



**CITY COUNCIL SPECIAL AND REGULAR MEETING
AGENDA
MARCH 19, 2024**

SPECIAL MEETING: 6:00 P.M. – 7:00 P.M
REGULAR MEETING: 7:00 P.M.

WE ENCOURAGE ALL MEMBERS OF THE PUBLIC TO PARTICIPATE IN THE MEETING VIA TELECONFERENCE BY CALLING (520) 525-8911. ANY MEMBER OF THE PUBLIC PARTICIPATING VIA TELECONFERENCE WILL BE GIVEN THE OPPORTUNITY TO PROVIDE PUBLIC COMMENT.

ADDITIONALLY, THE REGULAR MEETING WILL BE STREAMED ON YOUTUBE LIVE
https://www.youtube.com/channel/UCB_ZmQZIHELh-ECEPZ2VwZg

Notice is hereby given that the City Council will hold a Special and Regular Meeting on March 19, 2024, at the City Council Chambers, 663 Main Street, Livingston, California. 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. *Comments must be received by 2:00 p.m.* on the day of the City Council meeting in order for them to be distributed to the Council prior to consideration of the matter. 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. Written comments will not be read aloud at the meeting, but will be reported as received for the record. If you do not receive an acknowledgement of receipt by 4:00 p.m., please call the City Clerk's Office at (209) 394-8041, Ext. 121 (Note: This technology is not a guaranteed method).

SPECIAL MEETING

1. Call to Order
2. Roll Call
3. Pledge of Allegiance.
4. Moment of Silence – First Responders and Military Members.
5. Citizen Comments

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 663 Main 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, 633 Main Street, Livingston, California.

6. Conference with Legal Counsel – Potential Litigation
Paragraph (2) of subdivision (d) of Section 54956.9 of the Government Code
Number of Cases: One Matter
7. Conference with Legal Counsel – Existing Litigation
Paragraph (1) of subdivision (d) of Section 54956.9 of the Government Code
Name of Case: Jose Ramirez v. City of Livingston, et al., Superior Court of the State of California, County of Merced, Case No. 22CV-0082
8. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Attorney
Pursuant to Government Code Section 54957

CALL TO ORDER

Next Resolution No.: 2024-12
Next Ordinance No.: 653

Pledge of Allegiance.

Moment of Silence – First Responders and Military Members.

Roll Call.

Closed Session Announcements.

Changes to the Agenda.

CITIZEN COMMENTS

This section of the agenda allows members of the public to address the City Council on any item NOT 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.

ANNOUNCEMENTS AND REPORTS

Supervisor Rodrigo Espinoza Announcements and Reports.

City Staff Announcements and Reports.

City Manager Announcements and Reports.

- Christopher Lopez, Interim City Manager- Fiscal Year 2024/2025 Budget Update.

City Council Members' Announcements and Reports.

Mayor's Announcements and Reports.

Jatinder Mann

- City Council Alternate Liaison - Parks, Recreation and Arts Commission – **Jatinder Mann**
- Merced Integrated Regional Water Management Plan (MIRWMA) – **Jatinder Mann, Representative and Jason Roth, Alternate Representative.**
- Central Valley Division League of California Cities – **Maria Soto, Representative and Jatinder Mann, Alternate.**

Jason Roth

- City Council Liaison - Livingston Planning Commission – **Jason Roth**
- Special City Selection Committee of the San Joaquin Valley Air Pollution Control Board – **Jason Roth, Representative and Gurpal Samra, Alternative.**
- Merced Integrated Regional Water Management Plan (MIRWMA) – **Jatinder Mann, Representative and Jason Roth, Alternate Representative.**

Maria Soto

- Merced County Local Agency Formation Commission (LAFCO) – **Maria Soto, Representative.**
- Central Valley Division League of California Cities – **Maria Soto, Representative and Jason Roth, Alternate.**

Gurpal Samra

- Merced County Mosquito Abatement District Board of Directors – **Gurpal Samra, Representative and Jason Roth, Alternate.**

Jose Moran

- Merced County Association of Governments (MCAG) Governing Board – **Jose Moran, Representative and Gurpal Samra, Alternate.**
- City Council Liaison - Parks, Recreation and Arts Commission – **Jose Moran.**
- Utility Stakeholders Committee – **Jose Moran and Gurpal Samra.**

RECEIVE AND FILE

1. Annual Comprehensive Financial Report for Fiscal Year 2021-2022 and Presentation by James Butera, CPA, Senior Manager.

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 a member of the public, the City Manager or City Council Member. There will be no separate discussion of these items unless members of the public, City Council or City Manager request that specific items be removed. Public comment on consent agenda items shall be limited to three (3) minutes per-person regardless of the number of items contained within the consent agenda.

2. RATIFY CHECK WARRANTS
Ratify Warrant Register Dated March 14, 2024.
3. Consideration of a Resolution Authoring the Interim City Manager to Execute a Professional Service Agreement Between the City of Livingston and Andrea Caro, Circus Royal Spectacular as a Circus Entertainment and Concessions Provider. Staff Recommendation: Approve Resolution.
4. Consideration of a Resolution Approving A Professional Service Agreement with Lance, Soll & Lunghard (LSL), LLP Consulting. Staff Recommendation: Approve Resolution.

DISCUSSION AND POTENTIAL ACTION ITEMS

5. Consideration of a Resolution Approving a Franchise Agreement for Solid Waste, Recyclable Materials, and Organic Waste Collection Services Between the City of Livingston and Gilton Solid Waste Management, Inc. Staff Recommendation: Approve Resolution.
6. Discussion and Direction Regarding Whether to Commence the Process for Establishing Term Limits for City Council Members.
7. Discussion and Direction Regarding the Consideration of Allowing One Planning Commissioner to be Outside City Limits, but Within the Livingston Union School District.
8. Consideration and Direction to Prepare a Request for Proposals Regarding the Selection of a Firm or Recruiter to Conduct the Recruitment of a Permanent City Manager. Staff Recommendation: Direct Ms. Cruz, Human Resources Coordinator, and the City Attorney's Office to Prepare a Request for Proposals Regarding the Selection of a Firm or Recruiter to Conduct the Recruitment of a Permanent City Manager.
9. Discussion and Direction Regarding the Fireworks Ordinance and Possibly Changing the Administrative Penalty Fees.
10. Discussion and Direction Regarding the 4th of July Standing Committee Recommendation Including the Following: Overall Budget and the Schedule of Events for the 4th of July Event.

