3]	\$2,393,814	\$2,599,549	\$2,714,675	\$2,835,371	\$2,961,925	\$3,094,641

Source: City of Livingston financial documents and HEC.

flow

[1] Only 10 months of the new fees will be in effect FY 2022.

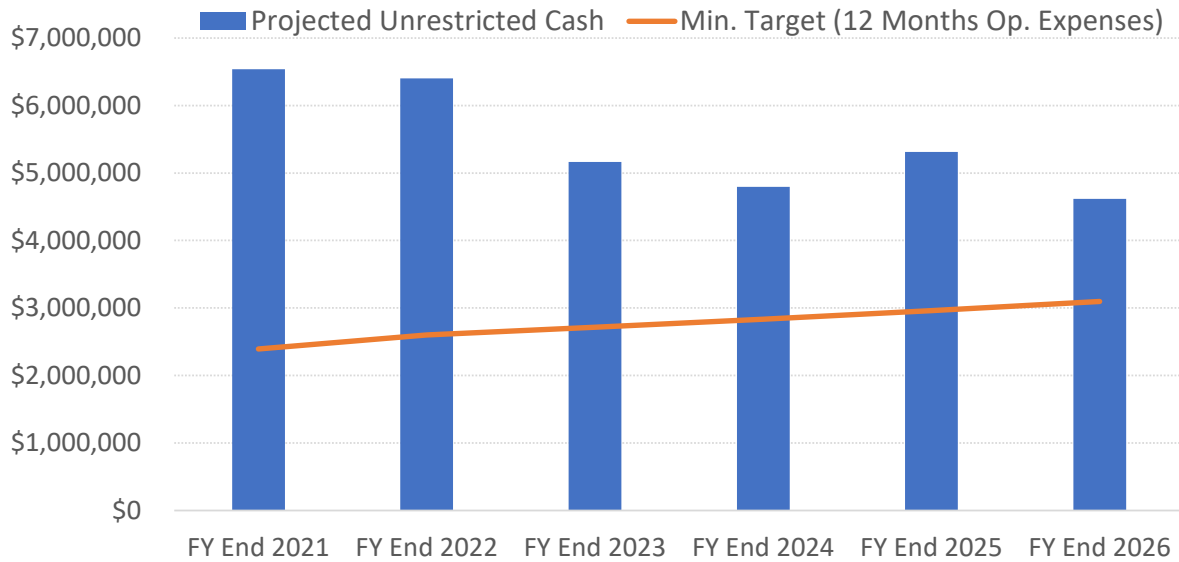
[2] Beginning cash balance as of July 1, 2020.

[3] One year of debt service.

[4] One year operating expenses.

**Figure 9** illustrates projected and target water fund balances through fiscal year ending 2026.

**Figure 9**  
**Projected Water Fund Cash Balance**



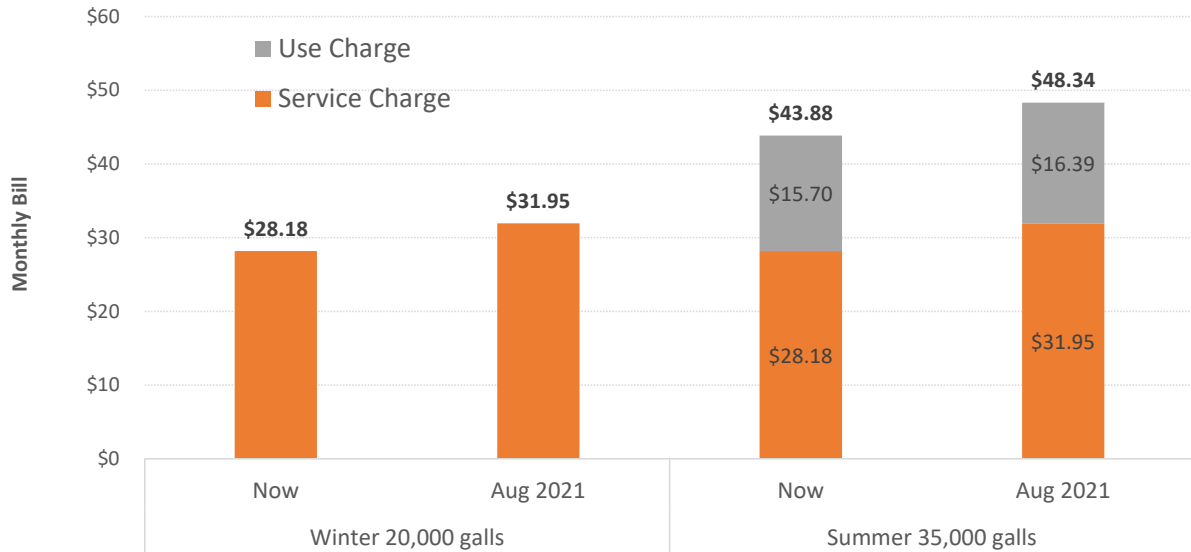
A higher than minimum cash balance at the end of five years would be prudent for the water fund because of the multiple number of CIP project planned in the next five years. Cash reserves can be used, if necessary, to pay for project cost overruns; it can also be used to pay off State loans early and complete other system rehabilitation projects not currently in the CIP.

## 2.5 BILL IMPACTS

### 2.5.1. Residential Bill Impacts

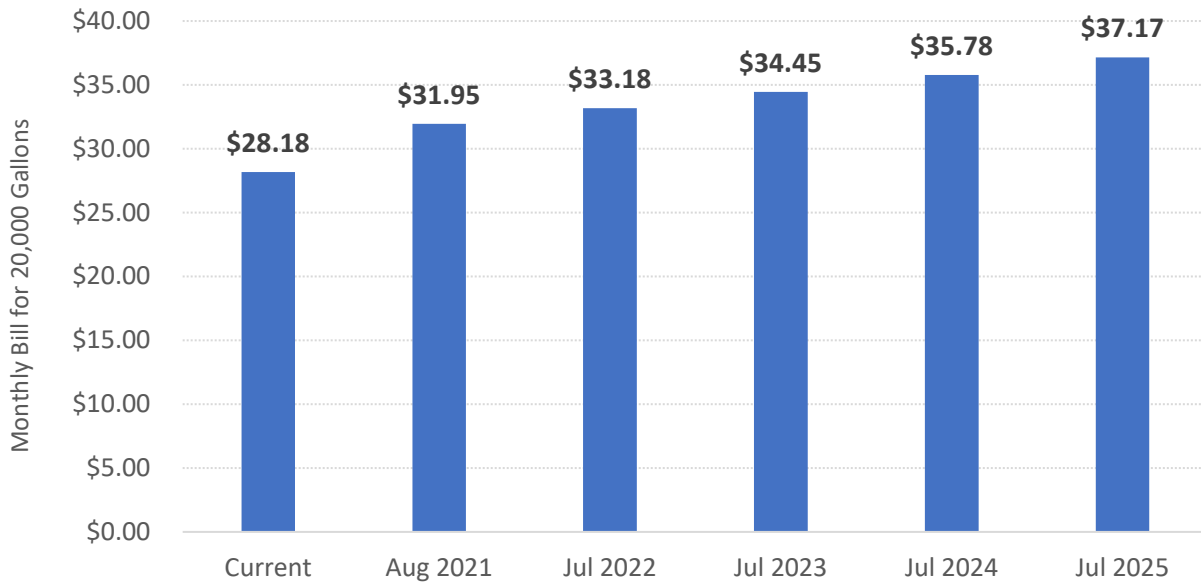
Bill impacts arising from new rates beginning August 2021 are illustrated for single family homes at different use levels in **Table 12** on page 30. During the winter, most homes would have an increase of \$3.77 per month. During the summer, most homes would have an increase of about \$4.46 per month. An illustration of bill impacts to a single-family home for winter and summer use is shown in **Figure 10** on the following page.

**Figure 10**  
**First Year Seasonal Bill Impacts for Single Family Home**



The projection of a monthly bill for homes using 20,000 gallons is illustrated in **Figure 11** for the next five years.

**Figure 11**  
**Bill Impact for a Home using 20,000 Gallons**





**Table 12**  
**Single Family Water Usage Monthly Bill Impacts**

Monthly Use in Thousands of Gallons	Current			Total Monthly Bill	New Rates August, 2021			Total Monthly Bill	Difference New less Current
	Service Fee 1" and Smaller	Meter Fee	Use Charge > 25,000 galls		Service Fee 1" and Smaller	Meter Fee	Use Charge > 25,000 galls		
			<i>Rate per 1,000 galls</i>				<i>Rate per 1,000 galls</i>		
			<i>\$1.57</i>				<i>\$1.64</i>		
1	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
2	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
3	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
4	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
5	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
6	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
7	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
8	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
9	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
10	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
11	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
12	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
13	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
14	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
15	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
16	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
17	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
18	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
19	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
20	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
25	\$25.13	\$3.05	\$0.00	<b>\$28.18</b>	\$28.64	\$3.30	\$0.00	<b>\$31.95</b>	<b>\$3.77</b>
30	\$25.13	\$3.05	\$7.85	<b>\$36.03</b>	\$28.64	\$3.30	\$8.20	<b>\$40.14</b>	<b>\$4.11</b>
35	\$25.13	\$3.05	\$15.70	<b>\$43.88</b>	\$28.64	\$3.30	\$16.39	<b>\$48.34</b>	<b>\$4.46</b>
40	\$25.13	\$3.05	\$23.55	<b>\$51.73</b>	\$28.64	\$3.30	\$24.59	<b>\$56.54</b>	<b>\$4.81</b>
45	\$25.13	\$3.05	\$31.40	<b>\$59.58</b>	\$28.64	\$3.30	\$32.78	<b>\$64.73</b>	<b>\$5.15</b>
50	\$25.13	\$3.05	\$39.25	<b>\$67.43</b>	\$28.64	\$3.30	\$40.98	<b>\$72.93</b>	<b>\$5.50</b>

Source: HEC.

sf bill use

The SWRCB program bases its evaluation of affordability of water rates on two criteria:

1. The median household income (MHI) of the community compared to the State MHI, and
2. The percentage of MHI spent on water bills.

Generally, water rates are considered to be burdensome if they are greater than 2.0 percent of MHI. If a community's MHI is less than 80 percent of the State MHI, the community is considered "Disadvantaged", in which case a rate greater than 1.5 percent of MHI is considered burdensome. The City of Livingston meets the definition of Disadvantaged in 2021.

The affordability test is shown in **Table 13**. Under the calculated water rates for August 2021, a household using less than 25,000 gallons in a month would pay \$31.95, which is 0.70% of the estimated MHI for Livingston. The proposed water rates are, per the SWRCB definitions, affordable.

**Table 13**  
**Test of Water Bill Affordability**

Item	Current Rates	Aug-21 [1]
<b>Monthly Water Bill</b>		
Monthly Median Household Income (MHI)	\$4,573.83	\$4,573.83
Monthly Water Bill < 25,000 Gallons	\$28.18	\$31.95
<b>Average Monthly Water Bill as Percentage of MHI [2]</b>	<b>0.62%</b>	<b>0.70%</b>
<b>Median Household Income (MHI)</b>		
Statewide California	\$75,235	
Estimated Livingston [3]	\$54,886	
<b>Livingston MHI as a percentage of the State MHI [4]</b>	<b>73.0%</b>	

Source: HEC, State Water Resources Control Board, and US Census Bureau.

aff

[1] Bills must be greater than or equal to 1.5% of MHI to qualify for Disadvantaged principal forgiveness

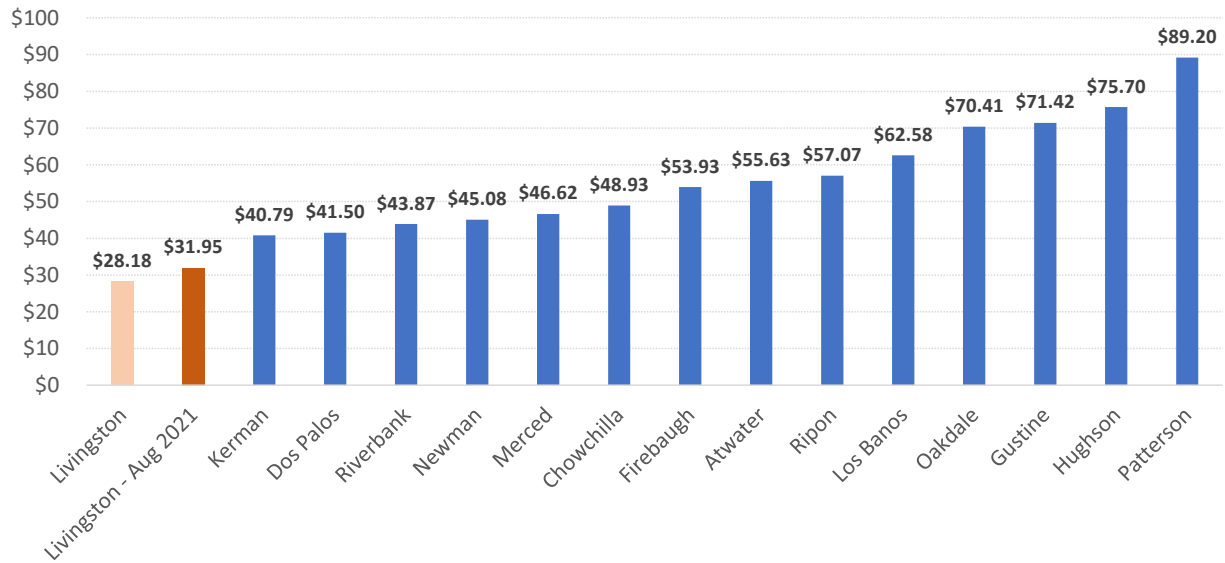
[2] Water bills that are 1.5% to 2.0% of MHI are considered affordable.

[3] 2019 5-year American Community Survey.

[4] Per SWRCB, community with an MHI <80% of the Statewide MHI is Disadvantaged. For a Disadvantaged Community to qualify for grant funding water rates must exceed 1.5% of the service area MHI.

**Figure 12** on the next page displays a comparison of regional water bills for a single-family home with a one-inch water meter using 20,000 gallons in a month. Note, however, that some of the comparison cities may be in the process of rate increases as well; this is a snapshot in time.

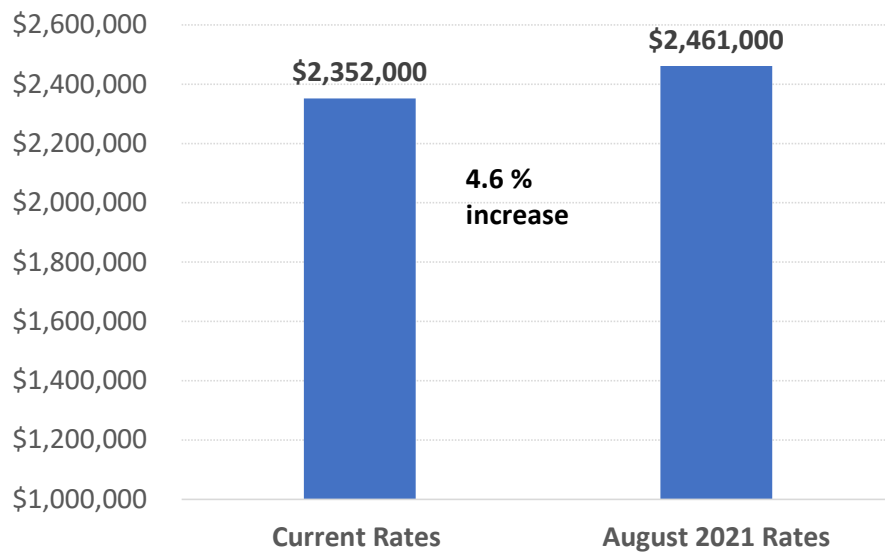
**Figure 12**  
**Comparison of Regional Water Bills**



**2.5.2. Non-Residential Bill Impacts**

The estimated financial effect of the August 2021 rate increase on the City’s largest nonresidential customer, Foster Farms, is shown in **Figure 13** below. The total annual bill would increase from approximately \$2.35 million to \$2.46 million, depending on actual water consumption.

**Figure 13**  
**Impact of Year 1 Rate Increase on Foster Farms**



## Section 3: WASTEWATER RATE STUDY

The wastewater rate study was prepared using the principles established by the WEF Manual of Practice No. 27 and guidelines prepared by the SWRCB for State Revolving Fund financing. This study uses the functional cost allocation methodology to determine rates<sup>3</sup>.

The following four steps outline how wastewater rates are calculated such that the monthly wastewater rates meet California's legal requirements.

- 1. Establish the Wastewater Customer Base and User Characteristics** – Wastewater flow and strength data for each customer type is based on City flow measurements and industry standards.
- 2. Project the Revenue Requirement and Allocate to Collection and Treatment** – The revenue requirement analysis compares the revenues of the utility to its operating and capital costs to determine the adequacy of existing rates to recover the utility's costs. Components of revenue requirement include capital improvement costs, system rehabilitation costs, operations and maintenance costs, debt service costs, and operating reserve costs. Non-rate revenue credited against the projected costs include interest income, fines and forfeits, and miscellaneous revenues.
- 3. Allocate Revenue Requirement based on Flow and Strength and Determine Unit Costs** – The revenue requirement is allocated based on flow and strength depending on the percentage distribution of operations and maintenance operations attributed to flow, biological oxygen demand (BOD),<sup>4</sup> and total suspended solids (SS).<sup>5</sup> Per unit revenue requirement for each projected year is determined by dividing the allocated revenue requirement by the demand for each customer type.
- 4. Determine Revenue Requirement by Customer Type** – Per unit costs from step 3 are multiplied by the flow and strength characteristics of each customer category to determine the annual cost by customer type.

### 3.1 THE WASTEWATER FUND AND ITS CUSTOMERS

#### 3.1.1 Revenues.

The wastewater system is funded through monthly charges, fees, and investment earnings. The existing wastewater rate schedule of monthly charges is shown in **Table 14**.

---

<sup>3</sup> Chapter 6, pages 110-120, Financing and Charges for Wastewater Systems, Manual of Practice No. 27.

<sup>4</sup> BOD demand is the amount of dissolved oxygen needed by aerobic biological organisms in a body of water to break down organic material present in a given water sample at certain temperature over a specific time period. The term also refers to a chemical procedure for determining this amount.

<sup>5</sup> Total SS is a measure of the combined content of all inorganic and organic substances contained in a liquid in molecular, ionized or micro-granular (colloidal sol) suspended form.

**Table 14**  
**Current Wastewater Rates Schedule**

Customer Category		Monthly Rates
<b>Flat Monthly Charges</b>		
Residential Inside City	per unit	\$43.84
Residential Outside City	per unit	\$65.76
Churches/Temples/Comm. Ctrs	per account	\$42.28
Schools (with Cafeteria)	per student	\$1.46
Hotel / Motel	per room	\$17.22
<b>Flat and Variable Monthly Charges</b>		
Industrial Flat Charge	per account	\$43.84
Commercial Flat Charge	per account	\$43.84
Industrial Variable Charge	per gallon	\$0.010417
Commercial Variable Charge	per gallon	\$0.003837

Source: HEC.

curr

Flat monthly charges are paid by residential, church/temple/community center, school and hotel/motel customers. Industrial and commercial customers pay a flat monthly charge plus a use charge. The use charge is applied to water meter monthly readings for industrial and commercial customers.

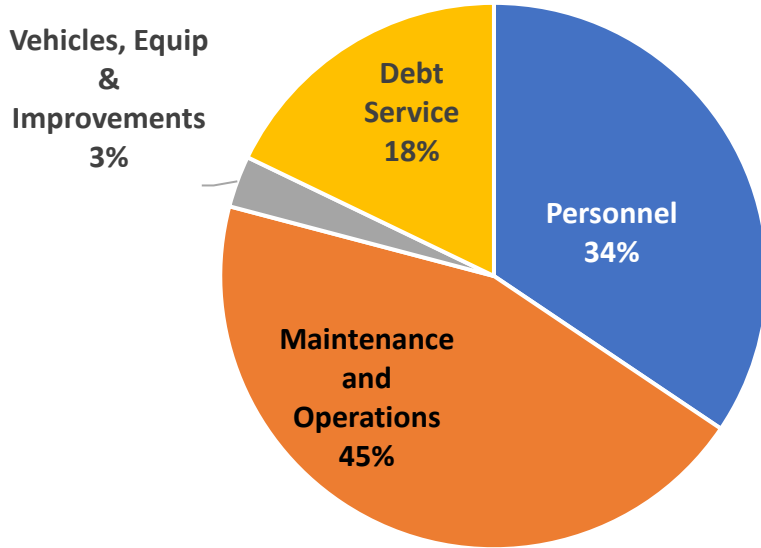
Flat monthly charges are applied to residential users per unit, to churches/temples/community centers, industrial and commercial customers per account, to schools per student, and to hotels/motels per room.

Wastewater fund revenues for the past four years are provided in **Appendix B Table B-1**.

### **3.1.2 Expenses.**

Monthly wastewater bills pay for operating costs, including personnel costs, debt service, and vehicles, equipment and infrastructure replacement and improvements. **Figure 14** on the next page shows what monthly bills pay for. Wastewater fund expenses for the past four years are provided in **Appendix B Table B-2**.

**Figure 14**  
**Wastewater Fund Annual Expenses**



For the last four years, the wastewater fund has generated sufficient revenues to pay for the costs of the wastewater system. **Table 15** on the next page shows that revenues in fiscal year 2020 were just over \$2.22 million, while expenses were approximately \$1.95 million.

**Table 15**  
**Historical Wastewater Fund Revenues and Expenses**

Revenues and Expenses	Fiscal Year Ending			
	2017	2018	2019	2020
<b>Revenues</b>				
Intergovernmental	\$0	\$13,230	(\$3,035)	\$0
Charges for Services	\$2,038,750	\$2,078,675	\$2,198,789	\$2,143,698
Fines & Forfeits	\$24,803	\$28,702	\$22,417	\$18,098
Return on Use of Money/Property	\$16,694	\$20,976	\$25,481	\$38,412
Miscellaneous	\$10,988	\$41,847	\$66,466	\$22,752
<b>Total Revenues</b>	<b>\$2,091,235</b>	<b>\$2,183,429</b>	<b>\$2,310,119</b>	<b>\$2,222,959</b>
<b>Expenses</b>				
Personnel	\$422,346	\$543,621	\$598,896	\$724,942
Supplies	\$978,618	\$618,001	\$665,647	\$697,970
Maintenance and Operations	\$3,856	\$2,741	\$2,458	\$888
Vehicles, Equip & Improvements	\$42,348	\$64,278	\$21,381	\$74,769
Debt Service	\$247,046	\$271,950	\$214,279	\$453,000
<b>Total Expenses</b>	<b>\$1,694,213</b>	<b>\$1,500,591</b>	<b>\$1,502,660</b>	<b>\$1,951,569</b>
<b>Net Revenue</b>	<b>\$397,022</b>	<b>\$682,838</b>	<b>\$807,458</b>	<b>\$271,390</b>

Source: City of Livingston financial documents.

net

### RATE METHODOLOGY STEP 1

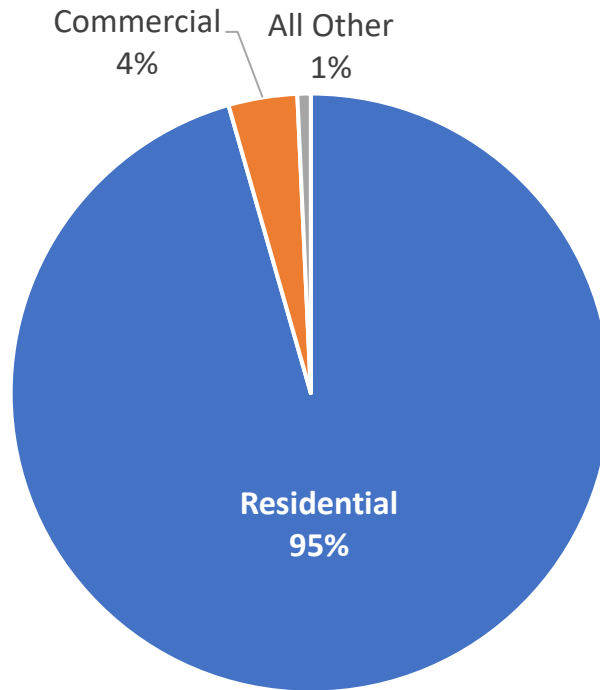
#### Establish the Wastewater Customer Base and User Characteristics

**Figure 15** on the next page shows the percentage of wastewater customers by customer category. Residential customers comprise 95% of the wastewater system customer base. Commercial, light industrial and other customers (such as churches and schools) comprise the remaining 5% of the customer base. The current number of wastewater accounts by customer category is provided in **Appendix B Table B-3**.