COUNCIL DIRECTION ON FUTURE AGENDA ITEMS

ADJOURNMENT



STAFF REPORT

AGENDA ITEM: Annual Comprehensive Financial Report for Fiscal Year 2021-22

MEETING DATES: March 19, 2024

PREPARED BY: Christopher Lopez, Interim City Manager
Happy Bains, Acting Finance Director

RECOMMENDATION:

The City Council to receive and file the Comprehensive Annual Financial Report for the fiscal year ending June 30, 2022.

BACKGROUND:

The Annual Comprehensive Financial Report (ACFR) is a set of financial statements comprising all financial activity of the City. The information presented in the ACFR has been reviewed by an independent auditor, using accepted standards and report formats, to ensure the accuracy of the City's financial practices and overall financial condition.

The ACFR is prepared in accordance with Generally Accepted Accounting Procedures (GAAP), including compliance with pronouncements issued by the Governmental Accounting Standards Board (GASB). The report is designed to highlight changes in the City's financial condition and practices over time.

An audit of the City's financial records was performed by the outside certified public accounting firm, Lance, Soll & Lunghard, LLP.

City management is responsible for the preparation and fair presentation of the financial statements as well as the design, implementation, and maintenance of internal control. Internal controls are the mechanisms, rules, and procedures implemented by the City to ensure the integrity of financial and accounting information, promote accountability, and prevent fraud.

The independent auditors issued an unqualified opinion, meaning that the financial statements and other information reported in the ACFR fairly represent, in all material respects, the financial position of the City as of June 30, 2022, and the financial activities beginning on July 1, 2021, and ending on June 30, 2022.

Hard copies of the ACFR are available for review at City Hall located at 1416 C St. An electronic copy of the ACFR is also available on the City's website.



STAFF REPORT

DISCUSSION

The City of Livingston's Annual Comprehensive Financial Report (ACFR) for fiscal year ended June 30, 2022, is provided for Council's review in compliance with the Government Code Sections 25250 and 25253.

The ACFR contains the city's basic financial statements, which are comprised of:

- Government-wide financial statements, which are designed to provide readers with a broad overview of the City's finances.
- Fund financial statements, which present the City's financial activities in a traditional fund format; and
- Notes on the basic financial statements.

The basic financial statements have been prepared in accordance with generally accepted accounting principles (GAAP) in the United States.

The letter of transmittal to the City of Livingston, dated March 8, 2024, accompanies the City of Livingston's ACFR for the fiscal year ended June 30, 2022. The transmittal letter is designed to complement and should be read in conjunction with the Management Letter, the included financial statements and financial statement notes. The Management Letter provides a narrative introduction, overview, and analysis of the financial statements and can be found immediately following the report of the independent auditors.

The ACFR reports total net position of \$65,485,989 as of June 30, 2022, an increase of \$7,652,885 from the total net position of \$57,833,104 as of June 30, 2021, in the Government-wide financial statements. Generally, "net position" is the amount of assets and deferred outflows of resources that exceed the liabilities and deferred inflows of resources of the City.

The Governmental Funds financial statements report as of June 30, 2022, the fund balance of \$15,493,935, an increase of \$687,818 from a fund balance of \$14,807,117 as of June 30, 2021. Included in the fund balance as of June 30, 2022, is the General Fund's fund balance of \$4,681,170, an increase of \$324,172 from the General Fund's fund balance of \$4,356,998 as of June 30, 2021.

The City's basic financial statements have been audited by the independent certified public accounting firm, Lance, Soll & Lunghard, LLP. The goal of the independent audit is to provide reasonable assurance that the financial statements of the City for the fiscal year ended June 30, 2022, are free of material misstatement. The independent certified public accounting firm has issued an unmodified ("clean") opinion on the City's basic financial statements as of and for the fiscal year ended June 30, 2022.

The Finance Department has completed its review and accepted the ACFR.

As required by federal securities disclosure rules, the City has entered into contractual reporting covenants (known as "continuing disclosure obligations") in connection with its City's bond issues that are presently outstanding in the public bond market. In accordance with those



STAFF REPORT

contractual covenants for City bonds payable from the City's General Fund, the City is required, among other things, to prepare and publicly post annual reports, containing certain City basic financial information, in the secondary bond market. Those posted annual reports must include the City's audited ACFR.

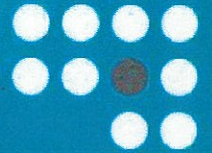
FISCAL IMPACT

There is no fiscal impact associated with his action.

ATTACHMENTS

1. Fiscal year 2021-22 ACFR Report can be found on the City Website - https://www.cityoflivingston.org/sites/default/files/fileattachments/finance/page/2351/city_of_livingston_acfr_final_3-13-24.pdf

2022 Financial Audit



Presented by:
James Butera, CPA, Senior Manager

March 19, 2024

lslcpas.com





Your LSL Team



Brandon Young, CPA
Partner



James Butera, CPA
Senior Manager





Scope of Engagement

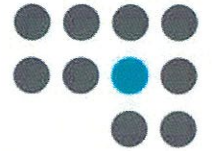
- LSL has been engaged by the City of Livingston to perform the following procedures:
 - Financial statement audit for the year ended June 30, 2022, in accordance with generally accepted auditing standards and Government Auditing Standards
 - Single audit over the federal award programs for the year ended June 30, 2022, in accordance with the federal Uniform Guidance.
 - Agreed-upon procedures over the City's GANN Limit for the year ended June 30, 2022.





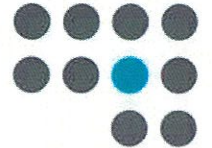
Results of Audit

- We issued an unmodified auditor's opinion on the financial statements.
 - Financial statements are accurate and reliable as of June 30, 2022.
- We issued the Report on Internal Control and Compliance
 - Three material weaknesses in internal control noted.
 - No significant deficiencies in internal control noted.
 - No material noncompliance with laws, regulations, grants, etc. noted.