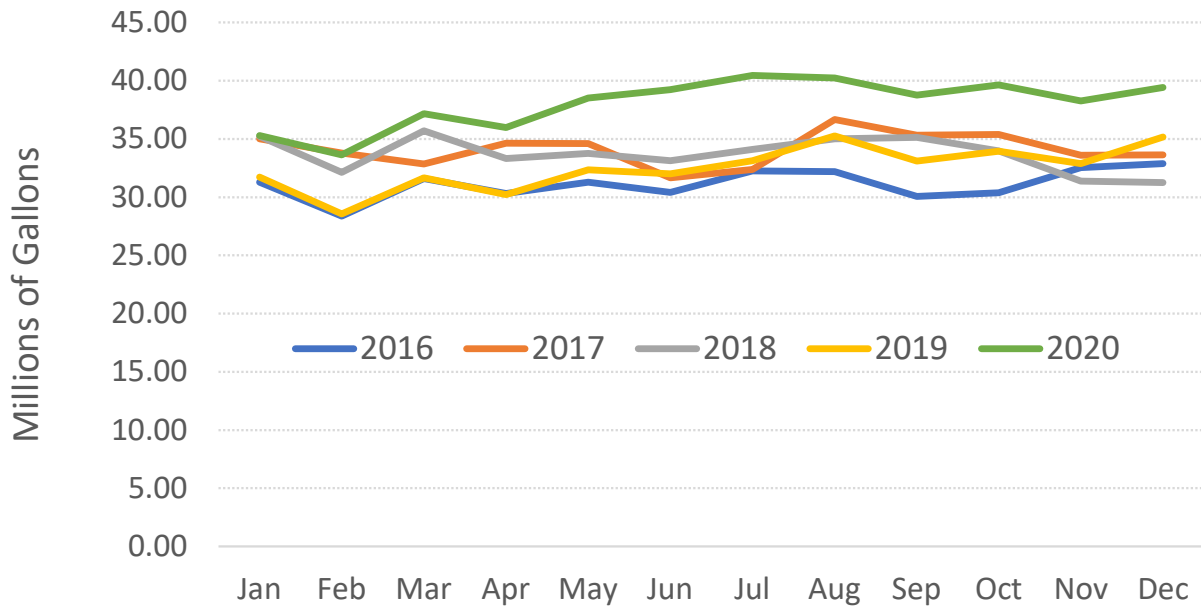
The wastewater customers generate, on average, 1.20 million gallons per day in flow that is treated at the wastewater treatment plant. Historical wastewater plant influent flow is shown in **Appendix B Table B-4**.

**Figure 16** on the next page shows wastewater flows to the treatment plant for the last five years. Wastewater flows fluctuate from year to year with changes to the customer base and quantity of water consumed (that is not applied to landscapes).

**Figure 15**  
**Wastewater Customers by Category**



**Figure 16**  
**Wastewater Flow for the Last Five Years**





The rate study allocates wastewater system costs to customer groups based on their user characteristics. The current number of wastewater customers and total calculated flow for each customer and customer category, BOD, and SS characteristics are summarized in **Table 16** on the following page.

About 80% of total annual flow is generated by residential customers and 20% by non-residential customers. Residential customers generate approximately 65% of the BOD and SS treated annually at the wastewater treatment plant. Generally, non-residential customers generate dirtier wastewater that requires greater costs to clean.

## **3.2 REVENUE REQUIREMENT**

### **RATE METHODOLOGY STEP 2**

#### **Project the Revenue Requirement and Allocate to Collection and Treatment Costs**

The revenue requirement is the amount to be raised by wastewater charges. The projection of the revenue requirement is the cornerstone for calculation of rates. This section explains the derivation of the revenue requirement for this Study.

Components of the revenue requirement include:

- Operating Expenses
- Capital Improvement and Debt Service
- System Rehabilitation

Non-wastewater sales revenue projections are credited against projected operations costs. Non-wastewater sales include interest income, fines and forfeits, and other miscellaneous revenues.

#### **3.2.1 Operations Expenses**

Operating expenses are projected based on budgeted fiscal year 2021 expenditures. Operating expenses include annual costs for personnel (including benefits), professional and contract services, treatment plant operations and maintenance, collection system and other wastewater facilities operations and maintenance, utilities, facilities equipment and other costs, and tools, subscriptions, and supplies. Operating expenses are budgeted at \$1.58 million in fiscal year 2021. The rate study increases each of the operating cost categories over the next five years in anticipation of cost increases.

Personnel costs are increased 6.0% per year, utilities at 4.0% per year, and other costs between 2.5% and 3.5% per year. The projected operating costs include two new staff positions: half of the costs of a new Water/Wastewater Manager, as well as one-third of the costs of a new Account Clerk. The costs of these positions are shared with the wastewater fund and the wastewater fund and solid waste fund, respectively.

**Table 16  
Wastewater User Characteristics**

Customer Category	Billing Basis	No. Billing Units (A)	Wastewater Characteristics				Treatment Capacity/Load				Annual Capacity/Load				
			Flow GPD (B)	BOD MG/L (C)	SS MG/L (D)	Avg. Day Dry Weather Flow (MGD) (E)=A*(B)/1000000	BOD Lbs/Day (F)=C*(E)*8.34	SS Lbs/Day (G)=D*(E)*8.34	Flow MG (H)=E*365	BOD Lbs/Year (I)=C*(H)*8.34	SS Lbs/Year (J)=D*(H)*8.34				
<b>Residential</b>															
Detached	Unit	3,341	250	250	250	0.84	1,741.50	1,741.50	304.9	635,646	635,646	89,405	89,405	635,646	89,405
Attached	Unit	534	220	250	250	0.12	244.95	244.95	42.9	89,405	89,405	89,405	89,405	89,405	89,405
<b>Non-Residential</b>															
Churches/Temples/Comm.Ctrs.	Account	16	280	155	170	0.00	5.79	6.35	1.6	2,318	2,318	2,318	2,318	2,318	2,318
Schools (with cafeteria)	Student	3,723	20	230	165	0.07	142.83	102.46	13.4	25,709	18,444	25,709	18,444	25,709	18,444
Hotel/Motel	Room	93	85	350	500	0.01	23.07	32.96	2.9	8,422	12,032	8,422	12,032	8,422	12,032
Light Industrial	Account	1	51,110	1,000	800	0.05	426.26	341.01	18.7	155,584	124,467	155,584	124,467	155,584	124,467
Commercial	Account	131	825	525	650	0.11	473.21	585.87	39.4	172,720	213,844	172,720	213,844	172,720	213,844
<b>TOTAL</b>						<b>1.20</b>	<b>3,057.60</b>	<b>3,055.10</b>	<b>423.8</b>	<b>1,089,601</b>	<b>1,096,157</b>	<b>1,089,601</b>	<b>1,096,157</b>	<b>1,089,601</b>	<b>1,096,157</b>

Source: City of Livingston customer records, and HEC. char

### 3.2.2 Capital Improvements and Debt Service

Anticipated capital improvement expenses over the next five years include upgrades of the biosolids dewatering equipment at the treatment plant, as well as replacement of the SCADA tower. The collection system improvements include lift station rehabilitation, sewer line replacement, and vehicles. The CIP was provided in 2020/21 dollars (see **Appendix Table B-5**) and inflated to future dollars as shown in **Table 17**.

**Table 17**  
**Inflated Wastewater CIP**

Capital Project	Funding Source	Fiscal Year Ending					
		2021	2022	2023	2024	2025	2026
<b>Treatment Plant</b>				3.5%			
Biosolids Dewatering Equipment	Rates	\$0	\$310,500	\$214,245	\$0	\$0	\$0
SCADA Tower	Rates	\$0	\$15,525	\$0	\$0	\$0	\$0
<b>Total Treatment Plant</b>		<b>\$0</b>	<b>\$326,025</b>	<b>\$214,245</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Collection System</b>							
Lift Station Rehabilitation (Singh & Burgandy)	Rates	\$0	\$103,500	\$107,123	\$0	\$0	\$0
Sewer Line Replacement [1]	Grant	\$3,050,000	\$0	\$0	\$0	\$0	\$0
Additional Sewer Line Replacement	Rates	\$0	\$0	\$353,504	\$554,359	\$745,890	\$831,380
New Disc & Ripper Tractor	Rates	\$0	\$222,525	\$0	\$0	\$0	\$0
New Vac-On Sewer Truck	Rates	\$0	\$0	\$0	\$388,051	\$0	\$0
<b>Total Collection System</b>		<b>\$3,050,000</b>	<b>\$326,025</b>	<b>\$460,627</b>	<b>\$942,410</b>	<b>\$745,890</b>	<b>\$831,380</b>
<b>Total Wastewater System</b>		<b>\$6,896,602</b>	<b>\$3,050,000</b>	<b>\$652,050</b>	<b>\$674,872</b>	<b>\$942,410</b>	<b>\$831,380</b>
Funded by Grants		\$3,050,000	\$3,050,000	\$0	\$0	\$0	\$0
Funded by Rates		\$3,846,602	\$0	\$652,050	\$674,872	\$942,410	\$831,380
Funded by Loan		\$0	\$0	\$0	\$0	\$0	\$0

Source: City of Livingston Public Works January 2021.

inf cip

[1] The City has secured CDBG grant funding for this project.

Of the total \$6.90 million in the CIP, the City anticipates \$3.05 million will be funded by a Community Development Block Grant. The remaining \$3.85 million would be funded by wastewater rates and the projects would be funded on a pay-as-you-go basis.

No new debt is anticipated to be necessary over the next five years; however, the City does have existing wastewater system debt. The debt was refunded in 2016 with savings to the wastewater customers. The remaining debt payments are provided in **Appendix B Table B-6**. Debt service is about \$450,000 per year.

### 3.2.3 System Rehabilitation

All of the capital improvement plan is for system rehabilitation. As such, there is no additional collection included in the rates for depreciation. The City's current wastewater assets and estimated annual depreciation cost through the study period is provided in **Appendix B Table B-7** (with support **Table B-8**).

The projected revenue requirement is provided in **Table 18**. Included in the projection is an adjustment to allow for variances from year to year for non-residential use as well as delinquencies. The revenue requirement is projected to increase from \$1.81 million in fiscal year 2019 to \$3.04 million in fiscal year 2025. Currently, the City raises \$2.20 million in user fees. The rate study smooths out rate increases each year so that the amount to be collected from rates increases to \$2.78 million in 2022 and \$3.36 million in 2026.

**Table 18**  
**Projected Revenue Requirement for Wastewater**

Expenses	inflatior	Fiscal Year Ending					
		2021	2022	2023	2024	2025	2026
			Year 1	Year 2	Year 3	Year 4	Year 5
<b>Operating Expenses</b>							
Personnel	6.0%	\$718,293	\$761,390	\$807,074	\$855,498	\$906,828	\$961,237
New Personnel [1]	6.0%	\$0	\$76,100	\$80,666	\$85,506	\$90,636	\$96,074
Professional & Contract Services	3.0%	\$134,822	\$138,867	\$143,033	\$147,324	\$151,743	\$156,296
Treatment Plant O&M	3.5%	\$50,000	\$51,750	\$53,561	\$55,436	\$57,376	\$59,384
Collection & Facilities O&M	3.5%	\$60,000	\$62,100	\$64,274	\$66,523	\$68,851	\$71,261
Utilities	4.0%	\$258,900	\$269,256	\$280,026	\$291,227	\$302,876	\$314,991
Facilities, Equipment & Other O&M	3.5%	\$115,000	\$119,025	\$123,191	\$127,503	\$131,965	\$136,584
Tools, Subscriptions, Supplies	2.5%	\$242,180	\$248,235	\$254,440	\$260,801	\$267,321	\$274,004
<b>Total Operating Expenses</b>		<b>\$1,579,195</b>	<b>\$1,726,722</b>	<b>\$1,806,264</b>	<b>\$1,889,818</b>	<b>\$1,977,598</b>	<b>\$2,069,833</b>
<b>Debt Service</b>							
Series 2016A Refunding		\$448,650	\$445,850	\$447,850	\$449,450	\$450,650	\$451,450
New Debt Service		\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Debt Service</b>		<b>\$448,650</b>	<b>\$445,850</b>	<b>\$447,850</b>	<b>\$449,450</b>	<b>\$450,650</b>	<b>\$451,450</b>
<b>System Rehabilitation and New Projects</b>							
Equipment & Vehicle Purchases	constant	\$194,204	\$272,525	\$50,000	\$438,051	\$50,000	\$50,000
Cash-Funded Capital Projects		\$0	\$429,525	\$674,872	\$554,359	\$745,890	\$831,380
<b>Subtotal System Rehab. And New Projects</b>		<b>\$194,204</b>	<b>\$702,050</b>	<b>\$724,872</b>	<b>\$992,410</b>	<b>\$795,890</b>	<b>\$881,380</b>
Additional Collection for Depreciation			\$0	\$0	\$0	\$0	\$0
<b>Total Costs</b>		<b>\$2,222,049</b>	<b>\$2,874,622</b>	<b>\$2,978,986</b>	<b>\$3,331,678</b>	<b>\$3,224,138</b>	<b>\$3,402,663</b>
<i>Fixed</i>	70%	\$1,471,147	\$2,099,240	\$2,178,296	\$2,504,823	\$2,370,232	\$2,520,788
<i>Variable</i>	30%	\$750,902	\$775,382	\$800,690	\$826,855	\$853,906	\$881,875
<b>Credits</b>							
Intergovernmental	[2]	\$0	\$0	\$0	\$0	\$0	\$0
WWTP Solar Installation Utility Savings		\$0	\$0	\$0	\$0	\$0	\$0
Charges for Services	[2]	\$0	\$0	\$0	\$0	\$0	\$0
Fines & Forfeits	constant	\$33,900	\$33,900	\$33,900	\$33,900	\$33,900	\$33,900
Return on Use of Money	constant	\$14,470	\$14,470	\$14,470	\$14,470	\$14,470	\$14,470
Miscellaneous	constant	\$4,550	\$4,550	\$4,550	\$4,550	\$4,550	\$4,550
<b>Total Credits</b>		<b>\$52,920</b>	<b>\$52,920</b>	<b>\$52,920</b>	<b>\$52,920</b>	<b>\$52,920</b>	<b>\$52,920</b>
<b>Total Revenue Requirement</b>		<b>\$2,169,129</b>	<b>\$2,821,702</b>	<b>\$2,926,066</b>	<b>\$3,278,758</b>	<b>\$3,171,218</b>	<b>\$3,349,743</b>
Addition/Draw on Operating Reserve			(\$41,702)	(\$11,066)	(\$78,758)	\$78,782	\$10,257
<b>Amount to be Collected through Rates</b>		<b>\$2,220,000</b>	<b>\$2,780,000</b>	<b>\$2,915,000</b>	<b>\$3,200,000</b>	<b>\$3,250,000</b>	<b>\$3,360,000</b>

Source: City of Livingston Financial documents, and HEC.

rev req

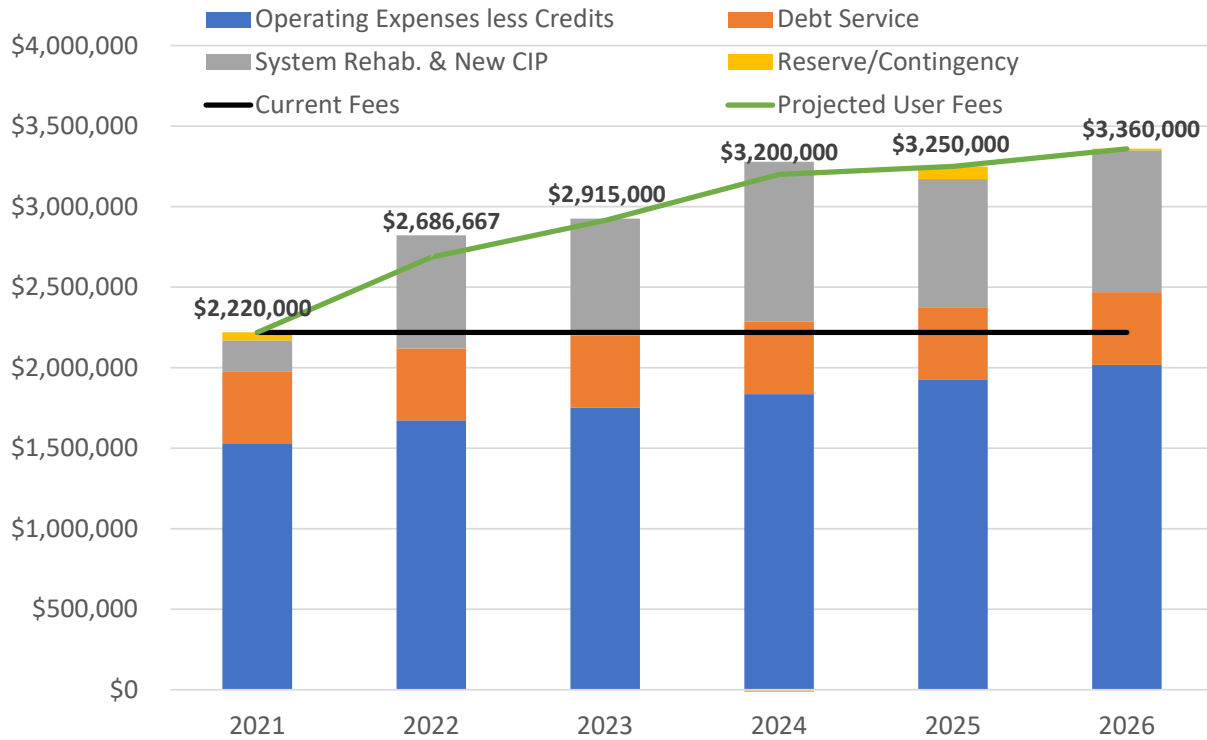
[1] Includes the sewer fund's portion of two new positions: water/wastewater manager and account clerk.

[2] Infrequent, one-time revenues.

[3] Includes allowance for variances year to year for non-residential use as well as delinquencies.

Figure 17 below shows the current fee collections, projected fee collections and components of revenue requirement for the next five years.

**Figure 17**  
**Projected Revenue Requirement and Fee Collections**



### 3.3 WASTEWATER RATE CALCULATIONS

All of the tables in this section show the calculations for the first year of the analysis, fiscal year 2021-22 to illustrate how the rates are calculated. The same cost allocation methodology is used for all years considered in this analysis.

#### RATE METHODOLOGY STEP 3

##### Allocate Revenue Requirement based on Flow and Strength and Determine Unit Costs

The cost to treat wastewater is a function of the total volume (“flow”) and the level of pollutants (“strength”) of the wastewater discharged by a customer.

Costs are allocated to customer categories as follows:

- A. Allocate the costs (by Cost Category) to flow, BOD and SS
- B. Determine the Unit Cost by Cost Category

Each of these steps is described in greater detail below.

**A. Cost Allocation to Flow, BOD, and SS**

Costs are first allocated between treatment and collection functions of the wastewater system, as shown in **Table B-9**. Then, costs are allocated to flow, BOD, and SS based on percentage allocation or distribution factors. These percentage allocation factors are based on the estimated distribution of the treatment and collection facilities operations and maintenance (O&M) activities between or related to flow, BOD, and SS.

**B. Unit Cost by Cost Category**

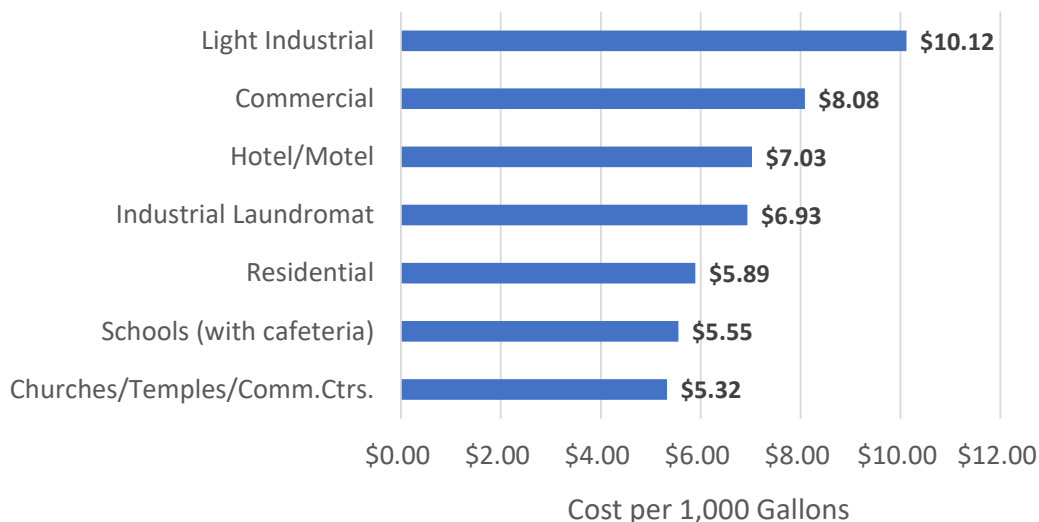
The allocated costs are then divided by total annual capacity from **Table 16**. **Table B-10** in Appendix B shows the calculation of unit costs by cost category for flow, BOD, and SS. Collection costs are strictly related to flow and therefore 100 percent of the collection costs are allocated to flow. The offsetting revenues are allocated by cost category for flow, BOD and SS using the subtotal percentages from the collection and treatment cost allocations.

**RATE METHODOLOGY STEP 4**

**Determine Revenue Requirement by Customer Type**

The unit costs determined in **Table B-10** are multiplied by the flow, BOD, or SS for each customer type. These costs are then summed to determine the total costs allocated to each customer type. **Table B-11** in Appendix B shows the cost allocated to flow, BOD, and SS by customer category for fiscal year ending 2020. The new customer category, Industrial Laundromat, cost allocation is determined in **Appendix B Table B-12**. Total allocated costs to each customer category are shown in **Appendix B Table B-13**. Residential customers are responsible for 77% of the total costs. Commercial customers are responsible for 12% of the cost, and all other customer categories are responsible for 11% of the total cost. Total treatment cost per thousand gallons is greatest for the highest strength customers (which are in the light industrial customer category) and lowest for churches/temples/community centers, which have the lowest strength wastewater. This is illustrated in **Figure 18**.

**Figure 18**  
**Calculated Cost per Thousand Gallons**



**Table 19** on the following page presents the calculated rates for fiscal year ending 2022. The total allocated costs to each customer category provide the basis for the rates. All residential customers will pay for wastewater on a per unit basis. Schools will pay per student. Hotels/motels will pay monthly rates per room. Commercial wastewater customers will pay a flat monthly charge per account and flow charges based on their metered potable water use each month. Light industrial users, including industrial laundromat, will pay a flat monthly charge per account and flow charges based on their metered potable water use each month.

**Table 20** shows the calculated rates for the next five years. The rates take into account anticipated additional growth within the City (shown in **Appendix B Table B-14**). Since 2014, the City has experienced growth in the number of commercial customers and types of commercial customer. The shift in the customer base, as well as updated cost allocation factors used in the rate calculations, results in some customers having proportionately greater increases than others.

**Table 20**  
**Calculated Wastewater Rates**

Customer Category	Billing Basis	Current	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26
			Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
<b>Residential</b>	<b>per unit</b>	<b>\$43.84</b>	<b>\$46.05</b>	<b>\$47.76</b>	<b>\$51.86</b>	<b>\$52.09</b>	<b>\$53.25</b>
<b>Non-Residential</b>							
Churches/Temples/Comm.Ctrs.	per account	\$42.28	\$47.39	\$49.14	\$53.35	\$53.59	\$54.78
Schools (with cafeteria)	per student	\$1.46	\$1.74	\$1.81	\$1.96	\$1.97	\$2.01
Hotel/Motel	per room	\$17.22	\$18.99	\$19.70	\$21.38	\$21.48	\$21.96
Light Industrial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
Commercial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
<b>Variable Charges for Non-Residential Only</b>							
Light Industrial	per gallon	\$0.010417	\$0.010023	\$0.010397	\$0.011291	\$0.011343	\$0.011599
Industrial Laundromat [1]	per gallon	n.a.	\$0.005444	\$0.005647	\$0.006132	\$0.006159	\$0.006298
Commercial	per gallon	\$0.003837	\$0.005783	\$0.006090	\$0.006712	\$0.006843	\$0.007099

Source: 2021 HEC rate study.

sum

[1] New customer category.

**Table 19**  
**Calculated Rates by Customer Category – Fiscal Year 2022**

Customer Category	Billing Basis	No. Billing Units	Allocated Cost	Base 70%	Flow 30%	Annual Cost per Billing Unit		Monthly Cost	
						Base	Flow	Base	Use
Residential	Unit	3,875	\$2,141,452	\$1,499,017	\$642,436	\$386.84	\$165.79	\$552.63	\$46.05
<b>Non-Residential</b>									
Churches/Temples/Comm.Ctrs.	Account	16	\$9,098	\$6,369	\$2,729	\$398.04	\$170.59	\$568.63	\$47.39
Schools (with cafeteria)	Student Room	3,723	\$77,768	\$54,437	\$23,330	\$14.62	\$6.27	\$20.89	\$1.74
Hotel/Motel	Room	93	\$21,192	\$14,834	\$6,357	\$159.51	\$68.36	\$227.87	\$18.99
Light Industrial [1]	Account	1	\$197,238	\$553	\$196,685	\$552.63		\$552.63	\$46.05
-- Industrial Laundromat [2]	Account	1	\$112,262	\$553	\$111,709	\$552.63		\$552.63	\$46.05
Commercial [1]	Account	131	\$333,253	\$72,395	\$260,858	\$552.63		\$552.63	\$46.05
<b>TOTAL</b>			<b>\$2,780,000</b>	<b>\$1,647,604</b>	<b>\$1,132,396</b>				

Source: 2021 HEC wastewater rate study. calc

[1] Costs are allocated based on estimated sewer flow; however, the rates are calculated based on total water use in 2019 and 2020 shown below.