Results of Audit

- We issued an unmodified auditor's opinion on the City's compliance with the requirements of major federal award programs.
 - Livingston is in compliance with the terms and conditions of major federal award programs at June 30, 2022.
- We identified no going concern doubts as of June 30, 2022.
- We identified no fraud, waste, or abuse during the fiscal year ended June 30, 2022.



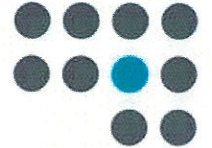
Results of Audit

- We had no disagreements with management about application of accounting principles.
- We had no difficulties conducting our audits.
- We determined that all estimates used by management in preparing the financial statements were reasonable.



Changes from Prior Year

- During the fiscal year ended June 30, 2022, Livingston changed accounting principles related to the accounting for leases (GASB 87).
- GASB 87 requires that a lease asset and lease liability be recognized. This resulted in:
 - A lease asset in the amount of \$50,871, at June 30, 2022.
 - A lease liability in the amount of \$50,025, at June 30, 2022.



Financial Highlights

- Total fund balance increased \$686,818
- General Fund unrestricted fund balance is 49% of total General Fund expenditures
- Prior period adjustments of \$775,389 for prior capital projects and \$90,393 for FY 2021 ending TRANE loan balance
- Governmental capital assets increased \$1,629,186; Business-type capital assets increased \$3,628,877





Questions





www.lslcpas.com

contact.us@lslcpas.com

CALIFORNIA: Brea | Santa Ana | Laguna Hills | Sacramento

TEXAS: The Woodlands



lslcpas.com

STAFF REPORT



AGENDA ITEM: Warrant Register March 14, 2024
MEETING DATE: March 19, 2024
PREPARED BY: Nancy Fuentes, Accounting Technician
REVIEWED BY: Christopher Lopez, Interim City Manager

RECOMMENDATION:

Ratify the warrant register dated March 14, 2024

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:

February 16, 2024 – March 14, 2024

GENERAL WARRANTS.....	\$	1,140,224.76	10628-10803
PAYROLL/WIRE WARRANTS.....	\$	443,528.33	3047-3085
TOTAL WARRANTS.....	\$	1,583,753.08	

ATTACHMENTS:

Warrant Register (detailed by date and check number)

Accounts Payable

Checks by Date - Summary by Check Date

User: nfuentes
 Printed: 3/14/2024 1:34 PM



City of Livingston
 1416 C Street
 Livingston, CA 95334

Check No	Vendor No	Vendor Name	Check Date	Check Amount
10628	251	ABS Direct, Inc.	02/28/2024	1,330.20
10629	250	Alhambra	02/28/2024	564.54
10630	453	Allied West Printing	02/28/2024	303.05
10631	1307	Amazon Capital Services	02/28/2024	355.06
10632	282	AT&T Mobility	02/28/2024	2,299.25
10633	162	Steve Bassi	02/28/2024	25.00
10634	546	Bogie's Pump Systems	02/28/2024	2,085.22
10635	1381	Brink's Incorporated	02/28/2024	346.86
10636	193	BSK Associates	02/28/2024	4,427.00
10637	909	Canon Financial Services, Inc.	02/28/2024	331.89
10638	272	Charter Communications Holdings, LLC	02/28/2024	124.98
10639	1239	Clark Pest Control of Stockton, Inc.	02/28/2024	163.00
10640	283	CoreLogic Solutions, LLC	02/28/2024	200.00
10641	1308	CSG Consultants, Inc.	02/28/2024	17,288.37
10642	787	Custom Weed Control Inc.	02/28/2024	800.00
10643	293	Department of Justice Accounting Office	02/28/2024	590.00
10644	260	First Communications, LLC	02/28/2024	17.92
10645	1151	Jose Flores	02/28/2024	25.00
10646	1416	Four Star Investigations, LLC	02/28/2024	7,458.09
10647	188	Frontier	02/28/2024	2,715.25
10648	387	Frontier Communications Corp Frontier Co	02/28/2024	169.98
10649	1418	Melissa Garcia	02/28/2024	150.00
10650	164	Garza Tire & Wheel, Inc	02/28/2024	235.00
10651	262	Gilton Solid Waste	02/28/2024	105,907.39
10652	356	Gouveia Engineering, Inc.	02/28/2024	44,541.27
10653	1384	HF&H Consultants, LLC	02/28/2024	5,235.00
10654	267	Hoffman Security	02/28/2024	387.90
10655	501	Hunt & Sons, Inc.	02/28/2024	5,360.84
10656	786	J.B. Anderson Land Use Planning	02/28/2024	1,316.25
10657	318	La Rue Communications	02/28/2024	408.69
10658	675	Lance, Soll & Lunghard, LLP	02/28/2024	46,490.00
10659	362	Merced County Animal Control	02/28/2024	2,635.00
10660	708	Merced County Law Enforcement Chief's A	02/28/2024	125.00
10661	278	Merced Irrigation District	02/28/2024	50,105.67
10662	269	Merced Pest Control	02/28/2024	80.00
10663	389	Mid Valley IT	02/28/2024	39,669.99
10664	180	Mission Linen Service	02/28/2024	598.58
10665	199	Northstar Chemical	02/28/2024	1,588.82
10666	302	Office Depot, Inc./ODP Business Solutions.	02/28/2024	270.47
10667	1147	PAC Machine Company, INC.	02/28/2024	10,183.43
10668	203	PG&E	02/28/2024	48,871.22
10669	430	Quadient Finance USA, Inc.	02/28/2024	127.09
10670	514	Quadient Leasing USA, Inc.	02/28/2024	976.55
10671	500	Safeguard Business Systems	02/28/2024	383.52
10672	499	Safety-Kleen Systems, Inc.	02/28/2024	74.00
10673	1330	James D Sanders	02/28/2024	400.00
10674	408	Sapient Family Trust	02/28/2024	1,000.00