Light Industrial	19,624,000 gallons
--- Industrial Laundromat	20,519,000 gallons
Commercial Customers	45,111,200 gallons (provides for a 20% variance)

[2] Subcategory - allocated cost is part of the light industrial category.



### 3.4 CASH FLOW AND FUND BALANCE

The projected cash flow, with revenues that are based on the calculated wastewater rates presented in **Table 20**, is shown in **Table 21**.

**Table 21**  
**Projected Cash Flow for the Wastewater Fund**

Revenues and Expenses	Fiscal Year Ending					
	2021	2022	2023	2024	2025	2026
	<i>New Rates on Bills -----&gt;</i>	<i>Aug-21</i>	<i>Jul-22</i>	<i>Jul-23</i>	<i>Jul-24</i>	<i>Jul-25</i>
<b>Revenues</b>						
User Fees	\$2,220,000	\$2,686,667	\$2,915,000	\$3,200,000	\$3,250,000	\$3,360,000
Fines & Forfeits	\$33,900	\$33,900	\$33,900	\$33,900	\$33,900	\$33,900
Return on Use of Money	\$14,470	\$14,470	\$14,470	\$14,470	\$14,470	\$14,470
Miscellaneous	\$4,550	\$4,550	\$4,550	\$4,550	\$4,550	\$4,550
<b>Subtotal Revenues</b>	<b>\$2,272,920</b>	<b>\$2,739,587</b>	<b>\$2,967,920</b>	<b>\$3,252,920</b>	<b>\$3,302,920</b>	<b>\$3,412,920</b>
<b>Operating Expenses</b>	<b>\$1,579,195</b>	<b>\$1,726,722</b>	<b>\$1,806,264</b>	<b>\$1,889,818</b>	<b>\$1,977,598</b>	<b>\$2,069,833</b>
<b>Net Income before Debt Service</b>	<b>\$693,725</b>	<b>\$1,012,864</b>	<b>\$1,161,656</b>	<b>\$1,363,102</b>	<b>\$1,325,322</b>	<b>\$1,343,087</b>
Debt Service	\$448,650	\$445,850	\$447,850	\$449,450	\$450,650	\$451,450
<i>Debt Service Coverage</i>	<i>1.55</i>	<i>2.27</i>	<i>2.59</i>	<i>3.03</i>	<i>2.94</i>	<i>2.98</i>
<b>Net Revenue</b>	<b>\$245,075</b>	<b>\$567,014</b>	<b>\$713,806</b>	<b>\$913,652</b>	<b>\$874,672</b>	<b>\$891,637</b>
Beginning Balance [1]	\$1,272,837	\$1,323,708	\$1,188,673	\$1,177,607	\$1,098,849	\$1,177,631
Net Revenue	\$245,075	\$567,014	\$713,806	\$913,652	\$874,672	\$891,637
Capital Improvements	(\$194,204)	(\$702,050)	(\$724,872)	(\$992,410)	(\$795,890)	(\$881,380)
<b>Ending Balance</b>	<b>\$1,323,708</b>	<b>\$1,188,673</b>	<b>\$1,177,607</b>	<b>\$1,098,849</b>	<b>\$1,177,631</b>	<b>\$1,187,888</b>
Restricted Cash	\$451,850	\$451,850	\$451,850	\$451,850	\$451,850	\$451,850
<b>Est. Ending Unrestricted Cash Balance</b>	<b>\$871,858</b>	<b>\$736,823</b>	<b>\$725,757</b>	<b>\$646,999</b>	<b>\$725,781</b>	<b>\$736,038</b>
<b>Target Ending Balance [2]</b>	<b>\$526,398</b>	<b>\$575,574</b>	<b>\$602,088</b>	<b>\$629,939</b>	<b>\$659,199</b>	<b>\$689,944</b>

Source: City of Livingston financial documents and HEC.

flow

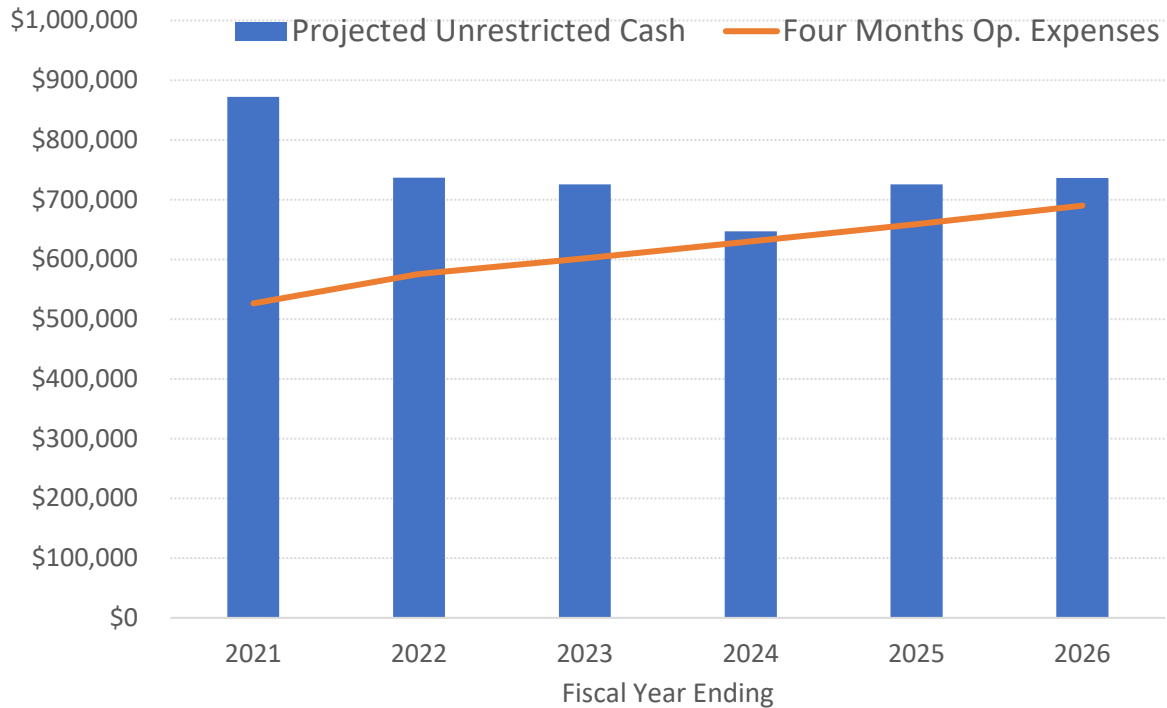
[1] Cash and investments as of July 1, 2020.

[2] Four months of operating expenses.

The projected wastewater fund ending cash balances are shown in **Figure 19** on the next page. Note that although the total cash balance is projected to be greater than illustrated, one year of debt service must be restricted making this cash unavailable for any other purpose.

The target cash balance is four months of operating expenses. If cash accumulation is greater than projected, the City would be able to accelerate sewer main replacements.

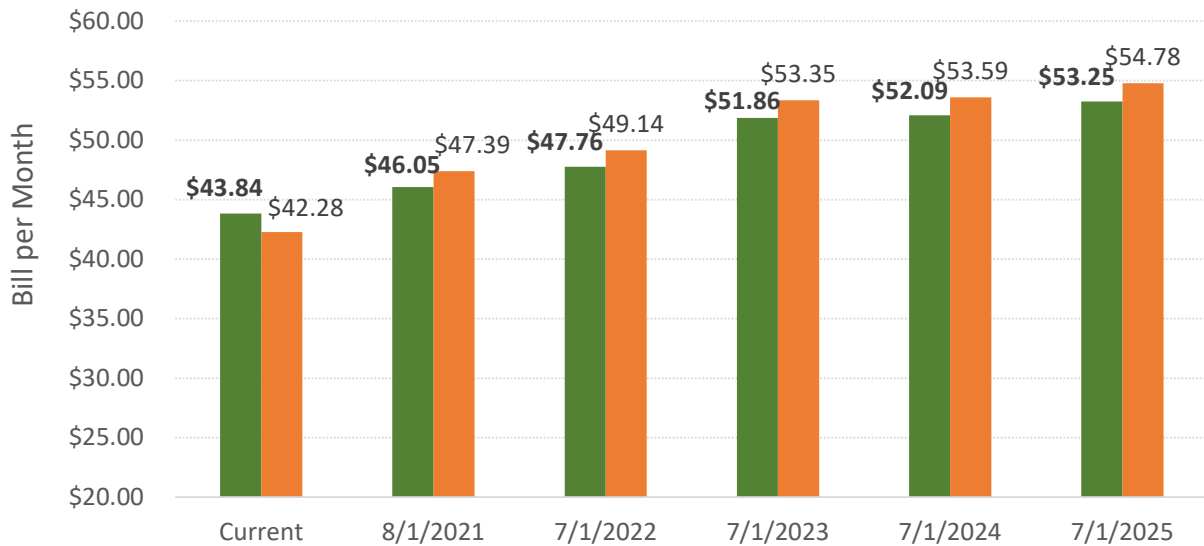
**Figure 19**  
**Projected Wastewater Cash Balance**



**3.5 BILL IMPACTS**

**Figure 20** illustrates the impact of the new rate schedule on a residential unit and a church. Currently, the monthly rate for churches is a little lower than for a residential unit but in the calculated future rates schedule the monthly charge to a church is greater than the monthly charge to a residential unit. This is because the rate study cost of service analysis assigns greater cost to the churches category in 2021 than it did in 2014. The cost allocation methodology for assigning costs to churches, and all customer categories, was updated following a review of BOD and SS parameters used in fifteen other California communities since 2014.

**Figure 20**  
**Bill Impact to a Residential Unit and a Church**



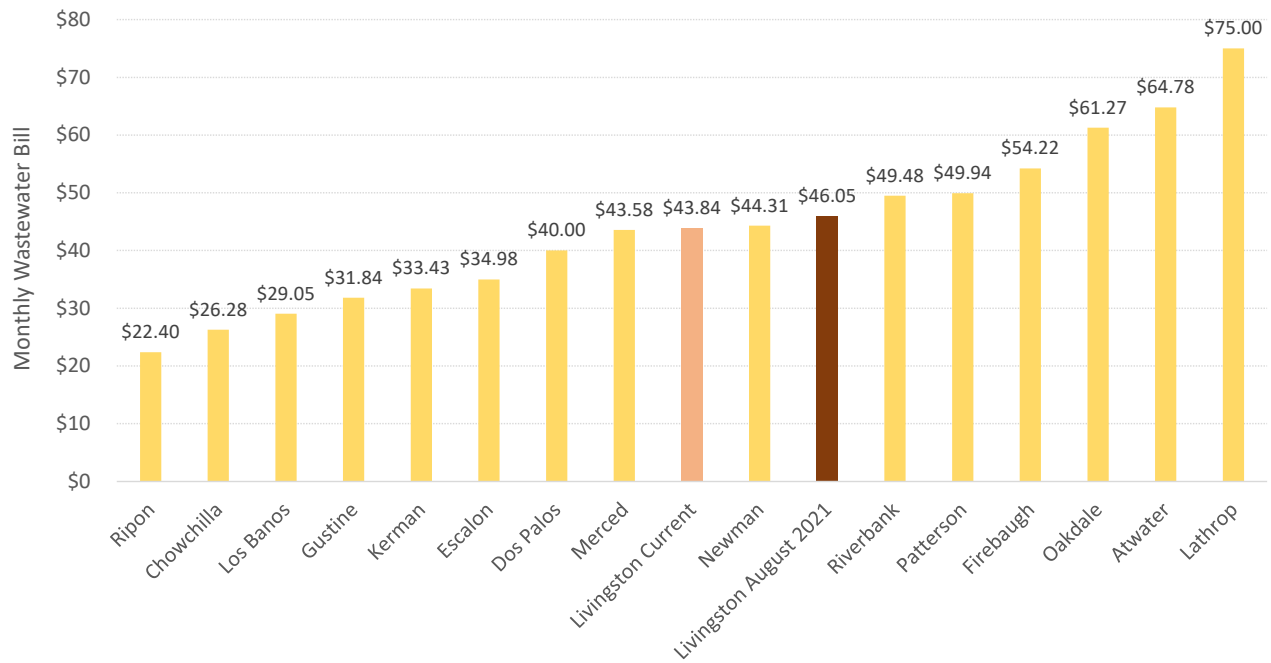
Residential monthly wastewater bills are compared in **Figure 21** with other regional wastewater providers. The graph shows that Livingston’s monthly wastewater bill for a home is and will remain in the middle of the range with neighboring and regional cities.

**3.5.1 Affordability**

The SWRCB also administers the California Clean Water SRF (CWSRF) program and evaluates the affordability of wastewater rates on the same two criteria as water rates.

As shown in **Table 22**, under the calculated wastewater rates for August 2021, a household would pay \$46.05 each month, which is 1.01 percent of the estimated median household income for Livingston. The proposed wastewater rates are, per the SWRCB definitions, affordable.

**Figure 21**  
**Comparison of Monthly Residential Wastewater Bills**



**Table 22**  
**Test of Wastewater Bill Affordability**

Item	Current Rates	Aug-21 [1]
<b>Monthly Water Bill</b>		
Monthly Median Household Income (MHI)	\$4,573.83	\$4,573.83
Monthly Wastewater Bill	\$43.84	\$46.05
<b>Average Monthly Bill as Percentage of MHI [2]</b>	<b>0.96%</b>	<b>1.01%</b>
<b>Median Household Income (MHI)</b>		
Statewide California	\$75,235	
Estimated Livingston [3]	\$54,886	
<b>Livingston MHI as a percentage of the State MHI [4]</b>	<b>73.0%</b>	

Source: HEC, State Water Resources Control Board, and US Census Bureau.

aff

[1] Bills must be greater than or equal to 1.5% of MHI to qualify for Disadvantaged principal forgiveness.

[2] Bills that are 1.5% to 2.0% of MHI are considered affordable.

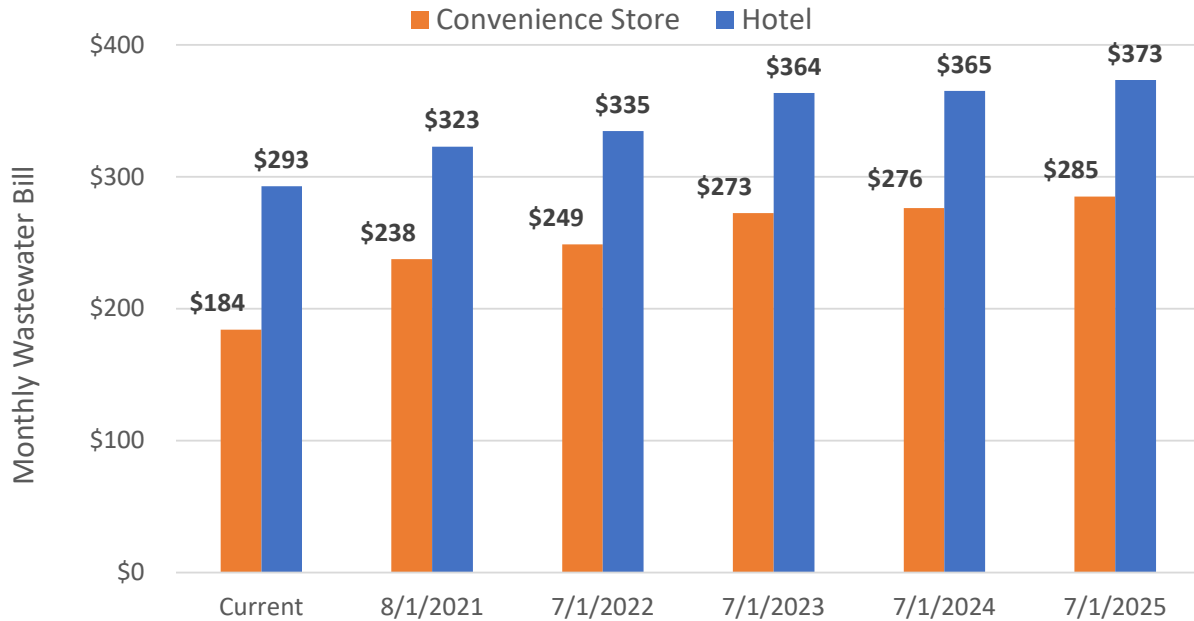
[3] 2019 5-year American Community Survey.

[4] Per SWRCB, community with an MHI <80% of the Statewide MHI is Disadvantaged. For a Disadvantaged Community to qualify for principal forgiveness must exceed 1.5% of the service area MHI.

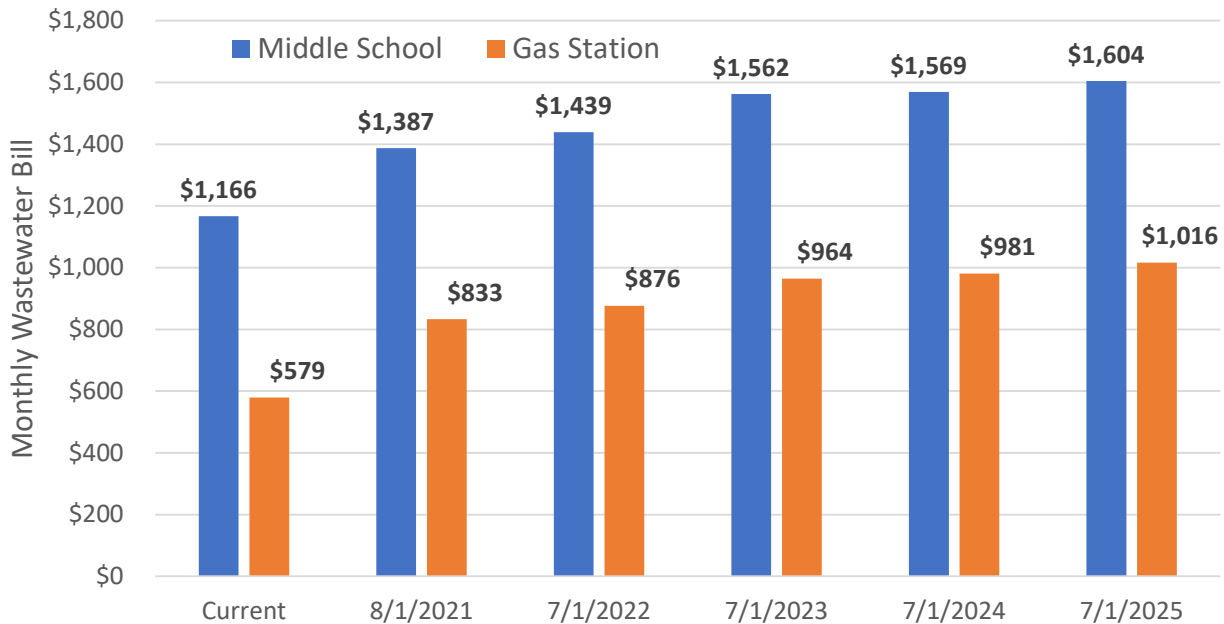
### 3.5.2 Non-Residential Bill Impacts

Figure 22 illustrates the annual impact of the August 2021 rate increase to a randomly selected convenience store and a randomly selected hotel. Figure 23 illustrates the annual impact of the rate increase on the Livingston Middle School and a randomly selected gas station.

**Figure 22**  
Impacts on a Convenience Store and a Hotel



**Figure 23**  
Impacts on a Gas Station and Livingston Middle School



## Section 4: SOLID WASTE RATE STUDY

Solid waste service in Livingston is provided by Gilton under an exclusive solid waste collection franchise agreement. The agreement requires solid waste collection at least once a week to all residential customers and more frequently to commercial and industrial customers if needed. The solid waste is disposed at landfills in Merced County.

### 4.1 THE SOLID WASTE FUND AND ITS CUSTOMERS

The solid waste fund pays for the services provided by Gilton, landfill disposal costs, street sweeping (conducted by City staff, not Gilton), City staff costs to administer and manage both services, and associated City costs.

Historical sanitation fund revenues and expenses are shown in **Table 23**. The fund has been able to cover expenses for each of the past four years. Detail of revenues is provided **Appendix C Table C-1**. Detail of expenses is provided in **Table C-2**.

**Table 23**  
**Historical Sanitation Fund Revenues and Expenses**

Expenses and Revenues	Fiscal Year Ending			
	2017	2018	2019	2020
	actual	actual	actual	unaudited
<b>Revenues</b>				
Intergovernmental	\$10,000	\$14,702	\$1,965	\$5,000
Charges for Services	\$1,371,342	\$1,386,815	\$1,417,249	\$1,473,678
Fines & Forfeitures	\$15,229	\$17,733	\$15,595	\$11,648
Return on Use of Money/Property	\$1,476	\$7,549	\$14,901	\$12,395
Miscellaneous	\$3,487	\$10,019	\$6,061	\$5,083
<b>Subtotal Revenues</b>	<b>\$1,401,534</b>	<b>\$1,436,818</b>	<b>\$1,455,771</b>	<b>\$1,507,804</b>
<b>Expenses</b>				
Personnel	\$91,307	\$180,716	\$194,064	\$233,479
Disposal Contract Services	\$907,749	\$919,518	\$997,084	\$1,059,650
Maintenance & Operations	\$97,734	\$75,308	\$91,808	\$107,103
Vehicles, Equip. Improvements	\$788	\$3,791	\$0	\$10,621
<b>Subtotal Expenses</b>	<b>\$1,097,578</b>	<b>\$1,179,333</b>	<b>\$1,282,957</b>	<b>\$1,410,853</b>
<b>Net Operating Income</b>	<b>\$303,956</b>	<b>\$257,485</b>	<b>\$172,814</b>	<b>\$96,951</b>

Source: City of Livingston financial documents.

net

Almost all of the revenues for solid waste provision are generated by monthly user rates. The current rate schedule is shown in **Table 24**. The table shows n/a for services that currently do not have any customers but that Gilton has provided the City a cost for. Current charges for service by Gilton are provided in **Appendix C Table C-3**.

**Table 24**  
**Current Sanitation Fund Rates**

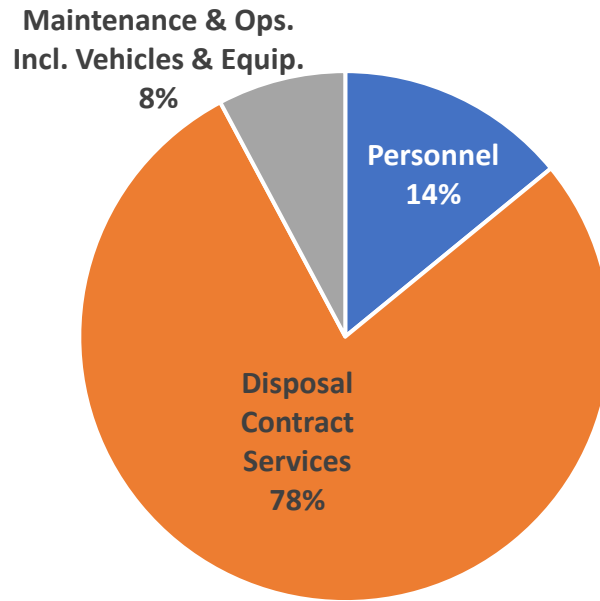
Collections per Week	Current City Rates				
	x1	x2	x3	x4	x5
<b>Residential</b>					
96 gal. cart	\$25.16				
Add'l cart	\$5.97				
96 gal. cart greenwaste	\$1.33				
Add'l greenwaste cart	\$5.97				
<b>Multi-Family Residential, Commercial and Organic Services</b>					
1 CY	\$47.36	\$93.90	n/a	n/a	n/a
2 CY	\$94.41	\$187.14	n/a	n/a	n/a
3 CY	\$139.86	\$264.56	\$398.63	n/a	n/a
4 CY	\$179.04	\$348.86	\$545.64	n/a	n/a
6 CY	\$251.71	\$490.40	\$750.40	n/a	n/a
<b>Commercial - Compacting Bins</b>					
3 CY	n/a	n/a	n/a	n/a	n/a
4 CY	n/a	n/a	n/a	n/a	n/a
<b>Standard Clean, Mixed Recyclables</b>					
4 CY	\$71.41	n/a	n/a	n/a	n/a
6 CY	\$71.41	n/a	n/a	n/a	n/a

Source: City of Livingston.

now

The majority of sanitation fund annual expenditures are for the disposal contract with Gilton. **Figure 24** shows that 78% of the total sanitation fund expenses for the last four fiscal years were for the Gilton contract.

**Figure 24**  
**Typical Annual Sanitation Fund Expenses**



The City provides service to nearly 3,500 customers, of which 96% are single-family or duplex/triplex/four-plex residential. The projection of customer accounts with a 1.2% growth rate through the five-year rate period is provided in **Appendix Table C-4**.

#### **4.2 REVENUE REQUIREMENT**

The projected revenue requirement for the solid waste fund is shown in **Table 25**. The revenue requirement is projected to increase from \$1.43 million in fiscal year 2021 to \$1.88 million by fiscal year ending 2026. The rate calculations are based on the user fee increases shown at the bottom of **Table 25**.