Check No	Vendor No	Vendor Name	Check Date	Check Amount
10675	439	Sharpening Shop	02/28/2024	183.76
10676	307	Shred-It, C/O Stericycle, Inc.	02/28/2024	246.14
10677	323	Springbrook Holding Company LLC	02/28/2024	4,827.00
10678	310	Totlcom, Inc.	02/28/2024	765.44
10679	284	Trans Union LLC	02/28/2024	187.79
10680	313	U.S. Bank Equipment Finance	02/28/2024	1,123.19
10681	600	United Rotary Brush Corp.	02/28/2024	3,977.50
10682	366	USABlueBook	02/28/2024	10.75
10683	1150	Valley 29 Electric, LLC	02/28/2024	835.68
10684	314	Valley Coffee & Water	02/28/2024	64.50
10685	367	Verizon Wireless	02/28/2024	1,710.70
10686	296	Visual Edge IT, Inc	02/28/2024	2,294.14
10687	818	Renee Waite-Mendonca	02/28/2024	25.00
10688	536	Robert Wallis	02/28/2024	25.00
10689	597	Work Wellness	02/28/2024	162.00
10690	396	American Fidelity Assurance	02/28/2024	3,167.68
10691	397	American Fidelity Assurance Company	02/28/2024	1,986.62
10692	393	California State Disbursement Unit	02/28/2024	893.06
10693	UB*02066	DAVE CHRISTIAN CONST.	02/28/2024	131.48
10694	405	Premier Access Insurance Company	02/28/2024	1,704.10
10695	598	Standard Insurance Company RB	02/28/2024	2,849.92
10696	1284	State of California	02/28/2024	65.08
10697	564	Texas Life Insurance	02/28/2024	454.86
10698	608	Vision Service Plan- CA	02/28/2024	2,920.09
Total for 2/28/2024:				439,353.82
10699	422	U.S. Bank Corporate Payment Systems	03/07/2024	15,624.95
10700	434	AFSCME District Council 57	03/07/2024	534.38
10701	493	David Aguilar	03/07/2024	132.50
10702	1307	Amazon Capital Services	03/07/2024	926.23
10703	396	American Fidelity Assurance	03/07/2024	3,116.90
10704	1417	Axcres Industrial Supply Inc.	03/07/2024	592.63
10705	446	Belkorp Ag, LLC	03/07/2024	905.54
10706	1362	Bound Tree Medical LLC	03/07/2024	1,672.39
10707	193	BSK Associates	03/07/2024	2,406.00
10708	393	California State Disbursement Unit	03/07/2024	893.06
10709	914	Cintas Corporation No. 2	03/07/2024	145.40
10710	473	Citizen Communications, LLC	03/07/2024	15,744.00
10711	291	City of Livingston c/o L & L District Irrigati	03/07/2024	5,104.89
10712	1239	Clark Pest Control of Stockton, Inc.	03/07/2024	133.00
10713	UB*02067	CINTHYA CORTEZ	03/07/2024	77.52
10714	547	Don's Mobile Glass	03/07/2024	50.00
10715	258	Ewing Irrigation Products, Inc.	03/07/2024	5,275.97
10716	163	EZ Auto Supply	03/07/2024	36.06
10717	1410	FFP Fund VII TEI Partnership 1, LLC	03/07/2024	5,498.91
10718	188	Frontier	03/07/2024	3,979.77
10719	262	Gilton Solid Waste	03/07/2024	124,892.33
10720	963	Hanson Bridgett LLP	03/07/2024	12,750.00
10721	927	Yesenia Hinojoz	03/07/2024	150.00
10722	267	Hoffman Security	03/07/2024	204.95
10723	501	Hunt & Sons, Inc.	03/07/2024	3,798.10
10724	1014	Hunt Equipment DBA Donlee Pump Comp:	03/07/2024	776.39
10725	520	Interstate Truck Center	03/07/2024	638.89
10726	165	J L Analytical Services, Inc.	03/07/2024	120.50
10727	461	LEAF	03/07/2024	741.59
10728	612	Livingston Peace Officers Association	03/07/2024	1,888.00

Check No	Vendor No	Vendor Name	Check Date	Check Amount
10729	1404	Lozano Smith	03/07/2024	2,567.50
10730	278	Merced Irrigation District	03/07/2024	44,314.69
10731	389	Mid Valley IT	03/07/2024	3,466.90
10732	180	Mission Linen Service	03/07/2024	369.50
10733	194	Modesto Welding Products	03/07/2024	24.00
10734	1421	Jesse Noble	03/07/2024	150.00
10735	199	Northstar Chemical	03/07/2024	7,602.57
10736	302	Office Depot, Inc./ODP Business Solutions	03/07/2024	340.50
10737	437	Operating Engineers Local 3	03/07/2024	397.50
10738	438	Operating Engineers Local Union No.3	03/07/2024	621.00
10739	1425	Martha Padilla	03/07/2024	150.00
10740	1342	Pavement Coating Co.	03/07/2024	16,733.44
10741	203	PG&E	03/07/2024	83,829.92
10742	1423	Siomara Pina	03/07/2024	200.00
10743	1424	Juana Pineda	03/07/2024	150.00
10744	405	Premier Access Insurance Company	03/07/2024	620.20
10745	1420	Adriana Rodriguez	03/07/2024	150.00
10746	208	Saenz Pest Control, Inc.	03/07/2024	127.00
10747	408	Sapien Family Trust	03/07/2024	1,000.00
10748	1284	State of California	03/07/2024	65.08
10749	UB*02068	TEICHERT CONSTRUCTION	03/07/2024	488.68
10750	1422	Maria B. Valenzuela	03/07/2024	150.00
10751	314	Valley Coffee & Water	03/07/2024	79.80
10752	296	Visual Edge IT, Inc	03/07/2024	838.08
10753	860	Witmer Public Safety Group	03/07/2024	40.65
Total for 3/7/2024:				373,287.86
10754	251	ABS Direct, Inc.	03/14/2024	1,640.49
10755	250	Alhambra	03/14/2024	484.98
10756	453	Allied West Printing	03/14/2024	324.70
10757	1307	Amazon Capital Services	03/14/2024	79.03
10758	529	American Legal Publishing	03/14/2024	223.35
10759	472	Aqua-Metric Sales Company	03/14/2024	4,570.50
10760	253	AT&T	03/14/2024	9.64
10761	282	AT&T Mobility	03/14/2024	1,962.83
10762	1426	Ana Lucia Barbosa	03/14/2024	150.00
10763	1429	Maria Bribrisca	03/14/2024	150.00
10764	193	BSK Associates	03/14/2024	3,774.00
10765	660	Calgon Carbon Corporation	03/14/2024	51,200.00
10766	1196	Castle Assets, LLC	03/14/2024	5,000.00
10767	272	Charter Communications Holdings, LLC	03/14/2024	337.37
10768	914	Cintas Corporation No. 2	03/14/2024	185.72
10769	1239	Clark Pest Control of Stockton, Inc.	03/14/2024	204.00
10770	1092	Complete Paperless Solutions	03/14/2024	20,085.00
10771	283	CoreLogic Solutions, LLC	03/14/2024	200.00
10772	293	Department of Justice Accounting Office	03/14/2024	792.00
10773	449	Fineline Striping	03/14/2024	5,695.00
10774	188	Frontier	03/14/2024	1,106.16
10775	387	Frontier Communications Corp Frontier Co	03/14/2024	1.51
10776	359	Hinderliter, de Llamas & Associates	03/14/2024	1,377.96
10777	267	Hoffman Security	03/14/2024	10.78
10778	501	Hunt & Sons, Inc.	03/14/2024	1,639.15
10779	165	J L Analytical Services, Inc.	03/14/2024	204.00
10780	1427	Jugal Kaur	03/14/2024	150.00
10781	318	La Rue Communications	03/14/2024	2,411.65
10782	268	Language Line Services, Inc.	03/14/2024	255.68