**Table 25**  
**Projected Revenue Requirement for the Sanitation Fund**

Expenses	Inflator	Fiscal Year Ending					
		2021 budget	2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<b>Operating Expenses</b>							
Personnel	6.0%	\$248,044	\$262,927	\$278,703	\$295,425	\$313,150	\$331,939
New Personnel [1]	6.0%		\$16,900	\$17,914	\$18,989	\$20,128	\$21,336
Disposal Contract Service [2]	5.5%	\$1,052,400	\$1,110,282	\$1,171,348	\$1,235,772	\$1,303,739	\$1,375,445
Professional Services	3.0%	\$55,700	\$57,371	\$59,092	\$60,865	\$62,691	\$64,572
Computer Support Agreement	2.5%	\$25,000	\$25,625	\$26,266	\$26,922	\$27,595	\$28,285
Equipment and Repairs	3.5%	\$21,400	\$22,149	\$22,924	\$23,727	\$24,557	\$25,416
Insurance	2.5%	\$5,250	\$5,381	\$5,516	\$5,654	\$5,795	\$5,940
Supplies and Other	2.5%	\$35,140	\$36,019	\$36,919	\$37,842	\$38,788	\$39,758
<b>Subtotal Operating Expenses</b>		<b>\$1,442,934</b>	<b>\$1,536,654</b>	<b>\$1,618,681</b>	<b>\$1,705,194</b>	<b>\$1,796,444</b>	<b>\$1,892,691</b>
Equipment Purchase	3.5%	\$13,750	\$15,000	\$15,525	\$16,068	\$16,631	\$17,213
<b>Estimated Annual Costs</b>		<b>\$1,456,684</b>	<b>\$1,551,654</b>	<b>\$1,634,206</b>	<b>\$1,721,263</b>	<b>\$1,813,074</b>	<b>\$1,909,903</b>
<i>Disposal Contract Service % of Op. Costs</i>		72%	72%	72%	72%	72%	72%
<b>Credits</b>							
Intergovernmental	estimate	\$0	\$0	\$0	\$0	\$0	\$0
Fines & Forfeitures	3.0%	\$13,905	\$14,322	\$14,752	\$15,194	\$15,650	\$16,120
Return on Use of Money	estimate	\$5,150	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Miscellaneous	constant	\$5,150	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200
<b>Total Credits</b>		<b>\$24,205</b>	<b>\$24,522</b>	<b>\$24,952</b>	<b>\$25,394</b>	<b>\$25,850</b>	<b>\$26,320</b>
<b>Total Revenue Requirement</b>		<b>\$1,432,479</b>	<b>\$1,527,132</b>	<b>\$1,609,254</b>	<b>\$1,695,868</b>	<b>\$1,787,224</b>	<b>\$1,883,584</b>
Increase in User Fees			5.50%	5.50%	5.50%	5.50%	5.50%
<b>User Fees</b>		<b>\$1,426,625</b>	<b>\$1,505,089</b>	<b>\$1,587,869</b>	<b>\$1,675,202</b>	<b>\$1,767,338</b>	<b>\$1,864,542</b>

Source: City of Livingston January 2021 and HEC.

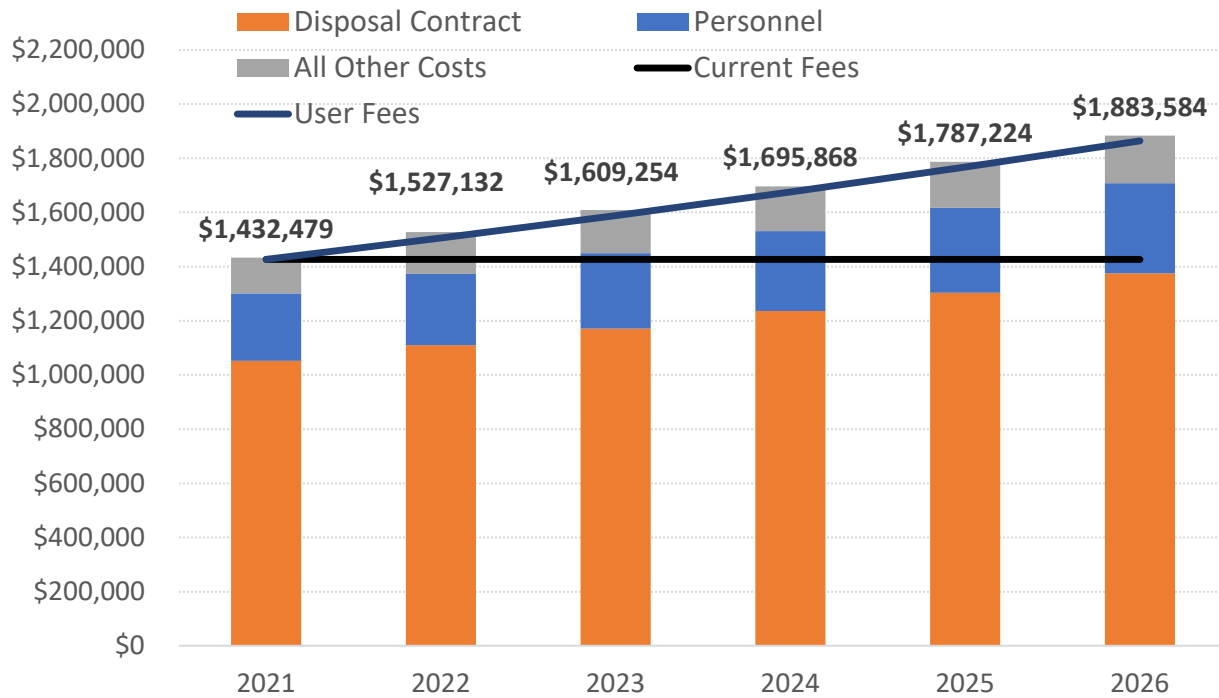
rev req

[1] Sanitation fund's portion of the cost of a new account clerk.

[2] Includes inflation in payments to Gilton, increased Merced County Regional Solid Waste Management Authority costs, and growth in number of customers.

**Figure 25** on the following page illustrates the components of revenue requirement in the study period, the amount estimated to be collected in user fees, and the amount currently collected in user fees.

**Figure 25**  
**Projected Revenue Requirement and Fee Collections**



**4.3 SOLID WASTE RATE CALCULATIONS**

The cost of service to each customer group is what the Gilton contract cost is plus additional City costs to provide sanitation and street sweeping services. Gilton contract costs are about 78% of total operating costs; however, the City should also be collecting annually for capital costs such as replacement of street sweepers and specialized equipment. In addition, the City anticipates needing additional revenue to comply with Senate Bill 1383.

The rate calculations are based on total user fees to be raised each year to provide revenue sufficiency for the sanitation fund. The calculated rates are shown in **Table 26**.

**Table 26**  
**Calculated Five-Year Solid Waste Rates**

Service Type	Current	Aug-21	Jul-22	Jul-23	Jul-24	Jul-25
	<i>Rate Increase ---&gt;</i>	5.5%	5.5%	5.5%	5.5%	5.5%
<i>Rates do not include charges for special services that are scheduled between the customer and provider such as off schedule pick up, container maintenance, and delivery charges.</i>						
<b>Single Family Residential</b>		<b>Once per week pickup</b>				
96 gal. cart	\$25.16	\$26.54	\$28.00	\$29.54	\$31.17	\$32.88
Add'l cart	\$5.97	\$6.30	\$6.64	\$7.01	\$7.40	\$7.80
96 gal. cart greenwaste	\$1.33	\$1.40	\$1.48	\$1.56	\$1.65	\$1.74
Add'l greenwaste cart	\$5.97	\$6.30	\$6.64	\$7.01	\$7.40	\$7.80
<b>Multi-Family, Commercial, and Organic</b>		<b>Once per week pickup</b>				
1 cubic yard container	\$47.36	\$49.96	\$52.71	\$55.61	\$58.67	\$61.90
2 cubic yards container	\$94.41	\$99.60	\$105.08	\$110.86	\$116.96	\$123.39
3 cubic yards container	\$139.86	\$147.55	\$155.67	\$164.23	\$173.26	\$182.79
4 cubic yards container	\$179.04	\$188.89	\$199.28	\$210.24	\$221.80	\$234.00
6 cubic yards container	\$251.71	\$265.55	\$280.16	\$295.57	\$311.82	\$328.97
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	\$71.41	\$75.34	\$79.48	\$83.85	\$88.46	\$93.33
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$513.10	\$541.32	\$571.09	\$602.50	\$635.64
4 cubic yards container	n/a	\$650.83	\$686.62	\$724.39	\$764.23	\$806.26
<b>Multi-Family, Commercial, and Organic</b>		<b>Twice per week pickup</b>				
1 cubic yard container	\$93.90	\$99.06	\$104.51	\$110.26	\$116.33	\$122.72
2 cubic yards container	\$187.14	\$197.43	\$208.29	\$219.75	\$231.83	\$244.58
3 cubic yards container	\$264.56	\$279.11	\$294.46	\$310.66	\$327.74	\$345.77
4 cubic yards container	\$348.86	\$368.05	\$388.29	\$409.65	\$432.18	\$455.95
6 cubic yards container	\$490.40	\$517.37	\$545.83	\$575.85	\$607.52	\$640.93
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	n/a	\$150.65	\$158.94	\$167.68	\$176.90	\$186.63
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$988.83	\$1,043.21	\$1,100.59	\$1,161.12	\$1,224.98
4 cubic yards container	n/a	\$1,245.84	\$1,314.36	\$1,386.65	\$1,462.91	\$1,543.37
<b>Multi-Family, Commercial, and Organic</b>		<b>Three times per week pickup</b>				
1 cubic yard container	n/a	\$148.00	\$156.14	\$164.73	\$173.79	\$183.35
2 cubic yards container	n/a	\$297.64	\$314.01	\$331.28	\$349.50	\$368.72
3 cubic yards container	\$398.63	\$420.55	\$443.69	\$468.09	\$493.83	\$520.99
4 cubic yards container	\$545.64	\$575.65	\$607.31	\$640.71	\$675.95	\$713.13
6 cubic yards container	\$750.40	\$791.67	\$835.21	\$881.15	\$929.61	\$980.74
<b>Recycle Bins</b>						
4 & 6 cubic yard containers	n/a	\$225.98	\$238.41	\$251.53	\$265.36	\$279.95
<b>Commercial Compacting</b>						
3 cubic yards container	n/a	\$1,484.74	\$1,566.40	\$1,652.55	\$1,743.44	\$1,839.33
4 cubic yards container	n/a	\$1,979.65	\$2,088.53	\$2,203.40	\$2,324.59	\$2,452.44

Source: City of Livingston and HEC.

sum

Table 27 provides the revenue estimated to be generated by each customer group.

**Table 27**  
**Estimated Revenue Generation by Customer Type**

Customer Type	2021	Annual Revenue with Growth in Number of Services				
		2022	2023	2024	2025	2026
<b>Residential</b>						
96 gal. cart	\$986,675	\$1,053,364	\$1,124,741	\$1,200,783	\$1,282,161	\$1,368,858
Add'l cart	\$22,208	\$23,732	\$25,356	\$27,087	\$28,932	\$30,898
96 gal. cart greenwaste	\$51,726	\$55,228	\$58,958	\$62,951	\$67,204	\$71,755
Add'l greenwaste cart	\$788	\$831	\$877	\$925	\$976	\$1,030
<b>Multi-Family &amp; Comm'l - 1x / Week</b>						
1 CY	\$2,842	\$2,998	\$3,163	\$3,337	\$3,520	\$3,714
2 CY	\$35,121	\$37,052	\$39,090	\$41,240	\$43,508	\$45,901
3 CY	\$23,496	\$24,789	\$26,152	\$27,591	\$29,108	\$30,709
4 CY	\$40,821	\$43,066	\$45,435	\$47,934	\$50,570	\$53,352
6 CY	\$21,144	\$22,307	\$23,533	\$24,828	\$26,193	\$27,634
<b>Organic Carts</b>						
2 CY	\$0	\$0	\$0	\$0	\$0	\$0
4 CY	\$17,188	\$18,133	\$19,130	\$20,183	\$21,293	\$22,464
6 CY	\$0	\$0	\$0	\$0	\$0	\$0
<b>Multi-Family &amp; Comm'l - 2x/Week</b>						
1 CY	\$0	\$0	\$0	\$0	\$0	\$0
2 CY	\$2,246	\$2,369	\$2,499	\$2,637	\$2,782	\$2,935
3 CY	\$6,349	\$6,699	\$7,067	\$7,456	\$7,866	\$8,298
4 CY	\$62,795	\$66,249	\$69,892	\$73,736	\$77,792	\$82,070
6 CY	\$58,848	\$62,085	\$65,499	\$69,102	\$72,902	\$76,912
<b>Organic Carts</b>						
2 CY	\$2,246	\$2,369	\$2,499	\$2,637	\$2,782	\$2,935
4 CY	\$20,932	\$22,083	\$23,297	\$24,579	\$25,931	\$27,357
6 CY	\$5,885	\$6,208	\$6,550	\$6,910	\$7,290	\$7,691
<b>Multi-Family &amp; Comm'l - 3x/Week</b>						
1 CY	\$0	\$0	\$0	\$0	\$0	\$0
2 CY	\$0	\$0	\$0	\$0	\$0	\$0
3 CY	\$4,784	\$5,047	\$5,324	\$5,617	\$5,926	\$6,252
4 CY	\$32,738	\$34,539	\$36,439	\$38,443	\$40,557	\$42,788
6 CY	\$18,010	\$19,000	\$20,045	\$21,148	\$22,311	\$23,538
<b>TOTAL</b>	<b>\$1,416,840</b>	<b>\$1,508,148</b>	<b>\$1,605,549</b>	<b>\$1,709,122</b>	<b>\$1,819,605</b>	<b>\$1,937,091</b>

Source: City of Livingston and HEC January 2021.

rev proj

### 4.3 CASH FLOW AND FUND BALANCE

The projected sanitation fund cash flow is provided in **Table 28**. Because the new costs associated with SB 1383 are still unknown, they are not modelled in the cash flow; however, money that shown as spent on a new street sweeper in 2026 could be redirected to SB 1383 costs, as a new street sweeper shouldn't be necessary for several more years.

**Table 28**  
**Sanitation Fund Projected Cash Flow**

Revenues and Expenses	Fiscal Year Ending					
	2021	2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<b>Operating Revenues</b>						
User Fees [1]	\$1,426,625	\$1,492,012	\$1,587,869	\$1,675,202	\$1,767,338	\$1,864,542
User Fees from New Growth	\$0	\$918	\$17,680	\$33,920	\$52,266	\$72,549
Intergovernmental	\$0	\$0	\$0	\$0	\$0	\$0
Fines & Forfeitures	\$13,905	\$14,322	\$14,752	\$15,194	\$15,650	\$16,120
Return on Use of Money	\$5,150	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
Miscellaneous	\$5,150	\$5,200	\$5,200	\$5,200	\$5,200	\$5,200
<b>Total Operating Revenues</b>	<b>\$1,450,830</b>	<b>\$1,517,452</b>	<b>\$1,630,501</b>	<b>\$1,734,516</b>	<b>\$1,845,455</b>	<b>\$1,963,411</b>
<b>Operating Expenses</b>						
Contract Disposal Service	\$1,052,400	\$1,110,282	\$1,171,348	\$1,235,772	\$1,303,739	\$1,375,445
All Other	\$390,534	\$426,372	\$447,333	\$469,423	\$492,704	\$517,246
<b>Total Operating Expenses</b>	<b>\$1,442,934</b>	<b>\$1,536,654</b>	<b>\$1,618,681</b>	<b>\$1,705,194</b>	<b>\$1,796,444</b>	<b>\$1,892,691</b>
Equipment Purchase	\$13,750	\$15,000	\$15,525	\$16,068	\$16,631	\$17,213
<b>Net Revenues (Deficit)</b>	<b>(\$5,854)</b>	<b>(\$34,202)</b>	<b>(\$3,704)</b>	<b>\$13,253</b>	<b>\$32,380</b>	<b>\$53,507</b>
Beginning Cash Balance [2]	\$1,225,567	\$934,712	\$900,511	\$896,806	\$910,060	\$942,440
Net Revenues (Deficit)	(\$5,854)	(\$34,202)	(\$3,704)	\$13,253	\$32,380	\$53,507
Vehicle Purchase / Replacement	(\$285,000)	\$0	\$0	\$0	\$0	(\$297,000)
<b>Ending Cash Balance</b>	<b>\$934,712</b>	<b>\$900,511</b>	<b>\$896,806</b>	<b>\$910,060</b>	<b>\$942,440</b>	<b>\$698,947</b>
Target Minimum Cash [3]	\$480,978	\$512,218	\$539,560	\$568,398	\$598,815	\$630,897

Source: City of Livingston January 2021 and HEC.

flow

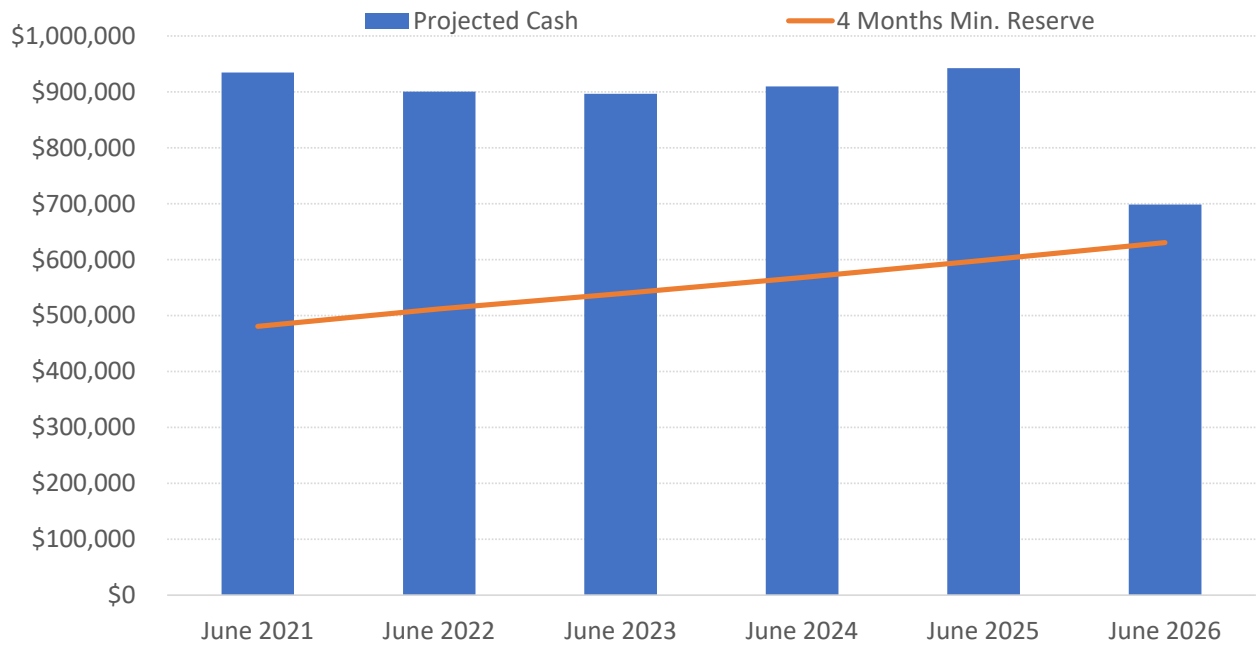
[2] Only 10 months of the new fees will be in effect FY 2022.

[3] Cash and cash equivalents as of July 1, 2020.

[2] Target minimum cash is 4 months of operating costs.

The projected ending fiscal year cash balances are illustrated in **Figure 26** on the next page.

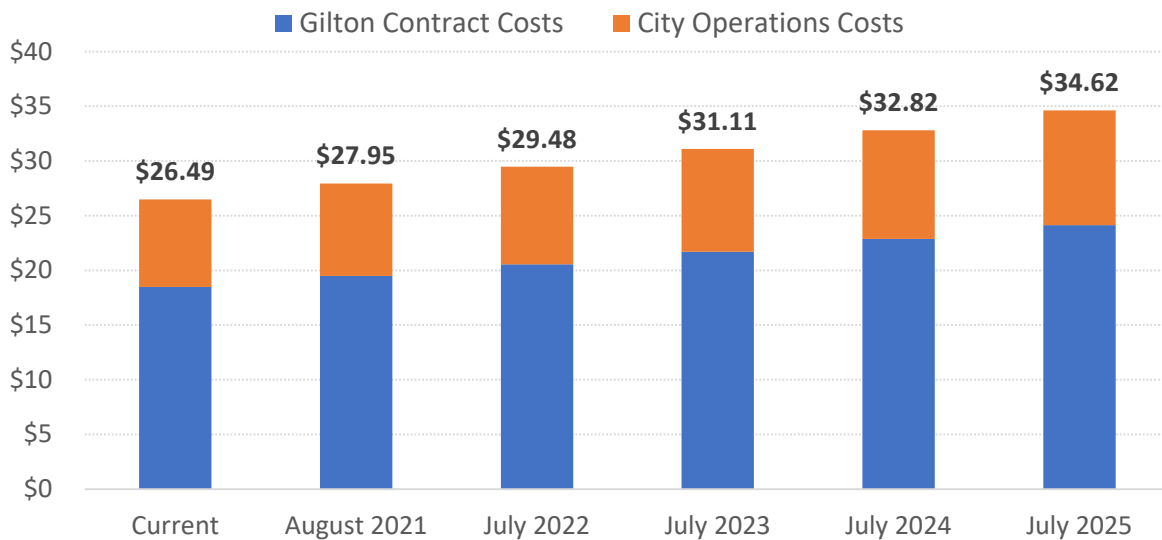
**Figure 26**  
**Projected Cash Flow and Fund Balance**



**4.4 BILL IMPACTS**

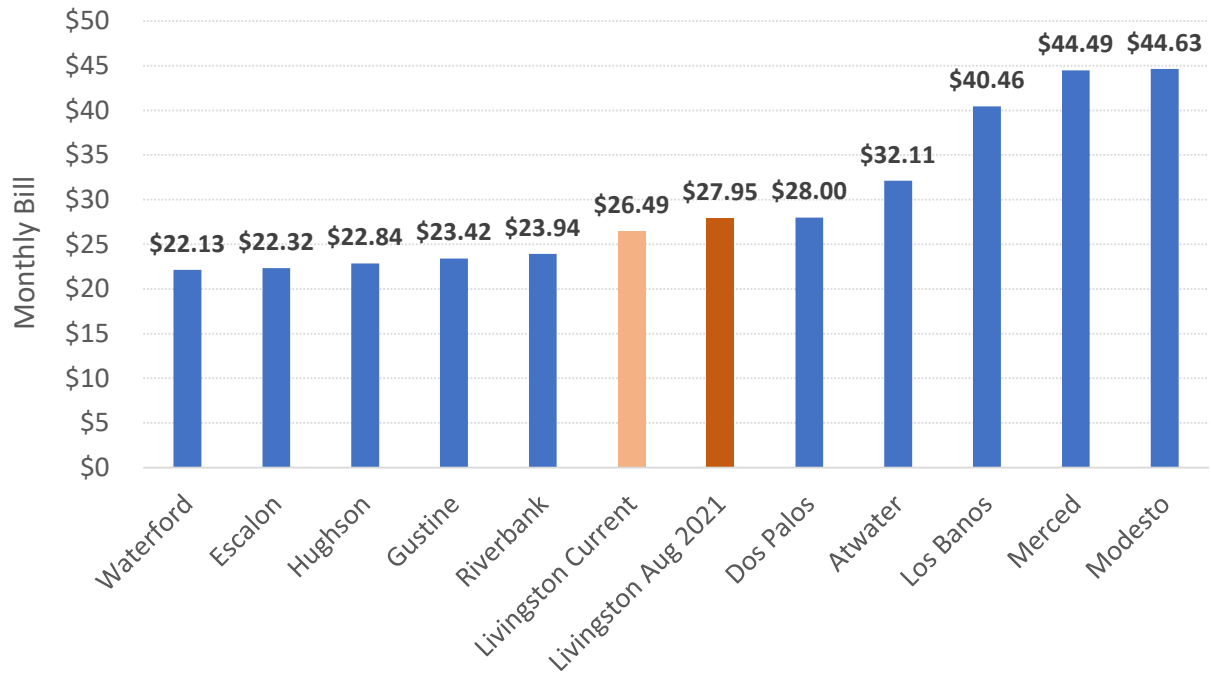
The projected five-year bill impacts for a single family home are shown in **Figure 27**. The monthly sanitation bill would increase from \$26.49 to \$34.62 over the five-year period.

**Figure 27**  
**Single Family Home Projected Bill Impact**



In **Figure 28**, Livingston’s two-can monthly rate is compared with Modesto, Riverbank, Escalon, Waterford, and Hughson, all of which contract with Gilton for service provision, and several other regional communities. The rates for all comparison communities include at least two cans (one for recycle items) although not all can sizes are the same and additional cans cost more in most other communities than in Livingston. The rate for Merced includes three cans.

**Figure 28**  
**Comparison of Single Family Solid Waste Monthly Bills**







# **APPENDIX A**

## **WATER RATE STUDY**

### **SUPPORT TABLES**



**Table A-1**  
**City of Livingston 2021 Water Rates Update**  
**Historical Water Fund Revenues**

Revenues	Fiscal Year Ending				
	2017 actual	2018 actual	2019 actual	2020 unaudited	2021 budget
Intergovernmental Revenue	\$0	\$68,868	(\$3,035)	\$0	\$0
<b>Charges for Services</b>					
User Fees	\$3,305,476	\$3,360,495	\$3,592,366	\$4,082,854	\$3,864,360
Connection Fees	\$0	\$25	\$0	\$0	\$0
Meter Installation	\$0	\$75,563	\$51,718	\$50,121	\$0
Meter Replacement Fees	\$142,204	\$148,077	\$158,192	\$158,673	\$165,635
<b>Subtotal Charges for Services</b>	<b>\$3,447,680</b>	<b>\$3,584,161</b>	<b>\$3,802,276</b>	<b>\$4,291,647</b>	<b>\$4,029,995</b>
Fines & Forfeitures	\$21,204	\$37,322	\$17,980	\$17,693	\$42,000
Interest Income	\$4,427	\$26,788	\$48,768	\$55,588	\$4,040
Miscellaneous Revenue	\$10,916	\$19,794	\$7,959	\$16,349	\$8,125
<b>Total Revenues</b>	<b>\$3,484,226</b>	<b>\$3,736,933</b>	<b>\$3,873,948</b>	<b>\$4,381,278</b>	<b>\$4,084,160</b>

Source: City of Livingston financial documents.

revs

**Table A-2**  
**City of Livingston 2021 Water Rates Update**  
**Historical Water Fund Expenses**

Expenses	Fiscal Year Ending				
	2017 actual	2018 actual	2019 actual	2020 unaudited	2021 budget
<b>Personnel</b>	<b>\$436,617</b>	<b>\$679,088</b>	<b>\$708,457</b>	<b>\$879,686</b>	<b>\$897,994</b>
<b>Maintenance and Operations</b>					
Professional Services	\$67,097	\$12,795	\$9,632	\$4,336	\$15,000
Contract Services	\$137,619	\$117,483	\$110,320	\$87,675	\$130,000
Reg. Tuition Training	\$1,521	\$1,503	\$3,200	\$674	\$3,000
City Audit	\$7,501	\$7,600	\$7,600	\$7,600	\$7,600
Computer Support Agreements	\$24,764	\$38,631	\$28,947	\$26,376	\$37,000
Water Storage Tanks O&M	\$0	\$7,940	\$3,348	\$2,538	\$10,000
Water Wells O&M	\$330,266	\$140,513	\$279,608	\$222,882	\$350,000
Distribution O&M	\$60,431	\$33,708	\$60,746	\$48,671	\$50,000
Utilities	\$556,957	\$600,424	\$560,431	\$739,242	\$600,000
Vehicle O&M	\$18,623	\$35,258	\$19,981	\$18,366	\$22,000
Equipment O&M	\$5,625	\$3,962	\$6,855	\$4,795	\$9,000
Facilities O&M	\$7,427	\$3,306	\$5,977	\$4,597	\$15,000
Insurance	\$40,569	\$36,274	\$36,682	\$40,775	\$43,350
CommCell Phones	\$5,368	\$8,175	\$6,638	\$5,923	\$7,000
Advertisement	\$1,374	\$1,073	\$2,786	\$975	\$3,000
Printing	\$3,246	\$3,212	\$3,375	\$3,392	\$5,000
Bank Service Fees	\$5,176	\$6,467	\$7,496	\$9,318	\$8,000
Travel	\$1,966	\$992	\$3,166	\$244	\$2,500
Small Tools & Equip.	\$6,300	\$11,411	\$8,953	\$3,306	\$6,000
Office Supplies	\$3,220	\$2,540	\$2,679	\$1,186	\$3,500
Postage	\$8,453	\$7,627	\$8,105	\$3,340	\$9,000
Miscellaneous	\$1,178	\$1,270	(\$8,272)	\$1,590	\$3,500
Books/Subscriptions	\$0	\$66	\$397	\$40	\$500
Dues/Memberships	\$23,107	\$22,549	\$19,816	\$21,883	\$30,870
Reimbursements/Refunds	\$0	\$0	\$1,017	\$0	\$0
SGMA Compliance Contrib.	\$0	\$0	\$0	\$15,289	\$50,000
Water Meter Purchase	\$0	\$2,858	\$0	\$0	\$0
Water Hydrant Maint.	\$288	\$0	\$0	\$0	\$0
System Rehabilitation	(\$8,500)	\$0	(\$7,200)	\$0	\$75,000
<b>Subtotal Maintenance and Operations</b>	<b>\$1,309,576</b>	<b>\$1,107,636</b>	<b>\$1,182,283</b>	<b>\$1,275,010</b>	<b>\$1,495,820</b>
<b>Projects</b>					
Infrastructure	\$0	\$0	\$0	\$0	\$0
Water Tank Rehab.	\$0	\$0	\$37,364	\$2,908	\$0
Well 9 replacement	\$0	\$0	\$0	\$53,082	\$0
New Well #8	\$0	\$0	\$10,094	\$7,255	\$0
<b>Subtotal Projects</b>	<b>\$0</b>	<b>\$0</b>	<b>\$47,458</b>	<b>\$63,245</b>	<b>\$0</b>
<b>Vehicles, Equip. &amp; Improvements</b>					
Equipment Purchase	\$34,280	\$11,872	\$15,370	\$45,348	\$59,100
Vehicle Purchase / Replacement	\$0	\$0	\$0	\$7,509	\$25,000
Meter Replacement	\$76,118	\$133,057	\$36,295	\$50,210	\$140,000
Furniture	\$0	\$498	\$0	\$0	\$0
<b>Subtotal Vehicles, Equip. &amp; Improvements</b>	<b>\$110,399</b>	<b>\$145,427</b>	<b>\$51,666</b>	<b>\$103,068</b>	<b>\$224,100</b>
<b>Total Expenses excl. Debt Service</b>	<b>\$1,856,591</b>	<b>\$1,932,151</b>	<b>\$1,989,865</b>	<b>\$2,321,008</b>	<b>\$2,617,914</b>
Transfers Out	\$0	\$1,773,333	\$0	\$0	\$1,000,000
Debt Service	\$11,812	\$20,348	\$19,409	\$78,778	\$112,337

Source: City of Livingston financial documents.

exps

**Table A-3**  
**City of Livingston 2021 Water Rates Update**  
**Historical Consumption**

<b>Year</b>	<b>Water Used</b>
	gallons
2013	2,372,789,000
2014	2,388,570,000
2015	2,101,135,349
2016	2,096,915,212
2017	2,074,911,951
2018	2,254,177,000
2019	2,244,031,000
<b>Average</b>	<b>2,218,932,787</b>
<b>Average last 5 Years</b>	<b>2,154,234,102</b>

Source: City of Livingston billing records.

hist use

**Table A-4**  
**City of Livingston 2021 Water Rates Update**

**Well Production**

Month	Calendar Year					Annual Average	% Delivery by Month
	2016	2017	2018	2019	2020		
<i>All Figures in Gallons</i>							
Jan	149,052,000	160,517,162	149,314,098	151,827,309	188,387,796	159,819,673	6.9%
Feb	134,313,000	132,900,237	139,437,808	134,267,112	196,735,774	147,530,786	6.4%
Mar	160,004,000	157,806,860	142,435,778	163,437,223	210,447,097	166,826,192	7.2%
Apr	174,700,000	144,083,799	165,066,889	178,385,022	211,326,842	174,712,510	7.5%
May	194,107,000	189,298,693	208,602,845	204,009,214	248,085,653	208,820,681	9.0%
Jun	219,983,000	178,863,153	221,974,266	243,784,833	265,249,523	225,970,955	9.7%
Jul	235,689,000	197,205,625	267,180,750	256,024,390	289,093,016	249,038,556	10.7%
Aug	223,396,000	215,617,627	231,995,178	255,857,000	288,298,196	243,032,800	10.5%
Sep	202,670,000	188,491,756	199,879,868	215,993,908	251,599,483	211,727,003	9.1%
Oct	194,270,000	192,171,330	187,961,790	221,622,859	229,561,376	205,117,471	8.8%
Nov	150,548,912	145,490,025	148,353,782	179,628,834	206,479,231	166,100,157	7.2%
Dec	152,557,513	135,045,974	150,523,769	184,704,455	194,232,084	163,412,759	7.0%
<b>Total</b>	<b>2,191,290,425</b>	<b>2,037,492,241</b>	<b>2,212,726,821</b>	<b>2,389,542,159</b>	<b>2,779,496,071</b>	<b>A 2,322,109,543</b>	<b>100.0%</b>
Peaking Period (May through October inclusive)						<b>B</b> 1,343,707,466	58%
Base Monthly Flow						<b>C</b> 163,067,013	
<b>Base Annual Flow</b>						<b>D = C*12</b> 1,956,804,154	<b>84%</b>
<b>Additional Flow</b>						<b>E = A-D</b> 365,305,389	<b>16%</b>

Source: City of Livingston records.

wells

**Table A-5**  
**City of Livingston 2021 Water Rates Update**  
**Estimated Water Capital Improvement Plan Costs**

Water Project	Funding Source	Fiscal Year Ending				
		2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<b>Water CIP Projects</b>						
Well 8 - New Well	Reserves		\$1,000,000			
Well 9 - New Well	Reserves	\$1,200,000				
Well 11 - New Well	Foster Farms	\$1,200,000				
Well 12 Conveyance & Treatment	Reserves					\$1,720,000
Well 8 & 9 Conveyance & Treatment Plant (75%)	SRF Loan		\$3,375,000			
Well 8 & 9 Conveyance & Treatment Plant (25%)	Connection Fees		\$1,125,000			
Well 14 & 16 Conveyance & Treatment Plant - <i>secured loan</i>	SRF Loan	\$4,000,000				
Well 13 & 17 Conveyance, Treatment Plant & Storage Tank (75%)	SRF Loan		\$6,375,000			
Well 13 & 17 Conveyance, Treatment Plant & Storage Tank (25%)	Connection Fees		\$2,125,000			
Water Line Replacement Ph 4 (Walnut, Davis, White, N Main)	Reserves			\$1,331,320		
Park Surface Water Irrigation	Reserves		\$187,381			
	Grant		\$172,619			
<b>Total Estimated Water Improvements Cost</b>		<b>\$23,811,320</b>	<b>\$6,400,000</b>	<b>\$14,360,000</b>	<b>\$1,331,320</b>	<b>\$0</b>
<b>\$1,720,000</b>					<b>\$0</b>	<b>\$1,720,000</b>
<b>Funding Sources</b>						
SRF Loan	<b>\$13,750,000</b>	\$4,000,000	\$9,750,000	\$0	\$0	\$0
Reserves	<b>\$5,438,701</b>	\$1,200,000	\$1,187,381	\$1,331,320	\$0	\$1,720,000
Connection Fees	<b>\$3,250,000</b>	\$0	\$3,250,000	\$0	\$0	\$0
Grant	<b>\$172,619</b>	\$0	\$172,619	\$0	\$0	\$0
Foster Farms	<b>\$1,200,000</b>	\$1,200,000	\$0	\$0	\$0	\$0
<b>Total Funding</b>	<b>\$23,811,320</b>	<b>\$6,400,000</b>	<b>\$14,360,000</b>	<b>\$1,331,320</b>	<b>\$0</b>	<b>\$1,720,000</b>
<b>Estimated New O&amp;M Costs from CIP Projects</b>						
Well 8 & 9 GAC			\$200,000		\$200,000	
Well 13 & 17 GAC					\$200,000	
Well 13 Green Sand		\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Well 14 & 16 GAC			\$200,000		\$200,000	
Well 16 Green Sand		\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Well 17 Green Sand		\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Bulk Chemicals - Wells		\$65,000	\$65,000	\$65,000	\$65,000	\$65,000
<b>Estimated New Media &amp; Chemicals Cost</b>		<b>\$95,000</b>	<b>\$495,000</b>	<b>\$95,000</b>	<b>\$695,000</b>	<b>\$95,000</b>

Source: City of Livingston January 2021.

cip

**Table A-6**  
**City of Livingston 2021 Water Rates Update**  
**Inflated CIP**

Water Project	Funding Source	TOTAL	2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<b>Water CIP Projects</b>		<i>Costs inflated each year 3%</i>					
Well 8 - New Well	Reserves	\$1,060,900	\$0	\$1,060,900	\$0	\$0	\$0
Well 9 - New Well	Reserves	\$1,236,000	\$1,236,000	\$0	\$0	\$0	\$0
Well 11 - New Well	Foster Farms	\$1,236,000	\$1,236,000	\$0	\$0	\$0	\$0
Well 12 Conveyance & Treatment	Reserves	\$1,993,951	\$0	\$0	\$0	\$0	\$1,993,951
Well 8 & 9 Conveyance & Treatment Plant (75%)	SRF Loan	\$3,580,538	\$0	\$3,580,538	\$0	\$0	\$0
Well 8 & 9 Conveyance & Treatment Plant (25%)	Connection Fees	\$1,193,513	\$0	\$1,193,513	\$0	\$0	\$0
Well 14 & 16 Conveyance & Treatment Plant - secured loan	SRF Loan	\$4,120,000	\$4,120,000	\$0	\$0	\$0	\$0
Well 13 & 17 Conveyance, Treatment Plant & Storage Tank (75%)	SRF Loan	\$6,763,238	\$0	\$6,763,238	\$0	\$0	\$0
Well 13 & 17 Conveyance, Treatment Plant & Storage Tank (25%)	Connection Fees	\$2,254,413	\$0	\$2,254,413	\$0	\$0	\$0
Water Line Replacement Ph 4 (Walnut, Davis, White, N Main)	Reserves	\$1,454,769	\$0	\$0	\$1,454,769	\$0	\$0
Park Surface Water Irrigation	Reserves	\$381,924	\$0	\$381,924	\$0	\$0	\$0
<b>Total Estimated Water Improvements Cost</b>		<b>\$25,275,245</b>	<b>\$6,592,000</b>	<b>\$15,234,524</b>	<b>\$1,454,769</b>	<b>\$0</b>	<b>\$1,993,951</b>
<b>Funding Sources</b>							
SRF Loan		\$14,463,775	\$4,120,000	\$10,343,775	\$0	\$0	\$0
Reserves		\$5,944,413	\$1,236,000	\$1,259,693	\$1,454,769	\$0	\$1,993,951
Connection Fees		\$3,447,925	\$0	\$3,447,925	\$0	\$0	\$0
Grant and Covid Relief		\$183,131	\$0	\$183,131	\$0	\$0	\$0
Foster Farms		\$1,236,000	\$1,236,000	\$0	\$0	\$0	\$0
<b>Total Funding</b>		<b>\$25,275,245</b>	<b>\$6,592,000</b>	<b>\$15,234,524</b>	<b>\$1,454,769</b>	<b>\$0</b>	<b>\$1,993,951</b>
<b>Estimated New O&amp;M Costs from CIP Projects</b>							
Well 8 & 9 GAC			\$0	\$212,180	\$0	\$225,102	\$0
Well 13 & 17 GAC			\$0	\$0	\$0	\$225,102	\$0
Well 13 Green Sand			\$10,300	\$10,609	\$10,927	\$11,255	\$11,593
Well 14 & 16 GAC			\$0	\$212,180	\$0	\$225,102	\$0
Well 16 Green Sand			\$10,300	\$10,609	\$10,927	\$11,255	\$11,593
Well 17 Green Sand			\$10,300	\$10,609	\$10,927	\$11,255	\$11,593
Bulk Chemicals - Wells			\$66,950	\$68,959	\$71,027	\$73,158	\$75,353
<b>Estimated New Media &amp; Chemicals Cost</b>			<b>\$97,850</b>	<b>\$525,146</b>	<b>\$103,809</b>	<b>\$782,229</b>	<b>\$110,131</b>

Source: City of Livingston January 2021.

cip inf



**Table A-7**  
**City of Livingston 2021 Water Rates Update**  
**SRF Financing Agreement for Well 13**

<b>Fiscal Year</b>				
<b>Ending</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Payment</b>	<b>Ending Balance</b>
<i>Term</i>	<i>20 years</i>		<i>Completed Project</i>	
<i>Interest Rate</i>	<i>1.6%</i>			
				\$1,353,245
2017	\$66,967	\$11,811	\$78,778	\$1,286,278
2018	\$58,430	\$20,348	\$78,778	\$1,227,848
2019	\$59,369	\$19,409	\$78,778	\$1,168,479
2020	\$60,323	\$18,455	\$78,778	\$1,108,156
2021	\$61,292	\$17,486	\$78,778	\$1,046,864
2022	\$62,276	\$16,502	\$78,778	\$984,588
2023	\$63,277	\$15,501	\$78,778	\$921,311
2024	\$64,293	\$14,485	\$78,778	\$857,018
2025	\$65,326	\$13,452	\$78,778	\$791,692
2026	\$66,375	\$12,403	\$78,778	\$725,317
2027	\$67,442	\$11,336	\$78,778	\$657,875
2028	\$68,525	\$10,253	\$78,778	\$589,350
2029	\$69,626	\$9,152	\$78,778	\$519,724
2030	\$70,744	\$8,034	\$78,778	\$448,980
2031	\$71,881	\$6,897	\$78,778	\$377,099
2032	\$73,035	\$5,743	\$78,778	\$304,064
2033	\$74,209	\$4,569	\$78,778	\$229,855
2034	\$75,401	\$3,377	\$78,778	\$154,455
2035	\$76,612	\$2,166	\$78,778	\$77,843
2036	\$77,843	\$935	\$78,778	(\$0)
<b>TOTAL</b>	<b>\$1,353,245</b>	<b>\$222,315</b>	<b>\$1,575,560</b>	

Source: SRF Financing Agreement D15-02037 Exhibit C.

srf other

**Table A-8**  
**City of Livingston 2021 Water Rates Update**  
**SRF Financing Agreement for Wells 14 & 16**

<b>Fiscal Year</b>				
<b>Ending</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Payment</b>	<b>Ending Balance</b>
<i>Term</i>	<i>30 years</i>		<i>Est. Construction Completion:</i>	
<i>Interest Rate</i>	<i>1.8%</i>		<i>7/1/2022</i>	
2021	\$0	\$60,758	\$47,358	\$3,224,618
2022	\$105,048	\$67,942	\$172,989	\$3,894,952
2023	\$103,343	\$69,646	\$172,989	\$3,971,609
2024	\$105,212	\$67,778	\$172,989	\$3,686,398
2025	\$107,114	\$65,875	\$172,989	\$3,579,284
2026	\$109,051	\$63,939	\$172,989	\$3,470,233
2027	\$111,022	\$61,967	\$172,989	\$3,359,211
2028	\$113,030	\$59,959	\$172,989	\$3,246,181
2029	\$115,074	\$57,916	\$172,989	\$3,131,107
2030	\$117,154	\$55,835	\$172,989	\$3,013,953
2031	\$119,272	\$53,717	\$172,989	\$2,894,681
2032	\$121,429	\$51,560	\$172,989	\$2,773,252
2033	\$123,625	\$49,365	\$172,989	\$2,649,627
2034	\$125,860	\$47,129	\$172,989	\$2,523,767
2035	\$128,136	\$44,854	\$172,989	\$2,395,632
2036	\$130,452	\$42,537	\$172,989	\$2,265,179
2037	\$132,811	\$40,178	\$172,989	\$2,132,368
2038	\$135,212	\$37,777	\$172,989	\$1,997,156
2039	\$137,657	\$35,332	\$172,989	\$1,859,499
2040	\$140,146	\$32,843	\$172,989	\$1,719,353
2041	\$142,680	\$30,309	\$172,989	\$1,576,672
2042	\$145,260	\$27,729	\$172,989	\$1,431,412
2043	\$147,886	\$25,103	\$172,989	\$1,283,526
2044	\$150,560	\$22,429	\$172,989	\$1,132,966
2045	\$153,283	\$19,707	\$172,989	\$979,683
2046	\$156,054	\$16,935	\$172,989	\$823,629
2047	\$158,876	\$14,114	\$172,989	\$664,753
2048	\$161,748	\$11,241	\$172,989	\$503,005
2049	\$164,673	\$8,316	\$172,989	\$338,332
2050	\$167,650	\$5,339	\$172,989	\$170,682
2051	\$170,682	\$2,308	\$172,989	\$0
<b>TOTAL</b>	<b>\$4,000,000</b>	<b>\$1,250,437</b>	<b>\$5,237,037</b>	

Source: SRF Financing Agreement D18-02003 Exhibit C.

srf 4M

**Table A-9**  
**City of Livingston 2021 Water Rates Update**

**Estimated New SRF Debt**

<b>Item</b>	<b>Well 8 &amp; 9 Conveyance &amp; Treatment Plant</b>	<b>Well 13 &amp; 17 Conveyance, Treatment Plant &amp; Storage Tank</b>
<i>Estimated Completion Date</i>	<i>12/1/2022</i>	<i>4/1/2023</i>
Construction Proceeds	\$3,580,538	\$6,763,238
<b>Estimated Annual Debt Service</b>	<b>\$171,100</b>	<b>\$323,200</b>
Operations Fund	\$128,325	\$242,400
Capital Fund	\$42,775	\$80,800
Total Payments	\$5,133,000	\$9,696,000
Estimated Total Financing Costs	\$1,552,463	\$2,932,763
DWSRF loan assumptions:		
Interest Rate [1]	2.5000%	2.5000%
Term (years)	30	30

Source: City of Livingston and HEC.

new debt

[1] Estimate based on historical rates; the interest rate fluctuates year to year.

**Table A-10**  
**City of Livingston 2021 Water Rates Update**

**Meter Replacement Fee Calculation**

Item	Assumption / Total	Meter Size							
		1"	1-1/2"	2"	3"	4"	6"	8"	10"
New Meter with Transponder [1]		\$246	\$579	\$1,106	\$1,380	\$3,266	\$5,644	\$9,204	\$11,877
Installation Costs [2]	25%	\$61	\$145	\$276	\$345	\$817	\$1,411	\$2,301	\$2,969
New Technology Fee [3]	20%	\$61	\$145	\$276	\$345	\$817	\$1,411	\$2,301	\$2,969
Administration Costs	5%	\$18	\$43	\$83	\$103	\$245	\$423	\$690	\$891
<b>Total Cost per Meter</b>		<b>\$387</b>	<b>\$912</b>	<b>\$1,742</b>	<b>\$2,173</b>	<b>\$5,145</b>	<b>\$8,890</b>	<b>\$14,496</b>	<b>\$18,707</b>
Total Number of Meters	3,533	3,418	12	73	12	13	4	0	1
<b>Meter Cost Replacement</b>	<b>\$1,607,674</b>	<b>\$1,322,354</b>	<b>\$10,945</b>	<b>\$127,150</b>	<b>\$26,077</b>	<b>\$66,881</b>	<b>\$35,560</b>	<b>\$0</b>	<b>\$18,707</b>
Replacement Interval (years)		10	10	10	10	10	10	10	10
Cost per Meter per Year		\$39	\$91	\$174	\$217	\$514	\$889	\$1,450	\$1,871
<b>Monthly Cost per Meter</b>		<b>\$3.22</b>	<b>\$7.60</b>	<b>\$14.51</b>	<b>\$18.11</b>	<b>\$42.87</b>	<b>\$74.08</b>	<b>\$120.80</b>	<b>\$155.89</b>
<b>Updated Annual Fee Revenue</b>	<b>\$160,767</b>	<b>\$132,235</b>	<b>\$1,094</b>	<b>\$12,715</b>	<b>\$2,608</b>	<b>\$6,688</b>	<b>\$3,556</b>	<b>\$0</b>	<b>\$1,871</b>

Source: City of Livingston and HEC.

meter prog

[1] Prices from City's meter vendor, May 2019, inflated.

[2] Actual installation costs vary by meter size as a percentage of meter cost.

[3] Estimated costs to keep meters up to date with new technology.