Check No	Vendor No	Vendor Name	Check Date	Check Amount
10783	461	LEAF	03/14/2024	741.59
10784	278	Merced Irrigation District	03/14/2024	1,039.07
10785	389	Mid Valley IT	03/14/2024	1,543.13
10786	180	Mission Linen Service	03/14/2024	755.25
10787	270	Modern Air Mechanical	03/14/2024	463.00
10788	507	Muniquip,LLC	03/14/2024	3,113.55
10789	1428	Northern California Regional	03/14/2024	1,000.00
10790	199	Northstar Chemical	03/14/2024	4,513.90
10791	302	Office Depot, Inc./ODP Business Solutions.	03/14/2024	1,354.98
10792	203	PG&E	03/14/2024	67,657.75
10793	1431	QK Inc.	03/14/2024	124,003.17
10794	1430	Angelina Sandoval	03/14/2024	150.00
10795	307	Shred-It, C/O Stericycle, Inc.	03/14/2024	329.22
10796	323	Springbrook Holding Company LLC	03/14/2024	2,082.00
10797	309	St. Francis Electric	03/14/2024	9,984.00
10798	530	Telstar Instruments	03/14/2024	1,896.00
10799	284	Trans Union LLC	03/14/2024	137.83
10800	1175	UBEO West, LLC	03/14/2024	414.38
10801	314	Valley Coffee & Water	03/14/2024	87.80
10802	367	Verizon Wireless	03/14/2024	1,705.96
10803	210	WGR Southwest, Inc.	03/14/2024	385.00
Total for 3/14/2024:				327,583.08
Report Total (176 checks):				1,140,224.76

STAFF REPORT



AGENDA ITEM: Professional Services Agreement between City of Livingston and Andrea Caro, Circus Royal Spectacular

MEETING DATE: March 19, 2024

PREPARED BY: Jacquelyn Benoit, Recreation Superintendent

RECOMMENDATION:

Adopt Resolution No. 2024-____, authorizing the Interim City Manager to execute a professional service agreement between the City of Livingston and Andrea Caro, Circus Royal Spectacular as a circus entertainment and concessions provider.

BACKGROUND/DISCUSSION:

The City of Livingston has hosted the Circus Royal Spectacular prior to COVID for several years. The focus for this event is to create a venue for families to enjoy local, clean safe and fun entertainment. City staff devotes significant time and effort to promoting and organizing safe and fun family events. The event will run May 23rd through May 27, 2024, which is Thursday through Sunday Memorial Day Weekend. The circus not only provides entertainment but concessions as well.

This event will attract hundreds of attendees within and outside of Livingston. The event has an indirect positive impact on our local economy as some local businesses may also benefit from an increase in sales. The percentage the city gets from this agreement will be used in furthering the fundraising efforts for the new Rec-Plex.

Circus Royal Spectacular, owned and operated by Andrea Caro, has provided an entertaining professional circus enjoyed by many throughout the Western states.

City staff has received communication from the 4th of July carnival provider that there are no conflicts/issues with the approval of this item.

FISCAL IMPACT:

The Circus Royal Spectacular will pay the city 25% of all ticket sales, presale and at the door.

ATTACHMENTS:

1. Resolution of the City Council of the City of Livingston between City of Livingston and Andrea Caro, Circus Royal Spectacular as circus and concession provider.
2. Exhibit A – Professional Services Agreement between the City of Livingston and Andrea Caro, Circus Royal Spectacular

RESOLUTION NO. 2024-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON
AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A PROFESSIONAL
SERVICE AGREEMENT BETWEEN THE CITY OF LIVINGSTON AND ANDREA
CARO, CIRCUS ROYAL SPECTACULAR AS A CIRCUS ENTERTAINMENT AND
CONCESSIONS PROVIDER**

WHEREAS, the City of Livingston has hosted the Circus Royal Spectacular, an acrobatic-focused form of entertainment to create a venue for families to enjoy local, clean, safe and fun entertainment. City staff devotes significant time and effort to promoting and organizing safe and fun family events; and

WHEREAS, the event will run from May 23 through May 27, 2024, which is Thursday through Sunday Memorial Day Weekend. The circus not only provides entertainment but concessions as well; and

WHEREAS, this event will attract hundreds of attendees within and from outside of Livingston. The event has an indirect positive impact on our local economy as some local businesses may also benefit from an increase in sales. The percentage the city gets from this agreement will be used in furthering the fundraising efforts for the new Rec-Plex; and

WHEREAS, Circus Royal Spectacular, owned and operated by Andrea Caro, has provided an entertaining professional circus enjoyed by many throughout the Western States; and

WHEREAS, The Circus Royal Spectacular will pay the city 25% of all ticket sales, presale and at the door, purchase a business license through the city, and obtain any other permits necessary to operate the circus.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Livingston does hereby resolve, declare, determine, and order as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The City Manager is hereby authorized and directed to execute the professional Services Agreements and all other documents needed to execute this agreement and carry out the purpose and intent of this resolution, each following review and approval of the City Attorney.
3. This resolution is effective immediately upon adoption.