**Table A-11**  
**City of Livingston 2021 Water Rates Update**  
**Estimated Meter Replacement Fee Program Revenue**

Item	Fiscal Year Ending					
	2021	2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
Projected New 1" or less Meters	0	40	40	40	40	40
<b>Projected City Water Meters</b>	<b>3,533</b>	<b>3,573</b>	<b>3,613</b>	<b>3,653</b>	<b>3,693</b>	<b>3,733</b>
Current Revenue Inflated	\$160,767	\$164,787	\$168,906	\$173,129	\$177,457	\$181,894
New Growth Revenue	\$0	\$1,586	\$1,626	\$1,667	\$1,708	\$1,751
<b>Estimated Meter Replacement Fee Revenue</b>	<b>\$160,767</b>	<b>\$166,373</b>	<b>\$170,532</b>	<b>\$174,795</b>	<b>\$179,165</b>	<b>\$183,644</b>

Source: City of Livingston and HEC.

meter rev

**Table A-12**  
**City of Livingston 2021 Water Rates Update**  
**Functional Allocation of Plant In Service**

<b>Plant in Service</b>	<b>Customer</b>	<b>Capacity</b>	<b>Commodity (Use)</b>	<b>Total Cost</b>	<b>Customer</b>	<b>Capacity</b>	<b>Commodity (Use)</b>
Pumps		80%	20%	\$159,869	\$0	\$127,895	\$31,974
Water Lines		80%	20%	\$5,833,669	\$0	\$4,666,936	\$1,166,734
Wells		80%	20%	\$7,947,079	\$0	\$6,357,663	\$1,589,416
Tanks		80%	20%	\$833,822	\$0	\$667,058	\$166,764
Equipment	45%	30%	25%	\$280,794	\$126,357	\$84,238	\$70,198
General	15%	85%		\$556,209	\$83,431	\$472,777	\$0
<b>Total Plant in Service</b>				<b>\$15,611,442</b>	<b>\$209,789</b>	<b>\$12,376,567</b>	<b>\$3,025,086</b>
<b>Percentage of Plant in Service</b>				<b>100%</b>	<b>1%</b>	<b>79%</b>	<b>19%</b>

Source: City of Livingston and HEC.

plant

**Table A-13**  
**City of Livingston 2021 Water Rates Update**  
**Functional Allocation of Operating Costs**

Expenditures	ACTUAL FY 2019-20	Allocation Basis	Fixed Costs		Variable Cost	
			Customer	Capacity	Commodity (Use)	Unclassified
Personnel	\$879,686	Avg. of Classified	0%	0%	0%	100%
Professional Services	\$4,336	Avg. of Classified	0%	0%	0%	100%
Contract Services	\$87,675	Avg. of Classified	0%	0%	0%	100%
Reg. Tuition Training	\$674	Avg. of Classified	0%	0%	0%	100%
City Audit	\$7,600	Avg. of Classified	0%	0%	0%	100%
Computer Support Agreements	\$26,376	Avg. of Classified	0%	0%	0%	100%
Water Storage Tanks O&M	\$2,538	Ratio Avg. to Peak Month	84%	0%	16%	0%
Water Wells O&M	\$222,882	Ratio Avg. to Peak Month	84%	0%	16%	0%
Distribution O&M	\$48,671	Ratio Avg. to Peak Month	84%	0%	16%	0%
Utilities	\$739,242	Utilities	0%	0%	100%	0%
Vehicle O&M	\$18,366	Plant In Service	1%	79%	19%	0%
Equipment O&M	\$4,795	Plant In Service	1%	79%	19%	0%
Facilities O&M	\$4,597	Plant In Service	1%	79%	19%	0%
Insurance	\$40,775	Customers	100%	0%	0%	0%
CommCell Phones	\$5,923	Customers	100%	0%	0%	0%
Advertisement	\$975	Customers	100%	0%	0%	0%
Printing	\$3,392	Customers	100%	0%	0%	0%
Bank Service Fees	\$9,318	Customers	100%	0%	0%	0%
Travel	\$244	Customers	100%	0%	0%	0%
Small Tools & Equip.	\$3,306	Customers	100%	0%	0%	0%
Office Supplies	\$1,186	Customers	100%	0%	0%	0%
Postage	\$3,340	Customers	100%	0%	0%	0%
Miscellaneous	\$1,590	Avg. of Classified	0%	0%	0%	100%
Books/Subscriptions	\$40	Customers	100%	0%	0%	0%
Dues/Memberships	\$21,883	Avg. of Classified	0%	0%	0%	100%
SGMA Fees	\$15,289	Avg. of Classified	0%	0%	0%	100%
Refunds/Reimb	\$0	Customers	100%	0%	0%	0%
Equipment Purchase	\$45,348	Plant In Service	1%	79%	19%	0%
Vehicle Purchase / Replacement	\$7,509	Plant In Service	1%	79%	19%	0%
Meter Replacement	\$50,210	Customers	100%	0%	0%	0%
<b>TOTAL OPERATING COSTS</b>	<b>\$2,257,764</b>		<b>\$350,762</b>	<b>\$63,911</b>	<b>\$797,982</b>	<b>\$1,045,109</b>
Reallocate Unclassified	\$1,045,109		\$302,299	\$55,081	\$687,729	
<b>ALLOCATION OF OPERATING COSTS</b>	<b>\$2,257,764</b>		<b>\$653,062</b>	<b>\$118,991</b>	<b>\$1,485,711</b>	
Existing Debt Service	\$78,778	Plant In Service	1%	79%	19%	
<b>Debt Service</b>			\$1,059	\$62,454	\$15,265	
<b>TOTAL ALLOCATED COSTS [1]</b>	<b>\$2,336,542</b>		<b>\$654,120</b>	<b>\$181,446</b>	<b>\$1,500,976</b>	
Percentage of Allocation			28%	8%	64%	
<b>Fixed/Variable Allocation</b>				<b>36%</b>	<b>64%</b>	

Source: City of Livingston and HEC, January 2021.

func

[1] Excludes capital project costs.

**Table A-14**  
**City of Livingston 2021 Water Rates Update**  
**Number of Meters and Meter Equivalents**

<b>Meter Size</b>	<b>Billing Meters</b>	<b>Flow (gpm)</b>	<b>Ratio</b>	<b>Meter Equivalents</b>
< 1	3,418	50	1.0	3,418
1.5	12	100	2.0	24
2	73	160	3.2	234
3	12	350	7.0	84
4	13	600	12.0	156
6	4	1,250	25.0	100
8	0	2,400	48.0	0
10	1	3,800	76.0	76
<b>Total</b>	<b>3,533</b>			<b>4,092</b>

Source: City of Livingston March 2021.

meters



**Table A-15**  
**City of Livingston 2021 Water Rates Update**  
**Projection of Water Demand**

Customer Category	Fiscal Year Ending					
	2021 (uses 5-yr avg)	2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<b>Residential</b>						
Single-Family	503,560,000	508,982,302	514,938,795	520,964,995	527,061,718	533,229,790
Multi-Family	57,007,000	56,943,791	56,943,791	56,943,791	56,943,791	56,943,791
<b>Subtotal Residential</b>	<b>560,567,000</b>	<b>565,926,093</b>	<b>571,882,586</b>	<b>577,908,786</b>	<b>584,005,509</b>	<b>590,173,580</b>
<b>Non-Residential</b>						
Commercial	85,113,000	86,774,113	88,631,435	90,528,512	92,466,194	94,445,351
Industrial	1,440,006,000	1,438,941,548	1,438,941,548	1,438,941,548	1,438,941,548	1,438,941,548
Irrigation	68,549,000	68,358,982	68,358,982	68,358,982	68,358,982	68,358,982
<b>Subtotal Non-Residential</b>	<b>1,593,668,000</b>	<b>1,594,074,642</b>	<b>1,595,931,965</b>	<b>1,597,829,042</b>	<b>1,599,766,724</b>	<b>1,601,745,881</b>
<b>Total Water Demand Est.</b>	<b>2,154,235,000</b>	<b>2,160,000,735</b>	<b>2,167,814,550</b>	<b>2,175,737,827</b>	<b>2,183,772,233</b>	<b>2,191,919,461</b>

Source: City of Livingston and HEC.

proj d

**Table A-16**  
**City of Livingston 2021 Water Rates Update**

**Price Elasticity Assumptions**

Customer Type	Estimated Elasticity	Fiscal Year Ending				
		2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
Rate Increase		5.00%	5.00%	5.00%	5.00%	5.00%
Assumption for Inflation		2.20%	2.20%	2.20%	2.20%	2.20%
<b>Price Increase Adjusted for Inflation</b>		<b>2.80%</b>	<b>2.80%</b>	<b>2.80%</b>	<b>2.80%</b>	<b>2.80%</b>
<b>Customer Type</b>						
Attached Residential	-0.10	-0.28%	-0.28%	-0.28%	-0.28%	-0.28%
Detached Residential	-0.12	-0.34%	-0.34%	-0.34%	-0.34%	-0.34%
Commercial	-0.20	-0.56%	-0.56%	-0.56%	-0.56%	-0.56%
Industrial	-0.08	-0.22%	-0.22%	-0.22%	-0.22%	-0.22%
Irrigation	-0.30	-0.84%	-0.84%	-0.84%	-0.84%	-0.84%

Source: HEC.

elasticity

California CPI Change		
February	2009	222.181
February	2019	276.655
Total Change		54.47
<b>Average Annual Change</b>		<b>2.22%</b>

**Table A-17**  
**City of Livingston 2021 Water Rates Update**  
**Projected Changes in Water Demand due to Price Changes**

Customer Category	Fiscal Year Ending					
	2021	2022 Year 1	2023 Year 2	2024 Year 3	2025 Year 4	2026 Year 5
<b>Residential</b>	<i>Projected Growth each year is 40 SF units and five 1" commercial meters</i>					
Single-Family	503,560,000	509,453,037	515,415,038	521,446,812	527,549,174	533,722,950
Multi-Family	57,007,000	57,007,000	57,007,000	57,007,000	57,007,000	57,007,000
<b>Subtotal Residential</b>	<b>560,567,000</b>	<b>566,460,037</b>	<b>572,422,038</b>	<b>578,453,812</b>	<b>584,556,174</b>	<b>590,729,950</b>
<b>Non-Residential</b>						
Commercial	85,113,000	86,934,768	88,795,529	90,696,119	92,637,388	94,620,209
Industrial	1,440,006,000	1,440,006,000	1,440,006,000	1,440,006,000	1,440,006,000	1,440,006,000
Irrigation	68,549,000	68,549,000	68,549,000	68,549,000	68,549,000	68,549,000
<b>Subtotal Non-Residential</b>	<b>1,593,668,000</b>	<b>1,595,489,768</b>	<b>1,597,350,529</b>	<b>1,599,251,119</b>	<b>1,601,192,388</b>	<b>1,603,175,209</b>
<b>Total Water Demand Est.</b>	<b>2,154,235,000</b>	<b>2,161,949,805</b>	<b>2,169,772,568</b>	<b>2,177,704,930</b>	<b>2,185,748,562</b>	<b>2,193,905,159</b>
<b>Change in Demand due to Price</b>						
<b>Residential</b>						
Single-Family		-470,735	-476,243	-481,817	-487,455	-493,160
Multi-Family		-63,209	-63,209	-63,209	-63,209	-63,209
<b>Subtotal Residential</b>		<b>-533,944</b>	<b>-539,453</b>	<b>-545,026</b>	<b>-550,665</b>	<b>-556,369</b>
<b>Non-Residential</b>						
Commercial		-160,655	-164,094	-167,606	-171,194	-174,858
Industrial		-1,064,452	-1,064,452	-1,064,452	-1,064,452	-1,064,452
Irrigation		-190,018	-190,018	-190,018	-190,018	-190,018
<b>Subtotal Non-Residential</b>		<b>-1,415,126</b>	<b>-1,418,564</b>	<b>-1,422,077</b>	<b>-1,425,664</b>	<b>-1,429,328</b>
<b>Total Water Demand Est.</b>		<b>-1,949,070</b>	<b>-1,958,017</b>	<b>-1,967,103</b>	<b>-1,976,329</b>	<b>-1,985,698</b>

Source: HEC.

elas eff

[1] Change applied to summer months consumption only.



## **APPENDIX B**

### **WASTEWATER RATE STUDY**

#### **SUPPORT TABLES**



**Table B-1**  
**City of Livingston 2021 Wastewater Rates Update**  
**Historical and Budgeted FY2021 Wastewater Fund Revenue**

Revenues	Fiscal Year Ending				
	2017 actual	2018 actual	2019 actual	2020 unaudited	2021 budget
<b>Intergovernmental</b>					
FEMA Reimbursement	\$0	\$3,528	\$0	\$0	\$0
SJVAPCD-Grnt Veh Purchase Rev	\$0	\$9,702	(\$3,035)	\$0	\$0
<b>Total Intergovernmental</b>	<b>\$0</b>	<b>\$13,230</b>	<b>(\$3,035)</b>	<b>\$0</b>	<b>\$0</b>
<b>Charges for Services</b>					
User Fees	\$2,038,750	\$2,075,866	\$2,182,325	\$2,135,272	\$2,220,000
Connection Fees	\$0	\$0	\$0	\$0	\$0
MS4 Review Fees	\$0	\$2,809	\$16,464	\$8,426	\$0
<b>Total Charges for Services</b>	<b>\$2,038,750</b>	<b>\$2,078,675</b>	<b>\$2,198,789</b>	<b>\$2,143,698</b>	<b>\$2,220,000</b>
<b>Fines &amp; Forfeits</b>					
Penalty Fees	\$24,803	\$28,702	\$22,417	\$18,098	\$33,900
<b>Total Fines &amp; Forfeits</b>	<b>\$24,803</b>	<b>\$28,702</b>	<b>\$22,417</b>	<b>\$18,098</b>	<b>\$33,900</b>
<b>Return on Use of Money/Property</b>					
Interest Income	\$2,194	\$7,976	\$13,481	\$16,412	\$610
Rental Income	\$12,000	\$12,000	\$12,000	\$22,000	\$12,360
Doms WW Land Lease Agmt	\$2,500	\$1,000	\$0	\$0	\$1,500
<b>Total Return on Use of Money</b>	<b>\$16,694</b>	<b>\$20,976</b>	<b>\$25,481</b>	<b>\$38,412</b>	<b>\$14,470</b>
<b>Miscellaneous</b>					
Miscellaneous	\$4,188	\$19,281	\$0	\$0	\$0
Reimbursements	\$1,306	\$1,642	\$66,181	\$19,388	\$4,550
Other Revenue	\$5,494	\$20,923	\$285	\$3,364	\$0
<b>Total Miscellaneous</b>	<b>\$10,988</b>	<b>\$41,847</b>	<b>\$66,466</b>	<b>\$22,752</b>	<b>\$4,550</b>
<b>Total Revenues</b>	<b>\$2,091,235</b>	<b>\$2,183,429</b>	<b>\$2,310,119</b>	<b>\$2,222,959</b>	<b>\$2,272,920</b>

Source: City of Livingston financial documents.

revs

**Table B-2**  
**City of Livingston 2021 Wastewater Rates Update**  
**Historical and Budgeted FY2021 Wastewater Fund Expenses**

Operating Expenses	Fiscal Year Ending				
	2017 actual	2018 actual	2019 actual	2020 unaudited	2021 budget
<b>Personnel</b>	<b>\$422,346</b>	<b>\$543,621</b>	<b>\$598,896</b>	<b>\$724,942</b>	<b>\$718,293</b>
<b>Maintenance and Operations</b>					
Professional Services	\$29,159	\$2,627	\$3,467	\$5,101	\$20,000
Contract Services	\$170,414	\$93,526	\$84,263	\$77,160	\$107,222
RegistrationTuitionTraining	\$1,653	\$3,037	\$2,923	\$1,911	\$2,500
City Audit	\$7,420	\$7,600	\$7,600	\$7,600	\$7,600
Computer Support Agreements	\$15,757	\$21,453	\$21,012	\$20,140	\$28,000
Distribution O & M	\$6,147	\$8,141	\$6,214	\$1,591	\$10,000
Utilities	\$219,906	\$246,101	\$237,325	\$292,630	\$258,900
Soccer Field Utilities	\$1,907	\$1,890	\$0	\$0	\$0
Vehicle O & M	\$16,190	\$28,114	\$22,432	\$18,417	\$40,000
Equipment O & M	\$60,062	\$13,349	\$20,791	\$37,302	\$50,000
Facilities O & M	\$48,438	\$20,398	\$47,757	\$22,660	\$50,000
Storm Drain O & M	\$0	\$0	\$14,047	\$291	\$25,000
Wastewater Trtmnt Plant O&M	\$5,116	\$13,543	\$22,976	\$27,994	\$50,000
RentsLeases	\$8,600	\$4,390	\$5,736	\$0	\$10,000
Insurance	\$59,012	\$59,075	\$61,562	\$71,987	\$63,060
CommCell PhonesTelephone	\$4,641	\$7,844	\$7,185	\$8,353	\$9,000
Advertisement	\$140	\$1,671	\$437	\$952	\$2,000
Printing	\$463	\$366	\$1,121	\$428	\$5,000
Bank Service Fee Agreements	\$5,176	\$6,467	\$7,496	\$9,318	\$3,500
TravelConferencesMeetings	\$586	\$520	\$253	\$35	\$2,250
Lab Processing Expense	\$16,288	\$17,892	\$26,802	\$17,728	\$30,000
Small Tools & Equipment	\$7,748	\$5,897	\$7,997	\$3,540	\$7,000
Postage	\$7,763	\$7,233	\$7,911	\$1,543	\$8,500
Miscellaneous Expenditures	\$1,392	\$831	\$262	\$1,861	\$2,500
DuesMembershipFees	\$27,150	\$41,621	\$43,554	\$57,802	\$53,870
Cost of Issuance-2016ARfndBond	\$250,931	\$0	\$0	\$0	\$0
Amortizat. Exp 2016A Refunding	(\$4,548)	(\$6,822)	(\$6,822)	\$0	\$0
Merced County Taxes	\$11,106	\$11,237	\$11,342	\$11,626	\$11,500
<b>Total Maintenance &amp; Operations</b>	<b>\$978,618</b>	<b>\$618,001</b>	<b>\$665,647</b>	<b>\$697,970</b>	<b>\$857,402</b>
<b>Supplies</b>					
Office Supplies	\$3,856	\$2,741	\$2,458	\$888	\$3,500
<b>Total Supplies</b>	<b>\$3,856</b>	<b>\$2,741</b>	<b>\$2,458</b>	<b>\$888</b>	<b>\$3,500</b>
<b>Vehicles, Equip &amp; Improvements</b>					
Equipment Purchase	\$42,348	\$9,976	\$21,381	\$67,260	\$94,204
Vehicle Purchase	\$0	\$0	\$0	\$7,509	\$0
Vehicle Replacement Fee	\$0	\$0	\$0	\$0	\$100,000
FurnitureFixtureImprovements	\$0	\$500	\$0	\$0	\$0
ImprovementsInfrastructure	\$0	\$53,802	\$0	\$0	\$0
SJVAPCD Grnt Vehicle Purchase	\$0	\$0	\$0	\$0	\$0
<b>Vehicles, Equip &amp; Improvements</b>	<b>\$42,348</b>	<b>\$64,278</b>	<b>\$21,381</b>	<b>\$74,769</b>	<b>\$194,204</b>
<b>Debt Service</b>					
Refnd Bond Ser.2016A-Principal	\$0	\$0	\$0	\$190,000	\$190,000
USDA Series A - Interest	\$31,470	\$0	\$0	\$0	\$0
USDA Series B - Interest	\$28,553	\$0	\$0	\$0	\$0
Refund Bond Ser.2016A-Interest	\$187,023	\$271,950	\$214,279	\$263,000	\$261,250
<b>Debt Service</b>	<b>\$247,046</b>	<b>\$271,950</b>	<b>\$214,279</b>	<b>\$453,000</b>	<b>\$451,250</b>
Transfer Out	\$0	\$0	\$148,566	\$0	\$0
<b>Total Expenses</b>	<b>\$1,694,213</b>	<b>\$1,500,591</b>	<b>\$1,651,226</b>	<b>\$1,951,569</b>	<b>\$2,224,649</b>

Source: City of Livingston financial documents.

exps



**Table B-3**  
**City of Livingston 2021 Wastewater Rates Update**  
**Current Number of Wastewater Accounts**

Customer Code	Billing Cycle					TOTAL
	1	2	3	4	999	
<b>Flat Monthly Charges</b>						
SCOO Commercial Base	3		126			<b>129</b>
SOUT Residential Outside City	2		1			<b>3</b>
SRES Residential	3,235	57	4	2		<b>3,298</b>
SMU Multi Unit Residential		22	4			<b>26</b>
SC02 Churches/Temples/Comm Ctrs			16			<b>16</b>
SC16 Schools			6			<b>6</b>
SHM Hotels /Motels			2			<b>2</b>
SCC2 Laudromat					1	<b>1</b>
<b>TOTAL</b>	<b>3,240</b>	<b>79</b>	<b>159</b>	<b>2</b>	<b>1</b>	<b>3,481</b>

Source: City of Livingston Utility billing records.

accounts

**Table B-4**  
**City of Livingston 2021 Wastewater Rates Update**

**Wastewater Treatment Plant Flow**

Month	2016	2017	2018	2019	2020	Average	
						BOD	SS
	Millions of Gallons					Mg/L	Mg/L
Jan	31.27	35.02	35.24	31.72	35.28	288	346
Feb	28.38	33.80	32.14	28.57	33.64	425	1,115
Mar	31.61	32.85	35.69	31.65	37.18	288	368
Apr	30.32	34.64	33.33	30.22	35.98	250	177
May	31.28	34.60	33.77	32.34	38.51	200	155
Jun	30.40	31.65	33.12	31.99	39.23	350	403
Jul	32.26	32.38	34.11	33.14	40.45	313	320
Aug	32.20	36.66	35.00	35.25	40.24	353	630
Sep	30.08	35.31	35.14	33.09	38.76	280	353
Oct	30.39	35.38	33.98	33.96	39.65	265	440
Nov	32.55	33.60	31.39	32.89	38.27	310	411
Dec	32.89	33.62	31.26	35.18	39.42	263	193
<b>Total</b>	<b>373.63</b>	<b>409.51</b>	<b>404.17</b>	<b>390.00</b>	<b>456.61</b>	<b>299</b>	<b>409</b>
<b>Avg. Flow per Day</b>	<b>1.02</b>	<b>1.12</b>	<b>1.11</b>	<b>1.07</b>	<b>1.25</b>		

Source: City of Livingston treatment plant records.

param

**Table B-5  
City of Livingston 2021 Wastewater Rates Update**

**Wastewater Capital Improvements Plan**

**No COVID Relief Funding**

Capital Project	Funding Source	Fiscal Year Ending					
		2021	2022	2023	2024	2025	2026
<b>Treatment Plant</b>							
Biosolids Dewatering Equipment	Rates		\$300,000	\$200,000			
SCADA Tower	Rates		\$15,000				
<b>Total Treatment Plant</b>		<b>\$0</b>	<b>\$315,000</b>	<b>\$200,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Collection System</b>							
Lift Station Rehabilitation (Singh & Burgandy)	Rates		\$100,000	\$100,000			
Sewer Line Replacement [1]	Grant	\$3,050,000					
Additional Sewer Line Replacement	Rates			\$330,000	\$500,000	\$650,000	\$700,000
New Disc & Ripper Tractor	Rates		\$215,000				
New Vac-On Sewer Truck	Rates				\$350,000		
<b>Total Collection System</b>		<b>\$3,050,000</b>	<b>\$315,000</b>	<b>\$430,000</b>	<b>\$850,000</b>	<b>\$650,000</b>	<b>\$700,000</b>
<b>Total Wastewater System</b>		<b>\$6,510,000</b>	<b>\$3,050,000</b>	<b>\$630,000</b>	<b>\$630,000</b>	<b>\$850,000</b>	<b>\$700,000</b>
Funded by Grants		\$3,050,000	\$3,050,000	\$0	\$0	\$0	\$0
Funded by Rates		\$3,460,000	\$0	\$630,000	\$630,000	\$850,000	\$700,000
Funded by Loan		\$0	\$0	\$0	\$0	\$0	\$0

Source: City of Livingston Public Works January 2021.

cip

[1] The City has secured CDBG grant funding for this project.