I hereby certify that the foregoing Resolution No. 2024-____ is a full, true and correct copy of a resolution duly passed and adopted by the City Council of the City of Livingston at a regular meeting thereof duly held on the 19th day of March 2024, by the vote recorded as follows:

AYES:
NOES:
ABSENT:
ABSTAIN:

By: _____
Jose A. Moran, Mayor
of City of Livingston

ATTEST

Monica Cisneros, Deputy City Clerk

APPROVED AS TO LEGAL FORM

Roy C. Santos, City Attorney

CITY OF LIVINGSTON

EVENT SERVICES AGREEMENT FOR CARNIVAL

This EVENT SERVICES AGREEMENT (herein "Agreement"), is made and entered into by and between the CITY OF LIVINGSTON (herein "CITY") and **Circus Royal Spectacular Corp**, (herein "Contractor"). The parties hereto agree as follows:

CONTRACTOR: ANDREA CARO, an individual doing business as
CIRCUS ROYAL SPECTACULAR CORP

EVENT: May 23-27 of 2024

LOCATION: Max Foster Sports Complex, 2600 Walnut Ave, Livingston, Ca 95334

1. ADMINISTRATION.

City's City Manager, or designee, is charged with the administration of this Agreement on behalf of the City and may make all decisions in connection therewith. **Andrea Caro (Self)** is Contractor's representative authorized to make decisions in connection with this Agreement.

2. SCOPE OF SERVICES

- a. Contractor is engaged in the business of producing a family circus providing attractions such as acrobatic shows & food concessions.
- b. The City would like to reserve (book) the Contractor for community entertainment May 23rd through the 27th 2024 located at Max Foster Sports Complex, 2600 Walnut Avenue, Livingston, CA 95334, County of Merced
- c. City agrees to provide adequate space for said circus. trucks, living quarter bunkhouses & RVs at Max Foster Sports Complex, 2600 Walnut Ave., Livingston, CA 95334 commencing, May 21, 2024 – May 29, 2024.
- d. The Contractor agrees to furnish (space permitting) a circus tent and 1-2 candy and food concessions for said event.
- e. Contractor to pay for its business license & health permits required by local government agencies for the circus.
- f. Contractor shall pay and furnish proof of liability insurance and required endorsements of not less than Ten Million Dollars naming as additional insured the City, the County of Merced, CA and any other additional name requested.
- g. Contractor shall have exclusive and overall control of the operation of all equipment associated to the Circus which includes all entertainment, food concessions, show devices, and generator power units.
- h. Contractor First will provide presale admission tickets to the circus six-weeks prior to the event. All presale will be discontinued being sold at 1:00 pm, May 22, 2024. All unsold presale tickets will be returned to Andrea Caro no later than 5pm on opening day. It is the City's responsibility to collect all tickets from sponsor vendors selling the presale prior to the 5 pm timeframe for settlement.
- i. Contractor at the end of the engagement, agrees to clean the portion of the grounds utilized during the event

- j. City will be responsible for obtaining and paying for all trash dumpsters, portable restrooms and hand washing sinks for said event.
- k. City will also order an extra (1) separate portable restroom for circus crew for use at crews living quarters area and to be delivered on May 21, 2024. Contractor will reimburse the City for said (1) portable restroom.
- l. Contractor will be responsible for the picking up of all trash & debris in and around the circus area during and after the event. Contractor will provide trash cans throughout the park and circus area.
- m. City agrees that it will not sponsor or book directly or indirectly any other show, amusement, or attraction of similar nature to prior to the First Party's operation for a minimum of 60 days prior to or on the date of the show.
- n. City will be permitted to have the shows office & living quarters (bunkhouse trailers) to remain onsite during the event.
- o. City will provide a minimum of (1) freshwater (drinkable) hook-up / outlet for the circus use.

3. SPECIAL REQUIREMENTS.

- A. Contractor must comply with all applicable restrictions on the use of intellectual property including copyright laws for music.
- B. Contractor agrees to permit City to use photography and/or video taping of this activity/event for promotional use/or on City's website.
- C. Contractor is subject to the following restrictions: Compliance with the City of Livingston Municipal Code, including Noise Regulations.
- D. Contractor warrants that she/he and all staff of Contractor who may provide services pursuant to this Agreement who may have contact with children have never been convicted of any offense specified in Public Resources Code Section 5164 or Penal Code Section 11105.3 which would preclude any such person from working with children. If required by state law and indicated below, at Contractor's sole expense, Contractor and its staff shall submit to fingerprinting and a background check, in accordance with Section 5164 of the California Public Resources Code, and/or shall submit to the City a certificate regarding communicable tuberculosis as required by Sections 5163 et seq. of the California Public Resources Code. The foregoing requirements must be satisfied prior to the commencement of the Services.

Fingerprinting and/or Tuberculosis, as specified, required:

YES X NO

[Required for individuals who may come in to contact with children and/ or work as a food/beverage concessionaire.]

4. TERM.

The term of this Agreement shall be from the Start Date and Start Time through the End Date and End Time specified above.

5. SCHEDULE OF COMPENSATION.

- a. Contractor agrees to compensate the City as Follows: 25% of all advance / pre-sale unlimited circus admission tickets sold. 25% of all onsite circus admission tickets sold.
- b. The 2024 Circus Royal Spectacular admission tickets prices:
 - i. Advance/Presale:
 - *Show admission ticket: _____.

- ii. Onsite:
*Show Admission Ticket: _____.

6. INDEMNITY.

The Contractor agrees to indemnify, hold harmless, and defend the City, its officers, employees, and agents from any and all claims, losses, or actions brought by any person or persons resulting directly or indirectly from the wrongful or negligent acts, errors, and omissions of the Contractor and its officers, employees, agents, or volunteers, including, without limitation, any penalties, claims or liabilities arising in connection with a violation of intellectual property laws and copyright regulations.

7. INDEPENDENT CONTRACTOR

At all times during the term of this Agreement, Contractor agrees to perform the services hereunder as an Independent Contractor and under no circumstances or conditions shall Contractor or any of his/her agents, servants and employees, be considered an employee or agent of the City. Contractor is solely responsible for selecting the means, methods and procedures for performing its services hereunder and for coordinating all portions of the work so the results will be satisfactory to City. Contractor will supply all tools and instruments required to perform its services under this Agreement. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. Contractor shall not be entitled to any benefits accorded to City employees, including workers' compensation, disability insurance, vacation or sick pay and Contractor hereby expressly waives any claim he/she may have to such rights.

8. FACILITIES, EQUIPMENT, SUPPLIES AND CARE OF CITY PROPERTY.

- A. Contractor shall provide the following materials and equipment for use in the Event at Contractor's sole expense: Equipment Needed to Provide services for the circus.
- B. Contractor shall take prudent care of City property, including but not limited to the property listed above. Contractor shall ensure that the property, equipment and/or facility is left in the same condition as it was found.

9. INSURANCE.

If required by this Section, Contractor agrees to obtain and maintain the policies set forth in the attached Exhibit A, entitled "INSURANCE REQUIREMENTS." All policies, endorsements, certificates and/or binders shall be subject to approval by the City as to form and content. Contractor agrees to provide City with a copy of the required policies, certificates and/or endorsements before services commence under this Agreement.

Insurance Coverage as specified in Exhibit A Required:

YES X NO

10. LITIGATION MATTERS.

This Agreement shall be construed and interpreted in accordance with the laws of the State of California and venue shall be the County of Merced Superior Court.

11. NONDISCRIMINATION.

Contractor shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

12. PROHIBITION AGAINST SUBCONTRACTING OR ASSIGNMENT.

Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City.

13. PRIOR AGREEMENTS AND AMENDMENTS.

This Agreement, including the Exhibit, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. Except as expressly provided herein, this Agreement may only be modified by a written amendment duly executed by the parties.

14. SEVERABILITY.

Should any portion, word, clause, phrase, sentence or paragraph of this Agreement be declared void or unenforceable, such portion shall be considered independent and severable from the remainder, the validity of which shall remain unaffected.

15. CORPORATE AUTHORITY.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

In Witness Whereof, the parties hereto have executed this Agreement on the day and year written above.

**CITY OF LIVINGSTON,
Christopher Lopez. Interim City Manager
"CITY":**

**Circus Spectacular Corp. Andrea Caro,
"CONTRACTOR":**

By: _____

By: _____

Date

Date

ATTEST:

**Roy C. Santos
Aleshire & Wynder**

By: _____

EXHIBIT A

INSURANCE REQUIREMENTS

A. Commercial General Liability Insurance. A policy of commercial general liability insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Limits shall be no less than \$10,000,000.00 per occurrence and \$20,000,000.00 aggregate. The City and each of its employees and agents must be mentioned as additional insured.

B. Workers' Compensation Insurance. A policy of workers' compensation insurance on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000.00 per accident for all covered losses. However, this requirement shall not apply if Contractor has no employees. If Contractor has no employees, Contractor shall submit a written statement under perjury that he/she has no employees.

C. Automotive Insurance. A policy of comprehensive automobile liability insurance as required by California law.

Said policies of insurance shall not be cancelled without providing ten (10) days' prior written notice by registered mail to the City. In the event any of said policies of insurance are cancelled or amended, Contractor shall, provide new evidence of insurance. No work or services under this Agreement shall commence until Contractor has provided City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages to the satisfaction of the City.

Contractor agrees that the provisions of this Section shall not be construed as limiting in any way the extent to which Contractor may be held responsible for the payment of damages to any persons or property resulting from Contractor's activities or the activities of any person or persons for which Contractor is otherwise responsible.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide or The Key Rating, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City Manager of the City due to unique circumstances.



STAFF REPORT

AGENDA ITEM: Adopt a Resolution Approving a professional service agreement with Lance, Soll & Lunghard (LSL), LLP

MEETING DATE: March 19, 2024

PREPARED BY: Happy Bains, Acting Finance Director

REVIEWED BY: Christopher Lopez, Interim City Manager

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution to approve a professional services agreement with Lance, Soll & Lunghard, LLP Certified Public Accountants for consulting services for an amount not to exceed \$135,000.

BACKGROUND

At the December 19, 2023, City Council meeting, City Council approved an agreement with Bryant L. Jolley, Certified Public Accountants, to assist the City in adhering to GASB pronouncements and other tasks in order to have all items ready for the outside auditors to carry out the audits.

Bryant L. Jolley Certified Consultants have notified the city that they would not be able to assist the city to meet our deadlines due to staffing issues and prior engagements with other agencies.

DISCUSSION

To ensure that the city's audits are completed in a timely manner and staff can get the proper training needed to be able to carry out the month-end and year-end processes, city staff have asked for Lance, Soll & Lunghard, LLP (LSL CPAs) to assist with completing certain aspects of the year end close for the fiscal year ending June 30, 2023.

LSL CPAs will assist the city in the following strategic areas:

- GASB 68 calculations – requires governments providing defined benefit pensions to recognize their long-term obligation for pension benefits as a liability, and to more comprehensively and comparably measure the annual costs of pension benefits.
- GASB 75 calculations – requires local governments and school districts to prepare the Generally Accepted Accounting Principles (GAAP)–compliant financial statements to report the total Other Post-Employment Benefits (OPEB) liability in the statement of net position in their government-wide financial statements.
- GASB 87 Lease Analysis and Calculations – requires a lessee government to recognize (1) a lease liability and (2) an intangible asset representing the lessee's right to use the leased asset. A lessor government is required to recognize (1) a lease receivable and (2) a deferred inflow of resources.
- GASB 96 (Current Year Implementation) Agreement Analysis and Calculations = effective for the fiscal year beginning July 1, 2022. GASB 96 establishes uniform accounting and financial reporting requirements for Subscription-Based Information Technology Arrangements (SBITAs).
- Assistance with certain year-end close functions as previously discussed with LSL CPAs
- Assistance with implementation of a month-end close process



STAFF REPORT

- Training staff to be able to carry out the month-end and year-end processes.