**Table B-6**  
**City of Livingston 2021 Wastewater Rates Update**  
**2016A Sewer Revenue Refunding Bonds**

<b>Fiscal Year Ending</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Debt Service</b>
2017	\$220,000	\$95,790	\$315,790
2018	\$175,000	\$273,700	\$448,700
2019	\$180,000	\$268,450	\$448,450
2020	\$190,000	\$261,250	\$451,250
2021	\$195,000	\$253,650	\$448,650
2022	\$200,000	\$245,850	\$445,850
2023	\$210,000	\$237,850	\$447,850
2024	\$220,000	\$229,450	\$449,450
2025	\$230,000	\$220,650	\$450,650
2026	\$240,000	\$211,450	\$451,450
2027	\$250,000	\$201,850	\$451,850
2028	\$260,000	\$191,850	\$451,850
2029	\$265,000	\$181,450	\$446,450
2030	\$280,000	\$170,850	\$450,850
2031	\$290,000	\$159,650	\$449,650
2032	\$300,000	\$148,050	\$448,050
2033	\$315,000	\$136,050	\$451,050
2034	\$325,000	\$123,450	\$448,450
2035	\$335,000	\$112,888	\$447,888
2036	\$345,000	\$102,000	\$447,000
2037	\$355,000	\$90,788	\$445,788
2038	\$365,000	\$78,806	\$443,806
2039	\$385,000	\$66,488	\$451,488
2040	\$395,000	\$53,494	\$448,494
2041	\$410,000	\$40,163	\$450,163
2042	\$420,000	\$26,325	\$446,325
2043	\$360,000	\$12,150	\$372,150

Source: Revenue Bond documents.

ref bonds

**Table B-7**  
**City of Livingston 2021 Wastewater Rates Update**

**Summary of Depreciation in Rates**

Facility Depreciation	Fiscal Year Ending					
	2021	2022	2023	2024	2025	2026
Existing System [1]	\$375,112	\$375,112	\$375,112	\$375,112	\$375,112	\$375,112
New Facilities	\$38,125	\$73,626	\$87,864	\$133,598	\$142,922	\$153,314
<b>Total Depreciation</b>	<b>\$413,237</b>	<b>\$448,738</b>	<b>\$462,976</b>	<b>\$508,711</b>	<b>\$518,034</b>	<b>\$528,427</b>
Percentage in Rates	0%	0%	0%	0%	0%	0%
<b>Depreciation in Rates</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Source: City of Livingston and HEC.

depr

[1] Current annual depreciation:

Lift Stations	\$30,424
Collection System	\$9,932
Treatment Plant	\$317,635
Equipment & Vehicles	\$17,122
<b>Total Annual Depreciation</b>	<b>\$375,112</b>

**Table B-8**  
**City of Livingston 2021 Wastewater Rates Update**  
**Depreciation for New CIP**

Wastewater System	Useful Life	Fiscal Year Ending					
		2021	2022	2023	2024	2025	2026
<b>Treatment Plant</b>							
	years						
Biosolids Dewatering Equipment	30	\$0	\$10,350	\$17,492	\$17,492	\$17,492	\$17,492
SCADA Tower	50	\$0	\$311	\$311	\$311	\$311	\$311
<b>Total Treatment Plant</b>		<b>\$0</b>	<b>\$10,661</b>	<b>\$17,802</b>	<b>\$17,802</b>	<b>\$17,802</b>	<b>\$17,802</b>
<b>Collection System</b>							
Lift Station Rehabilitation (Singh & Burgandy)	40	\$0	\$2,588	\$5,266	\$5,266	\$5,266	\$5,266
Sewer Line Replacement	80	\$38,125	\$38,125	\$38,125	\$38,125	\$38,125	\$38,125
Additional Sewer Line Replacement	80	\$0	\$0	\$4,419	\$11,348	\$20,672	\$31,064
New Disc & Ripper Tractor	10	\$0	\$22,253	\$22,253	\$22,253	\$22,253	\$22,253
New Vac-On Sewer Truck	10	\$0	\$0	\$0	\$38,805	\$38,805	\$38,805
<b>Total Collection System</b>		<b>\$38,125</b>	<b>\$62,965</b>	<b>\$70,062</b>	<b>\$115,796</b>	<b>\$125,120</b>	<b>\$135,512</b>
<b>TOTAL</b>		<b>\$38,125</b>	<b>\$73,626</b>	<b>\$87,864</b>	<b>\$133,598</b>	<b>\$142,922</b>	<b>\$153,314</b>

Source: City of Livingston capital improvement plan, and HEC.

new depr

**Table B-9**

**City of Livingston 2021 Wastewater Rates Update**

**Projected Costs and Distribution between Collection and Treatment System**

**Year 1**

**Fiscal Year Ending 2022**

Expenditures	Projected Total	Allocation		Collection			Treatment		
		Collection	Treatment	Operations	Capital	Total	Operations	Capital	Total
Personnel	\$761,390	20%	80%	\$152,278		\$152,278	\$609,112		\$609,112
New Personnel [1]	\$76,100	20%	80%	\$15,220		\$15,220	\$60,880		\$60,880
Professional & Contract Services	\$138,867	20%	80%	\$27,773		\$27,773	\$111,093		\$111,093
Treatment Plant O&M	\$51,750	20%	80%	\$10,350		\$10,350	\$41,400		\$41,400
Collection & Facilities O&M	\$62,100	20%	80%	\$12,420		\$12,420	\$49,680		\$49,680
Utilities	\$269,256	20%	80%	\$53,851		\$53,851	\$215,405		\$215,405
Facilities, Equipment & Other O&M	\$119,025	20%	80%	\$23,805		\$23,805	\$95,220		\$95,220
Tools, Subscriptions, Supplies	\$248,235	20%	80%	\$49,647		\$49,647	\$198,588		\$198,588
Series 2016A Refunding	\$445,850	20%	80%		\$89,170	\$89,170		\$356,680	\$356,680
New Debt Service	\$0	20%	80%		\$0	\$0		\$0	\$0
System Rehabilitation and New Projects	\$702,050	20%	80%		\$140,410	\$140,410		\$561,640	\$561,640
Additional Collection for Depreciation	\$0	20%	80%		\$0	\$0		\$0	\$0
<b>Subtotal Costs</b>	<b>\$2,874,622</b>			<b>\$345,344</b>	<b>\$229,580</b>	<b>\$574,924</b>	<b>\$1,381,378</b>	<b>\$918,320</b>	<b>\$2,299,698</b>
Less Offsetting Credits	(\$52,920)								
Adjustment for Rate Collection	(\$41,702)								
<b>Total</b>	<b>\$2,780,000</b>								

Source: City of Livingston financial documents and HEC.

distr

**Table B-10**  
**City of Livingston 2021 Wastewater Rates Update**  
**Unit Cost Determination**

**Year 1**  
**Fiscal Year Ending 2022**

Cost Category	Allocated Costs	Percent Allocation			Cost			Total Influent			Unit Cost Per:		
		Flow	BOD	SS	Flow	BOD	SS	Flow	BOD	SS	Mgal of Flow	Klb of BOD	Klb of SS
	(A)	(B)	(C)	(D)	(E) = (A)*(B)	(F)=(A)*(C)	(G)=(A)*(D)	(H)	(I)	(J)	(K)=(E)/(H)	(L)=(F)/(I)	(M)=(G)/(J)
<b>Operating Costs</b>													
Collection System Costs	\$345,344	100%	0%	0%	\$345,344	\$0	\$0	424	1,090	1,096	\$815	\$0	\$0
Treatment Costs	\$1,381,378	60%	20%	20%	\$828,827	\$276,276	\$276,276	424	1,090	1,096	\$1,956	\$254	\$252
<b>Capital Costs</b>													
Collection System Costs	\$229,580	100%	0%	0%	\$229,580	\$0	\$0	424	1,090	1,096	\$542	\$0	\$0
Treatment Costs	\$918,320	60%	20%	20%	\$550,992	\$183,664	\$183,664	424	1,090	1,096	\$1,300	\$169	\$168
<b>Subtotal Collection Costs</b>	<b>\$574,924</b>	<b>100%</b>	<b>0%</b>	<b>0%</b>	<b>\$574,924</b>	<b>\$0</b>	<b>\$0</b>				<b>\$1,357</b>	<b>\$0</b>	<b>\$0</b>
<b>Subtotal Treatment Costs</b>	<b>\$2,299,698</b>	<b>60%</b>	<b>20%</b>	<b>20%</b>	<b>\$1,379,819</b>	<b>\$459,940</b>	<b>\$459,940</b>				<b>\$3,256</b>	<b>\$422</b>	<b>\$420</b>
<b>Subtotal Costs</b>	<b>\$2,874,622</b>	<b>68%</b>	<b>16%</b>	<b>16%</b>	<b>\$1,954,743</b>	<b>\$459,940</b>	<b>\$459,940</b>				<b>\$4,613</b>	<b>\$422</b>	<b>\$420</b>
Less Offsetting Credits	(\$52,920)	68%	16%	16%	(\$35,986)	(\$8,467)	(\$8,467)	424	1,090	1,096	(\$85)	(\$8)	(\$8)
Adjustment for Rate Collector	(\$41,702)	68%	16%	16%	(\$28,358)	(\$6,672)	(\$6,672)	424	1,090	1,096	(\$67)	(\$6)	(\$6)
<b>TOTAL COSTS</b>	<b>\$2,780,000</b>				<b>\$1,890,400</b>	<b>\$444,800</b>	<b>\$444,800</b>				<b>\$4,461</b>	<b>\$408</b>	<b>\$406</b>

Source: City of Livingston financial documents and HEC.

units



**Table B-11**

**City of Livingston 2021 Wastewater Rates Update**

**Allocation of Costs to Flow, BOD and SS by Customer Category**

Year 1  
Fiscal Year Ending 2022

Unit Cost / Customer Category	Flow MG/Yr	BOD Klb/Yr	SS Klb/Yr	Collection	Treatment			Other			TOTAL
				Flow \$/Mgal	Flow \$/Mgal	BOD \$/Klb	SS \$/Klb	Flow \$/Mgal	BOD \$/Klb	SS \$/Klb	
<b>Unit Cost</b>				<b>\$1,357</b>	<b>\$3,256</b>	<b>\$422</b>	<b>\$420</b>	<b>(\$152)</b>	<b>(\$14)</b>	<b>(\$14)</b>	
<b>Residential</b>											
Detached	304.9	635.6	635.6	\$413,607	\$992,656	\$268,317	\$266,713	(\$46,289)	(\$8,832)	(\$8,779)	\$1,877,392
Attached	42.9	89.4	89.4	\$58,175	\$139,620	\$37,740	\$37,514	(\$6,511)	(\$1,242)	(\$1,235)	\$264,060
<b>Non-Residential</b>											
Churches/Temples/Comm.Ctrs.	1.6	2.1	2.3	\$2,218	\$5,324	\$892	\$973	(\$248)	(\$29)	(\$32)	\$9,098
Schools (with cafeteria)	13.4	25.7	18.4	\$18,183	\$43,640	\$10,852	\$7,739	(\$2,035)	(\$357)	(\$255)	\$77,768
Hotel/Motel	2.9	8.4	12.0	\$3,914	\$9,395	\$3,555	\$5,048	(\$438)	(\$117)	(\$166)	\$21,192
Light Industrial	18.7	155.6	124.5	\$25,309	\$60,742	\$65,675	\$52,226	(\$2,832)	(\$2,162)	(\$1,719)	\$197,238
Commercial	39.4	172.7	213.8	\$53,518	\$128,442	\$72,908	\$89,728	(\$5,989)	(\$2,400)	(\$2,954)	\$333,253
<b>TOTAL</b>	<b>423.8</b>	<b>1,089.6</b>	<b>1,096.2</b>	<b>\$574,924</b>	<b>\$1,379,819</b>	<b>\$459,940</b>	<b>\$459,940</b>	<b>(\$64,343)</b>	<b>(\$15,140)</b>	<b>(\$15,140)</b>	<b>\$2,780,000</b>

Source: City of Livingston financial documents and HEC.

alloc

**Table B-12**  
**City of Livingston 2021 Wastewater Rates Update**  
**Allocation of Cost to Industrial Laundromat (a sub-category within the Light Industrial Category)**

	User Characteristics				Annual Quantities		
	No. Billing Units	Flow [1] GPD	BOD MG/L	SS MG/L	Flow MG	BOD Lbs	SS Lbs
Industrial Laundromat	1	42,447	490	330	15.5	63,314	42,640
Cost per Unit					\$4,461	\$408	\$406
<b>Total Allocated Cost</b>	<b>\$112,262</b>				<b>\$69,113</b>	<b>\$25,846</b>	<b>\$17,303</b>

Category	SWRCB Guideline		
Laundromat	NO	150	110
Laundry, Commercial	LOW-END	450	240
<b>Livingston Industrial Laundromat (est.)</b>		<b>490</b>	<b>330</b>
Industrial Laundry	HIGH-END	670	680

Source: City of Livingston billing records and HEC, May 2021.

text

[1] 75% of actual flow averaged over the past 24 months.

**Table B-13**

**City of Livingston 2021 Wastewater Rates Update  
Calculated Cost per Thousand Gallons**

**Year 1  
Fiscal Year Ending 2022**

<b>Customer Type</b>	<b>Allocated Cost</b>	<b>Percentage of Cost</b>	<b>Annual Flow (MG)</b>	<b>Cost per 1,000 Gallons</b>
<b>Residential</b>				
Detached	\$1,877,392	67.5%	304.87	\$6.16
Attached	\$264,060	9.5%	42.88	\$6.16
<b>Subtotal Residential</b>	<b>\$2,141,452</b>	<b>77.0%</b>	<b>347.75</b>	<b>\$6.16</b>
<b>Non-Residential</b>				
Churches/Temples/Comm.Ctrs.	\$9,098	0.3%	1.64	\$5.56
Schools (with cafeteria)	\$77,768	2.8%	13.40	\$5.80
Hotel/Motel	\$21,192	0.8%	2.89	\$7.34
Light Industrial	\$197,238	7.1%	18.66	\$10.57
Industrial Laudromat (sub-category)	\$112,262		15.49	\$7.25
Commercial	\$333,253	12.0%	39.45	\$8.45
<b>Subtotal Non-Residential</b>	<b>\$638,548</b>	<b>23.0%</b>	<b>91.52</b>	<b>\$6.98</b>
<b>TOTAL</b>	<b>\$2,780,000</b>	<b>100.0%</b>	<b>439.27</b>	<b>\$6.33</b>

Source: City of Livingston financial documents and HEC.

cos

**Table B-14**  
**City of Livingston 2021 Wastewater Rates Update**  
**Projected Number of Billing Units**

<b>Customer Categories</b>		<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>
	<i>Growth Rate [1] ---&gt;</i>		1.2%	1.2%	1.2%	1.2%	1.2%
<b>Residential</b>							
Detached	Units	3,301	3,341	3,381	3,422	3,463	3,505
Attached	Units	528	534	540	546	553	560
<b>Subtotal Residential</b>		<b>3,829</b>	<b>3,875</b>	<b>3,921</b>	<b>3,968</b>	<b>4,016</b>	<b>4,065</b>
<b>Non-Residential</b>							
Churches/Temples/Comm.Ctrs.	Accounts	16	16	16	16	16	16
Schools (with cafeteria) [2]	Students	3,723	3,723	3,723	3,723	3,723	3,723
Hotel/Motel	Rooms	93	93	93	93	93	93
Light Industrial	Accounts	1	1	1	1	1	1
Commercial	Accounts	129	131	133	135	137	139

Source: City of Livingston customer records, and HEC.

services

[1] Growth rate applied to residential and commercial categories only.

[2] No growth - historical data for last 5 years shows no growth.

# **APPENDIX C**

## **SOLID WASTE RATE STUDY**

### **SUPPORT TABLES**



**Table C-1**  
**City of Livingston 2021 Solid Waste Rates Update**  
**Historical and Budgeted Sanitation Fund Revenues**

Revenues	Fiscal Year Ending				
	2017 actual	2018 actual	2019 actual	2020 unaudited	2021 budget
<b>Intergovernmental</b>					
Grant Funds	\$10,000	\$5,000	\$5,000	\$5,000	\$0
CMAQ Grant For CNG Sweeper	\$0	\$0	\$0	\$0	\$0
SJVAPCD-Grnt Veh Purchase Rev	\$0	\$9,702	(\$3,035)	\$0	\$0
<b>Subtotal Intergovernmental</b>	<b>\$10,000</b>	<b>\$14,702</b>	<b>\$1,965</b>	<b>\$5,000</b>	<b>\$0</b>
<b>Charges for Services</b>					
User Fees	\$1,371,342	\$1,386,815	\$1,417,249	\$1,473,678	\$1,426,625
Developer Impact Fees	\$0	\$0	\$0	\$0	\$0
<b>Subtotal Charges for Services</b>	<b>\$1,371,342</b>	<b>\$1,386,815</b>	<b>\$1,417,249</b>	<b>\$1,473,678</b>	<b>\$1,426,625</b>
<b>Fines &amp; Forfeitures</b>					
Penalty Fees	\$15,229	\$17,733	\$15,595	\$11,648	\$13,905
<b>Subtotal Fines &amp; Forfeitures</b>	<b>\$15,229</b>	<b>\$17,733</b>	<b>\$15,595</b>	<b>\$11,648</b>	<b>\$13,905</b>
<b>Return on Use of Money/Property</b>					
True Value Parking Lot Maint	\$0	\$0	\$0	\$0	\$0
Plaza Parking Lot Maint	\$0	\$0	\$0	\$0	\$0
Interest Income	\$1,476	\$7,549	\$14,901	\$12,395	\$5,150
<b>Subtotal Return on Use of Money/Property</b>	<b>\$1,476</b>	<b>\$7,549</b>	<b>\$14,901</b>	<b>\$12,395</b>	<b>\$5,150</b>
<b>Miscellaneous</b>					
Reimbursements/Refunds	\$3,080	\$9,782	\$5,991	\$4,956	\$5,150
Other Revenue	\$407	\$236	\$71	\$127	\$0
RMA Insurance Refunds	\$0	\$0	\$0	\$0	\$0
<b>Subtotal Miscellaneous</b>	<b>\$3,487</b>	<b>\$10,019</b>	<b>\$6,061</b>	<b>\$5,083</b>	<b>\$5,150</b>
<b>Total Revenues</b>	<b>\$1,401,534</b>	<b>\$1,436,818</b>	<b>\$1,455,771</b>	<b>\$1,507,804</b>	<b>\$1,450,830</b>

Source: City of Livingston financial documents.

rev

**Table C-2**  
**City of Livingston 2021 Solid Waste Rates Update**  
**Historical and Budgeted Sanitation Fund Expenses**

Expenses	Fiscal Year Ending				
	2017	2018	2019	2020	2021
	actual	actual	actual	unaudited	budget
<b>Personnel</b>	<b>\$91,307</b>	<b>\$180,716</b>	<b>\$194,064</b>	<b>\$233,479</b>	<b>\$248,044</b>
<b>Maintenance and Operations</b>					
Professional Services	\$3,727	\$1,123	\$1,180	\$3,031	\$2,700
Contract Services	\$54,788	\$18,930	\$17,060	\$44,120	\$45,000
Service Agreements	\$0	\$0	\$0	\$0	\$0
Disposal Contract Services	\$907,749	\$919,518	\$997,084	\$1,059,650	\$1,052,400
RegistrationTuitionTraining	\$81	\$0	\$0	\$78	\$750
City Attorney	\$0	\$0	\$0	\$0	\$0
City Audit	\$7,420	\$7,600	\$8,000	\$8,000	\$8,000
Computer Support Agreements	\$14,639	\$22,009	\$21,136	\$20,432	\$25,000
Plaza Parking Lot O & M	\$0	\$0	\$0	\$0	\$0
Utilities	\$0	\$0	\$0	\$0	\$0
Vehicle O & M	\$2,807	\$942	\$5,050	\$6,858	\$8,700
Equipment O & M	\$13	\$39	\$0	\$64	\$6,700
Facilities O & M	\$810	\$120	\$0	\$87	\$6,000
True Value Parking Lot O & M	\$0	\$0	\$0	\$0	\$0
RentsLeases	\$0	\$0	\$0	\$0	\$0
Street Sweeper O & M	\$0	\$0	\$0	\$0	\$0
Insurance	\$5,594	\$4,811	\$4,831	\$5,220	\$5,250
CommCell PhonesTelephone	\$134	\$2,201	\$2,447	\$2,481	\$3,000
Advertisement	\$0	\$0	\$417	\$58	\$800
Printing	\$463	\$366	\$507	\$428	\$2,000
Bank Service Fee Agreements	\$5,176	\$6,467	\$7,496	\$9,318	\$6,000
Trustee Fees	\$0	\$0	\$0	\$0	\$0
TravelConferencesMeetings	\$586	\$102	\$146	\$87	\$1,000
Small Tools & Equipment	\$351	\$434	\$82	\$198	\$750
Office Supplies	\$3,230	\$2,412	\$2,178	\$737	\$3,800
Postage	\$7,774	\$7,192	\$7,905	\$1,433	\$10,500
ReimbursementRefunds	\$0	\$0	\$0	\$0	\$0
Miscellaneous Expenditures	\$0	\$78	(\$56)	\$0	\$0
BooksSubscriptionsPeriodical	\$0	\$0	\$0	\$0	\$0
DuesMembershipFees	\$2,088	\$482	\$732	\$3,172	\$2,290
RecycleLitter Grant Expense	(\$11,947)	\$0	\$12,698	\$1,301	\$5,000
Payment In Lieu Tax	\$0	\$0	\$0	\$0	\$0
Bad Debt Write Offs	\$0	\$0	\$0	\$0	\$0
<b>Subtotal Maintenance and Operations</b>	<b>\$1,005,483</b>	<b>\$994,826</b>	<b>\$1,088,893</b>	<b>\$1,166,753</b>	<b>\$1,195,640</b>
<b>Vehicles, Equip &amp; Improvements</b>					
Equipment Purchase	\$788	\$3,592	\$0	\$3,111	\$13,750
Garbage Container Purchase	\$0	\$0	\$0	\$0	\$0
Vehicle Purchase	\$0	\$0	\$0	\$7,509	\$285,000
Vehicle Replacement Fee	\$0	\$0	\$0	\$0	\$0
Purchase Street Sweeper	\$0	\$0	\$0	\$0	\$0
FurnitureFixtureImprovements	\$0	\$199	\$0	\$0	\$0
SJVAPCD Grant Vehicle Purchase	\$0	\$0	\$0	\$0	\$0
<b>Subtotal Vehicles, Equip. &amp; Improvements</b>	<b>\$788</b>	<b>\$3,791</b>	<b>\$0</b>	<b>\$10,621</b>	<b>\$298,750</b>
<b>Total Expenses</b>	<b>\$1,097,578</b>	<b>\$1,179,333</b>	<b>\$1,282,957</b>	<b>\$1,410,853</b>	<b>\$1,742,434</b>

Source: City of Livingston financial documents.

exp



**Table C-3**  
**City of Livingston 2021 Solid Waste Rates Update**  
**Gilton Rates Fiscal Year 2020/21**

<b>Collections per Week</b>	<b>Rates Effective 1 July 2020</b>				
	x1	x2	x3	x4	x5
<b>Residential</b>					
96 gal. cart	\$17.54				
Add'l cart	\$4.63				
96 gal. cart greenwaste	\$0.93				
Add'l greenwaste cart	\$4.63				
<b>Multi-Family Residential, Commercial and Organic Services</b>					
1 CY	\$33.03	\$65.49	\$97.84	\$130.26	\$162.67
2 CY	\$65.84	\$130.50	\$196.76	\$261.95	\$327.13
3 CY	\$97.54	\$184.49	\$277.99	\$365.78	\$445.00
4 CY	\$124.85	\$243.29	\$380.49	\$465.25	\$557.42
6 CY	\$175.54	\$342.18	\$523.29	\$652.47	\$821.32
<b>Commercial - Compacting Bins</b>					
3 CY	\$339.19	\$653.68	\$981.51	\$1,308.68	\$1,635.84
4 CY	\$430.24	\$823.58	\$1,308.68	\$1,744.90	\$2,181.14
<b>Standard Clean, Mixed Recyclables</b>					
4 CY	\$49.79	\$99.59	\$149.39	\$199.19	\$248.98
6 CY	\$49.79	\$99.59	\$149.39	\$199.19	\$248.98

Source: Letter 5/1/20 from Gilton Solid Waste Management, Inc.

gilton

**Table C-4**  
**City of Livingston 2021 Solid Waste Rates Update**

**Projected Number of Sanitation Services**

Customer Type	Current No. of Customers	Projected Number of Services				
		2022	2023	2024	2025	2026
<i>Estimated Growth Rate --&gt;</i>		1.2%	1.2%	1.2%	1.2%	1.2%
<b>Residential</b>						
96 gal. cart	3,268	3,307	3,347	3,387	3,428	3,469
Add'l cart	310	314	318	322	326	330
96 gal. cart greenwaste	3,241	3,280	3,319	3,359	3,399	3,440
Add'l greenwaste cart	11	11	11	11	11	11
<b>Multi-Family &amp; Comm'l - 1x / Week</b>						
1 CY	5	5	5	5	5	5
2 CY	31	31	31	31	31	31
3 CY	14	14	14	14	14	14
4 CY	19	19	19	19	19	19
6 CY	7	7	7	7	7	7
<b>Organic Carts</b>						
2 CY	0	0	0	0	0	0
4 CY	8	8	8	8	8	8
6 CY	0	0	0	0	0	0
<b>Multi-Family &amp; Comm'l - 2x/Week</b>						
1 CY	0	0	0	0	0	0
2 CY	1	1	1	1	1	1
3 CY	2	2	2	2	2	2
4 CY	15	15	15	15	15	15
6 CY	10	10	10	10	10	10
<b>Organic Carts</b>						
2 CY	1	1	1	1	1	1
4 CY	5	5	5	5	5	5
6 CY	1	1	1	1	1	1
<b>Multi-Family &amp; Comm'l - 3x/Week</b>						
1 CY	0	0	0	0	0	0
2 CY	0	0	0	0	0	0
3 CY	1	1	1	1	1	1
4 CY	5	5	5	5	5	5
6 CY	2	2	2	2	2	2
<b>TOTAL</b>	<b>3,395</b>	<b>3,434</b>	<b>3,474</b>	<b>3,514</b>	<b>3,555</b>	<b>3,596</b>

Source: City of Livingston and HEC January 2021.

services

# STAFF REPORT

**AGENDA ITEM:** RESOLUTION AND ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON ESTABLISHING NEW RATES FOR WASTEWATER SERVICE  
(CONTINUED FROM AUGUST 17, 2021 CITY COUNCIL MEETING)

**MEETING DATE:** September 21, 2021

**PREPARED BY:** Vanessa L. Portillo, Finance Director  
Catherine Hansford, Consultant

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## **RECOMMENDATION:**

Staff recommends that the City Council take the following actions:

1. Adopt Resolution No. 2021-\_\_\_\_, adopting a New Rate Schedule for Domestic Wastewater Service, effective November 4, 2021; and
2. Waive first reading and introduce Ordinance No. \_\_\_\_, establishing rates for Domestic Wastewater Service, effective November 4, 2021; or
3. Postpone the Sewer Rate implementation.

## **BACKGROUND:**

In 1996, California voters approved Proposition 218, the “Right to Vote on Taxes Act,” which added Articles X111C and XIID to the California Constitution. Since its adoption, various court cases in 2005 and 2006, most notably *Bighorn-Desert View Water Agency v. Verjil*; *Richmond v. Shasta Community Services District*; and the *Howard Jarvis Taxpayers Association v. City of Fresno*, extended the application of Proposition 218 from general taxes and assessments to utility user fees provided by public agencies (i.e., sewer, water and waste collection, etc.).

The City contracted the services of Hansford Economic Consulting (HEC) in 2014 and retained its services again in 2019 to prepare the rate study for its water, sewer, and sanitation units. However, no action was taken in response to earlier studies. For reference, the previous rate increases were adopted by the City in 2014.

In December 2020, staff contacted HEC to prepare an updated rate study. HEC presented its findings and report to the Utilities Stakeholders Committee and City Council on meetings held on March 30 and April 6 respectively. On April 20, City Council approved staff’s recommendation to continue with the Proposition 218 process.

The City held three (3) public workshops (May 25<sup>th</sup>, June 3<sup>rd</sup>, and June 7<sup>th</sup> of 2021) regarding the proposed wastewater rate increase; one workshop was conducted in English, one in Spanish, and one in Punjabi.

Proposition 218 (Article XIID of the California Constitution) required notification to affected property owners at least forty-five (45) days prior to the scheduled hearing. Staff sent property owners and affected tenants such notice.

The Proposition 218 hearing was held June 15, 2021. At the hearing, the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the Domestic Wastewater Service. Upon close of the hearing, the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Domestic Wastewater Service from a majority of the affected property owners and tenants directly liable for the payment of the Domestic Wastewater Service. However, City Council continued the item to the August 17, 2021 and a second continuation to the September 21, 2021 Council meeting for further discussion.

It is important to note that the current rate study document does not address the water conservation measures mandated by the State due to the drought declaration. In addition, it has been found that under the current study the base water allocation of 25 thousand gallons does not equitably distribute the water charges to the City’s residents. A revised study should take into account a more equitable water rate based on consumption rather than fixed allocations.

**ANALYSIS**

***REASON FOR INCREASE IN RATES.*** The wastewater rates increase is proposed to:

1. Replenish the debt reserve fund per the United States Department of Agriculture loan requirements.
2. Provide a reliable, safe operating wastewater system.
3. Fully fund the operating costs of the system leaving more funding available for other essential City services.

A summary comparison of current and proposed wastewater rates by customer group is shown in the table below:

**Calculated Five-Year Wastewater Rate Schedule**

Customer Category	Billing Basis <i>New Rates on Bills -----&gt;</i>	Current	FY 2021/22 <i>Aug-21</i>	FY 2022/23 <i>Jul-22</i>	FY 2023/24 <i>Jul-23</i>	FY 2024/25 <i>Jul-24</i>	FY 2025/26 <i>Jul-25</i>
Residential	per unit	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
<b>Non-Residential</b>							
Churches/Temples/Comm.Ctrs.	per account	\$42.28	\$47.39	\$49.14	\$53.35	\$53.59	\$54.78
Schools (with cafeteria)	per student	\$1.46	\$1.74	\$1.81	\$1.96	\$1.97	\$2.01
Hotel/Motel	per room	\$17.22	\$18.99	\$19.70	\$21.38	\$21.48	\$21.96
Light Industrial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
Commercial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
<b>Variable Charges for Non-Residential Only</b>							
Light Industrial	per gallon	\$0.010417	\$0.010023	\$0.010397	\$0.011291	\$0.011343	\$0.011599
Commercial	per gallon	\$0.003837	\$0.005783	\$0.006090	\$0.006712	\$0.006843	\$0.007099

Source: 2021 HEC rate study.

sum

**FISCAL IMPACT**

Adopting the recommended rates will provide sufficient levels of funding (revenues) to cover ongoing operational costs including Capital Improvement Projects outlined in utility rate study.

### Alternative Scenarios

The City may make decisions between now and the date of the public hearing that would affect the calculated rates, specifically:

- Moving forward with a power purchase agreement to install solar facilities at the wastewater treatment plant, and
- Utilizing American Recovery Plan (ARP or Covid Relief) funds to pay for certain water and wastewater infrastructure improvements.

The City has received bids for installation of solar facilities at the wastewater treatment plant. If the City moves forward with this project there will be cost savings to the sewer fund as electricity bills are reduced. In addition to putting Covid Relief funding toward the water system, the City is also considering funding the disc and ripper tractor, which is estimated to cost \$222,525 in the next fiscal year, with Covid Relief funding. Sewer rates are lower under the three alternative scenarios presented.

The attached Resolution is drafted to take effect on the effective date of Ordinance No. \_\_\_\_, which if adopted by the City Council on September 7, 2021, shall be effective thirty (30) days after adoption. The increased Wastewater Service Rates would become effective on October 7, 2021, contingent on adoption and effective date of Ordinance No. \_\_\_\_.

### ATTACHMENTS

1. Resolution 2021-\_\_\_\_\_, Establishing Rates for Wastewater Services
2. Ordinance No. \_\_\_\_, Establishing Rates for Wastewater Services

3797287.1

**RESOLUTION NO. 2021-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
ADOPTING A NEW RATE SCHEDULE FOR DOMESTIC WASTEWATER SERVICE,  
EFFECTIVE NOVEMBER 4, 2021**

**WHEREAS**, the City of Livingston (the “City”) provides domestic wastewater services to its residents; and

**WHEREAS**, the City charges customers of this utility a charge to fund the on-going operation and maintenance of the domestic wastewater services; and

**WHEREAS**, Chapter 9-6 entitled “Sewer Service System” of the Livingston Municipal Code provides for the establishment and operation of a wastewater system and the imposition and collection of certain fees and charges from recipients of wastewater services; and

**WHEREAS**, pursuant to Section 9-6-25 of the Livingston Municipal Code, the costs of operation, maintenance, debt service, equipment replacement and any and all other costs of administration of the City wastewater collection, treatment and disposal system are authorized to be levied against all users thereof in proportion to the quantity and quality of the discharge; and

**WHEREAS**, Section 9-6-25 of the Livingston Municipal Code provides for the setting of wastewater schedule of charges and fees by resolution; and

**WHEREAS**, the City of Livingston determined to undertake a rate study to analyze the revenue requirements and the rate structure that should be adopted to proportionately allocate the costs of providing wastewater service to its wastewater customers. The rate study was prepared by Hansford Economic Consulting Inc., and has been on file at Livingston City Hall since the notices to property owners and customers were sent out on April 30, 2021; and

**WHEREAS**, charges for local agency wastewater service have been held to be “property related fees or charges” subject to the requirements of Article XIID of the California Constitution, also known as Proposition 218, pursuant to the holding in *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 C4th 205; and

**WHEREAS**, Section 6 of Article XIID of the California Constitution provides that imposing or increasing any property related fee or charge requires identifying the parcels on which the fee or charge will be imposed, and providing notice by mail of the proposed fee or charge to the record owner of each identified parcel indicating the amount of the fee or charge to be imposed on each parcel, the basis on which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, and the date, time, and location of a public hearing on the proposed fee or charge; and

**WHEREAS**, Section 53756 of the California Government Code provides that agencies providing water and sewer service may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water, sewage treatment, or wastewater treatment or inflation adjustments, subject to requirements specified in that Section; and

**WHEREAS**, Section 6 of Article XIID of the California Constitution further provides that hearings on proposed property-related fees or charges must be conducted at least forty-five (45) days after mailed notice to the owners of each identified parcel on which the fee or charge is proposed to be imposed, and that at the hearing, the local agency must consider all protests against the proposed fee or

charge, and that if written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge; and

**WHEREAS**, the City Council directed that notice of a hearing (“Hearing”) thereon be given to the property owners and tenants in the City, with such notice to include, among other matters, the information required to be included pursuant to California Constitution Article XIII D section 6; and

**WHEREAS**, such notice has been mailed to those persons, at least forty-five (45) days before the Hearing; and

**WHEREAS**, City staff has worked closely with a Stakeholders’ Committee, a Committee formed by the City Council, made up of two (2) Council Members and members of the community, to analyze the City’s wastewater service needs and draft rate studies; and

**WHEREAS**, the City held several workshops to inform the public of the proposed wastewater service rates; and

**WHEREAS**, the City held workshops regarding the utility rate study in English, Spanish, and Punjabi. The workshops were held in the City Council Chambers as follows: May 25, June 3 and June 7, 2021; and

**WHEREAS**, pursuant to Government Code section 54354.5, notice of a hearing was given with such notice including the information required to be included by Government Code section 54354.5; and

**WHEREAS**, the notice required under Government Code section 54354.5 must be published at least once each week for two (2) weeks prior to the hearing in a newspaper published within the local agency jurisdiction, with the first publication occurring at least fifteen (15) days prior to the hearing; and

**WHEREAS**, such notice has been published once each week for two (2) weeks, in accordance with Government Code section 54354.5, in the Merced Sun-Star on May 30, 2021 and June 6, 2021 as evidenced by Proofs of Publication on file with the City Clerk; and

**WHEREAS**, the Hearing was held June 15, 2021; and

**WHEREAS**, at the Hearing, the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the wastewater service rates (“Wastewater Service Rates”); and

**WHEREAS**, upon close of the Hearing, the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Wastewater Service Rates from a majority of the affected property owners and tenants directly liable for the payment of the Wastewater Service Rates; and

**WHEREAS**, the City Council continued the item to the September 21, 2021 Council meeting for further discussion; and

**WHEREAS**, the proposed domestic Wastewater Service Rates are not discriminatory or excessive, are sufficient under Government Code section 54515, comply with the provisions or covenants of any outstanding revenue bonds of the City payable from the revenues of the domestic wastewater enterprise, comply with the provisions of Title 5, Division 2, Part 1, Chapter 6 of the Government Code, and are in compliance with all other applicable law; and

**WHEREAS**, the revenues derived from the proposed sewer service rates will not exceed the funds required to provide the domestic wastewater services and shall be used exclusively for the domestic wastewater service system; and

**WHEREAS**, the amount of the proposed sewer service rates will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

**WHEREAS**, the proposed domestic wastewater service rates will not be imposed on a parcel unless the domestic wastewater services are actually used by, or immediately available to, the owner of the parcel; and

**WHEREAS**, due to Section 9-6-25 of the Livingston Municipal Code stating that the City shall adopt a schedule of charges and fees by resolution, the City has prepared both this Resolution and Ordinance No. \_\_\_\_, adopting the new rate schedule for the Wastewater Service Rates; and

**WHEREAS**, this Resolution and Ordinance No. \_\_\_\_ shall supersede all other previous resolutions that may conflict with, or be contrary to, this Resolution and Ordinance No. \_\_\_\_ respecting the Water Service Rates described more particularly herein.

**NOW, THEREFORE**, the City Council of the City of Livingston resolves as follows:

**SECTION 1. RECITALS**

The foregoing recitals are true and correct and made a part of this Resolution.

**SECTION 2. WASTEWATER SERVICE RATES ADJUSTMENT**

The City Council of the City of Livingston does hereby approve the Water Service Rates set forth in the attached **Exhibit A**. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Service Fees set forth herein effective on the date described in Section 8 of this Resolution.

**SECTION 3. DELINQUENT CHARGES CONSTITUTE A LIEN**

Delinquent charges and penalties when recorded in accordance with the provisions of the Revenue Bond Law shall constitute a lien upon the real property served.

**SECTION 4. CEQA**

The City Council hereby finds that the levy of the proposed sewer service rates as supported by a domestic wastewater and solid waste rate study prepared by Hansford Economic Consulting Inc. (which is incorporated herein by reference), is exempt from CEQA review under Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273 because the proposed sewer service rates are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the City’s domestic wastewater system, are necessary to maintain service within the City’s existing service area, and will not result in expansion of the system. The City Council further finds that the action entails the creation of a government funding mechanism which is exempt from CEQA as not being a “project” pursuant to CEQA guidelines section 15378. The City Council authorizes the City Clerk to file a notice of exemption with the County Clerk to that effect.



**SECTION 5. GENERAL AUTHORIZATION**

The City Manager is hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver any and all documents, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to effect the purposes of this Resolution. All actions heretofore taken by officers, employees, and agents of the City that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

**SECTION 6. SEVERABILITY**

If any provision of this Resolution or the application thereof to any person or circumstance, is held invalid, the remainder of the Resolution, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Resolution are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

**SECTION 7. SUPERSESSON/REPEAL**

Resolution No. 2014-21 adopted May 20, 2014, and any and all other resolutions or ordinances and parts thereof in conflict with the provisions of this Resolution and Ordinance No. \_\_\_ are superseded and repealed, effective on the effective date of the Ordinance No. \_\_\_. However, violations, rights accrued, liabilities accrued, or appeals taken, prior to the effective date of Ordinance No. \_\_\_ and this Resolution, under any chapter, ordinance, or part of an ordinance, or resolution or part of a resolution, shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceedings, with respect to any such violation, right, liability, or appeal.

**SECTION 8. EFFECTIVE DATE**

This Resolution shall take effect on the effective date of Ordinance No. \_\_\_, which if adopted by the City Council on October 5, 2021, shall be effective thirty (30) days after adoption. The increased Wastewater Service Rates, as attached hereto as **Exhibit A**, shall become effective on November 4, 2021, contingent on adoption and effective date of Ordinance No. \_\_\_.

**PASSED AND ADOPTED** this 21<sup>st</sup> day of September, 2021, by the following votes:

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

\_\_\_\_\_  
JUAN AGUILAR, JR., 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 21<sup>st</sup> day of September, 2021.

LETICIA VASQUEZ-ZURITA, City Clerk  
of the City of Livingston

3795236.1

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
ADOPTING A NEW RATE SCHEDULE FOR DOMESTIC WASTEWATER SERVICE,  
EFFECTIVE NOVEMBER 4, 2021**

**WHEREAS**, the City of Livingston (the “City”) provides domestic wastewater services to its residents; and

**WHEREAS**, the City charges customers of this utility a charge to fund the on-going operation and maintenance of the domestic wastewater services; and

**WHEREAS**, Chapter 9-6 entitled “Sewer Service System” of the Livingston Municipal Code provides for the establishment and operation of a wastewater system and the imposition and collection of certain fees and charges from recipients of wastewater services; and

**WHEREAS**, pursuant to Section 9-6-25 of the Livingston Municipal Code, the costs of operation, maintenance, debt service, equipment replacement and any and all other costs of administration of the City wastewater collection, treatment and disposal system are authorized to be levied against all users thereof in proportion to the quantity and quality of the discharge; and

**WHEREAS**, Section 9-6-25 of the Livingston Municipal Code provides for the setting of wastewater schedule of charges and fees by resolution; and

**WHEREAS**, the City of Livingston determined to undertake a rate study to analyze the revenue requirements and the rate structure that should be adopted to proportionately allocate the costs of providing wastewater service to its wastewater customers. The rate study was prepared by Hansford Economic Consulting Inc., and has been on file at Livingston City Hall since the notices to property owners and customers were sent out on April 30, 2021; and

**WHEREAS**, charges for local agency wastewater service have been held to be “property related fees or charges” subject to the requirements of Article XIID of the California Constitution, also known as Proposition 218, pursuant to the holding in *Bighorn-Desert View Water Agency v. Verjil* (2006) 39 C4th 205; and

**WHEREAS**, Section 6 of Article XIID of the California Constitution provides that imposing or increasing any property related fee or charge requires identifying the parcels on which the fee or charge will be imposed, and providing notice by mail of the proposed fee or charge to the record owner of each identified parcel indicating the amount of the fee or charge to be imposed on each parcel, the basis on which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, and the date, time and location of a public hearing on the proposed fee or charge; and

**WHEREAS**, Section 53756 of the California Government Code provides that agencies providing water and sewer service may adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water, sewage treatment, or wastewater treatment or inflation adjustments, subject to requirements specified in that section; and

**WHEREAS**, Section 6 of Article XIID of the California Constitution further provides that hearings on proposed property-related fees or charges must be conducted at least forty-five (45) days after mailed notice to the owners of each identified parcel on which the fee or charge is proposed to be

imposed, and that at the hearing, the local agency must consider all protests against the proposed fee or charge, and that if written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge; and

**WHEREAS**, the City Council directed that notice of a Proposition 218 hearing (“Proposition 218 Hearing”) thereon be given to the property owners and tenants in the City, with such notice to include, among other matters, the information required to be included pursuant to California Constitution Article XIII D section 6; and

**WHEREAS**, such notice has been mailed to those persons, at least forty-five (45) days before the Proposition 218 Hearing; and

**WHEREAS**, the Revenue Bond Law of 1941, codified in section 54300 and following of the California Government Code, includes provisions that provide for the enforcement and collection of amounts due for utility services, subject to notice requirements that apply when delinquent charges are made a lien on the property that received the services; and

**WHEREAS**, Section 54354.5 of the California Government Code prescribes that adoption of local agency resolutions or ordinances revising charges for utility services subject to the imposition of liens under the Revenue Bond Law and follow the notice and a hearing in accordance with that section, including publication of notice of the time and place of a hearing on the proposed resolution or ordinance specifying that any interested person, including all persons owning property in the jurisdiction of the local agency, may appear and be heard on any matter relating to the proposed ordinance or the proposed rates or charges; and

**WHEREAS**, the notice required under Government Code section 54354.5 must be published at least once each week for two (2) weeks prior to the hearing in a newspaper published within the local agency jurisdiction, with the first publication occurring at least fifteen (15) days prior to the hearing; and

**WHEREAS**, such notice has been published once each week for two (2) weeks, in accordance with Government Code section 54354.5, in the Merced Sun-Star on May 30, 2021 and June 6, 2021 as evidenced by Proofs of Publication on file with the City Clerk, prior to the public hearing held for this Ordinance; and

**WHEREAS**, City staff has worked closely with a Stakeholders’ Committee, a Committee formed by the City Council, made up of two (2) Council Members and members of the community, to analyze the City’s wastewater service needs and draft rate studies; and

**WHEREAS**, the City held several workshops to inform the public of the proposed wastewater service rates; and

**WHEREAS**, the City held workshops regarding the utility rate study in English, Spanish, and Punjabi. The workshops were held in the City Council Chambers as follows: May 25, June 3 and June 7, 2021; and

**WHEREAS**, the Proposition 218 Hearing was held June 15, 2021; and

**WHEREAS**, at the Proposition 218 Hearing, the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed rate increases to the wastewater service rates (“Wastewater Service Rates”); and

**WHEREAS**, upon close of the Proposition 218 Hearing, the City did not receive written protests against the establishment and imposition of the proposed rate increases to the Wastewater Service Rates from a majority of the affected property owners and tenants directly liable for the payment of the Wastewater Service Rates; and

**WHEREAS**, the City Council continued the item to the September 21, 2021 Council meeting for further discussion; and

**WHEREAS**, the proposed domestic Wastewater Service Rates are not discriminatory or excessive, are sufficient under Government Code section 54515, comply with the provisions or covenants of any outstanding revenue bonds of the City payable from the revenues of the domestic wastewater enterprise, comply with the provisions of Title 5, Division 2, Part 1, Chapter 6 of the Government Code, and are in compliance with all other applicable law; and

**WHEREAS**, the revenues derived from the proposed sewer service rates will not exceed the funds required to provide the domestic wastewater services and shall be used exclusively for the domestic wastewater service system; and

**WHEREAS**, the amount of the proposed sewer service rates will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

**WHEREAS**, the proposed domestic wastewater service rates will not be imposed on a parcel unless the domestic wastewater services are actually used by, or immediately available to, the owner of the parcel; and

**WHEREAS**, due to Section 9-6-25 of the Livingston Municipal Code stating that the City shall adopt a schedule of charges and fees by resolution, the City has prepared both this Ordinance and Resolution No. 2021-\_\_, adopting the new rate schedule for the Wastewater Service Rates; and

**WHEREAS**, this Ordinance and Resolution No. 2021-\_\_ shall supersede all other previous resolutions and/or ordinances that may conflict with, or be contrary to, this Ordinance and Resolution No. 2021-\_\_ respecting the Water Service Rates described more particularly herein.

**THE CITY COUNCIL OF THE CITY OF LIVINGSTON DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS**

The foregoing recitals are true and correct and made a part of this Ordinance.

**SECTION 2. WASTEWATER SERVICE RATES ADJUSTMENT**

The City Council of the City of Livingston does hereby approve the Wastewater Service Rates set forth in the attached **Exhibit A**. The City Council hereby authorizes and directs the City Manager to implement and take all actions necessary to effectuate the rates for the Service Fees set forth herein effective on November 4, 2021.

**SECTION 3. DELINQUENT CHARGES CONSTITUTE A LIEN**

Delinquent charges and penalties when recorded in accordance with the provisions of the Revenue Bond Law shall constitute a lien upon the real property served.

**SECTION 4. CEQA**

The City Council hereby finds that the levy of the proposed sewer service rates as supported by a domestic wastewater and solid waste rate study prepared by Hansford Economic Consulting Inc.(which is incorporated herein by reference), is exempt from CEQA review under Public Resources Code section 21080(b)(8) and CEQA Guidelines section 15273 because the proposed sewer service rates are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the City's domestic wastewater system, are necessary to maintain service within the City's existing service area, and will not result in expansion of the system. The City Council further finds that the action entails the creation of a government funding mechanism which is exempt from CEQA as not being a "project" pursuant to CEQA guidelines section 15378. The City Council authorizes the City Clerk to file a notice of exemption with the County Clerk to that effect.

**SECTION 5. GENERAL AUTHORIZATION**

The City Manager is hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver any and all documents, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to effect the purposes of this Ordinance. All actions heretofore taken by officers, employees, and agents of the City that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

**SECTION 6. SEVERABILITY**

If any provision of this Ordinance or the application thereof to any person or circumstance, is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

**SECTION 7. SUPERSESSION/REPEAL**

Resolution No. 2014-21 adopted May 20, 2014, Ordinance No. 615 adopted June 3, 2014, and any and all other resolutions or ordinances and parts thereof in conflict with the provisions of this Ordinance and Resolution No. 2021-\_\_ are superseded and repealed, effective on the effective date of this Ordinance. However, violations, rights accrued, liabilities accrued, or appeals taken, prior to the effective date of this Ordinance and Resolution No. 2021-\_\_, under any chapter, ordinance, or part of an ordinance, or resolution or part of a resolution, shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceedings, with respect to any such violation, right, liability or appeal.

**SECTION 8. EFFECTIVE DATE**

This Ordinance shall become effective thirty (30) days after its final passage and adoption. The increased Wastewater Service Rates, as attached hereto as Exhibit A, shall become effective on November 4, 2021.

Introduced: June 15, 2021  
Passed and Adopted:

\_\_\_\_\_  
JUAN AGUILAR, JR., Mayor  
of the City of Livingston

ATTEST:

State of California)  
County of Merced)  
City of Livingston)

I, hereby certify that the foregoing Ordinance was duly introduced at a Regular Meeting of the City Council of the City of Livingston on the 15<sup>th</sup> day of June, 2021, and was passed and adopted at a Regular Meeting of the City Council of the City of Livingston this \_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
LETICIA VASQUEZ-ZURITA, City Clerk  
of the City of Livingston

3795219.1

# EXHIBIT A

**Table 19** on the following page presents the calculated rates for fiscal year ending 2022. The total allocated costs to each customer category provide the basis for the rates. All residential customers will pay for wastewater on a per unit basis. Schools will pay per student. Hotels/motels will pay monthly rates per room. Commercial wastewater customers will pay a flat monthly charge per account and flow charges based on their metered potable water use each month. Light industrial users, including industrial laundromat, will pay a flat monthly charge per account and flow charges based on their metered potable water use each month.

**Table 20** shows the calculated rates for the next five years. The rates take into account anticipated additional growth within the City (shown in **Appendix B Table B-14**). Since 2014, the City has experienced growth in the number of commercial customers and types of commercial customer. The shift in the customer base, as well as updated cost allocation factors used in the rate calculations, results in some customers having proportionately greater increases than others.

**Table 20**  
**Calculated Wastewater Rates**

Customer Category	Billing Basis	Current	FY 2021/22	FY 2022/23	FY 2023/24	FY 2024/25	FY 2025/26
	<i>New Rates on Bills ----&gt;</i>		<i>Aug-21</i>	<i>Jul-22</i>	<i>Jul-23</i>	<i>Jul-24</i>	<i>Jul-25</i>
Residential	per unit	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
<b>Non-Residential</b>							
Churches/Temples/Comm.Ctrs.	per account	\$42.28	\$47.39	\$49.14	\$53.35	\$53.59	\$54.78
Schools (with cafeteria)	per student	\$1.46	\$1.74	\$1.81	\$1.96	\$1.97	\$2.01
Hotel/Motel	per room	\$17.22	\$18.99	\$19.70	\$21.38	\$21.48	\$21.96
Light Industrial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
Commercial (Base)	per account	\$43.84	\$46.05	\$47.76	\$51.86	\$52.09	\$53.25
<b>Variable Charges for Non-Residential Only</b>							
Light Industrial	per gallon	\$0.010417	\$0.010023	\$0.010397	\$0.011291	\$0.011343	\$0.011599
Industrial Laundromat [1]	per gallon	n.a.	\$0.005444	\$0.005647	\$0.006132	\$0.006159	\$0.006298
Commercial	per gallon	\$0.003837	\$0.005783	\$0.006090	\$0.006712	\$0.006843	\$0.007099

Source: 2021 HEC rate study.

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[1] New customer category.