Assistance in these areas will allow city staff to complete the year end close for the fiscal year ending June 30, 2023 and will enable the Finance Department to prepare for the year end close for the fiscal year ending June 30, 2024.

Staff recommends entering into a contract with Lance, Soll & Lunghard, LLP.

FISCAL IMPACT

No new funding is needed for this agreement since the funding for Bryan L Jolley will be rolled over for this agreement. Future budget years will account for this expense.

ATTACHMENTS

1. Resolution
2. Lance, Soll & Lunghard, LLP Agreement

RESOLUTION NO. 2024-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON APPROVING
A PROFESSIONAL SERVICES AGREEMENT LANCE, SOLL & LUNGHARD (LSL),
LLP**

WHEREAS, the City Council desires to adhere to the City of Livingston Code, federal and state agencies and the requirements of an outstanding debt issue; and

WHEREAS, the City of Livingston has a fiduciary responsibility to have its financial records and transactions audited each fiscal year; and

WHEREAS, accounting rules promulgated by the Government Accounting Standards Board (GASB) are very technical in nature; and

WHEREAS, staff needs assistance in creating entries and disclosures because of the accounting rules.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Livingston as follows:

Section 1. The City Council finds a benefit in obtaining accounting assistance and thus does hereby authorize a professional services agreement with Lance, Soll & Lunghard, LLP to assist with completing the following:

- GASB 68 calculations – requires governments providing defined benefit pensions to recognize their long-term obligation for pension benefits as a liability, and to more comprehensively and comparably measure the annual costs of pension benefits.
- GASB 75 calculations – requires local governments and school districts to prepare the Generally Accepted Accounting Principles (GAAP)–compliant financial statements to report the total Other Post-Employment Benefits (OPEB) liability in the statement of net position in their government-wide financial statements.
- GASB 87 Lease Analysis and Calculations – requires a lessee government to recognize (1) a lease liability and (2) an intangible asset representing the lessee's right to use the leased asset. A lessor government is required to recognize (1) a lease receivable and (2) a deferred inflow of resources.
- GASB 96 (Current Year Implementation) Agreement Analysis and Calculations – effective for the fiscal year beginning July 1, 2022. GASB 96 establishes uniform accounting and financial reporting requirements for Subscription-Based Information Technology Arrangements (SBITAs).
- Assistance with certain year-end close functions as previously discussed with LSL CPAs
- Assistance with implementation of a month-end close process
- Training staff to be able to carry out the month-end and year-end processes.

Section 2. Authorize the Interim City Manager to negotiate and execute a Professional Services Agreement for additional accounting assistance in accordance with legal concurrence with a contract amount not to exceed \$135,000 for the term of the agreement.

Section 3. This Resolution will become effective immediately.

I hereby certify that the foregoing Resolution No. 2024-____ is a full, true and correct copy of a resolution duly passed and adopted by the City Council of the City of Livingston at a regular meeting thereof duly held on the 19th day of March 2024, by the vote recorded as follows:

AYES:
NOES:
ABSENT:
ABSTAIN:

By: _____
Jose A. Moran, Mayor
of City of Livingston

ATTEST

Monica Cisneros, Deputy City Clerk

APPROVED AS TO LEGAL FORM

Roy C. Santos, City Attorney



PREPARED BY
Lance, Soll & Lunghard, LLP
Certified Public Accountants
License Number 2584

Proposal Presented to the City of Livingston

Accounting and Consulting Services

Date of Submission: March 7, 2024

Valid for 90 Days

Authorized by

Kelly Telford, CPA, Partner

203 N. Brea Blvd., Suite 203

Brea, CA 92821

(714) 672-0022

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LETTER OF TRANSMITTAL

March 7, 2024

Christopher Lopez
City of Livingston
1416 C Street
Livingston, CA 95334

Dear Mr. Lopez,

LANCE, SOLL & LUNGHARD, LLP (“LSL CPAs”, “LSL”) is pleased to present our proposal for accounting and consulting services. We value the opportunity to present our professional qualifications to the City of Livingston and demonstrate why our services are second to none.

LSL CPAs has a well-established history of delivering outstanding services to government entities. We provide auditing, accounting, and consulting services to more than 100 municipal clients across the country, such as cities, counties, water and electric utilities, and special-purpose government agencies. Our proposal highlights our firm’s strength and stability, along with our demonstrated experience, knowledge, passion, and creative problem-solving capabilities as a leader in the field of governmental accounting and auditing. Our dynamic team is comprised of top talent within the industry, and with our comprehensive government experience, and our dedication to providing personalized experiences for each of our clients, we believe you will find that LSL CPAs is one of the best-qualified accounting firms to provide these services for the City.

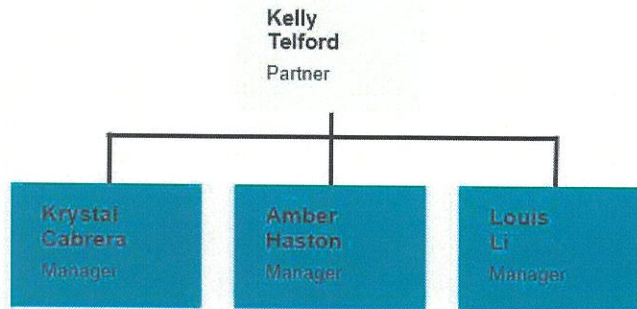
SPECIFIC APPROACH TO SCOPE OF SERVICES

LSL has a structured, well-tested approach to providing accounting services. Our goal is not to replace your team but become a part of it. Our team is willing and ready to provide assistance in strategic areas that allow your team to focus on the day-to-day while allowing us to take care of more complex tasks that cannot be done by other team members. Depending on your needs, our team is ready to assist with the following:

- Assistance with the year-end close, including accounts receivable, capital assets, long term debt, grants, pensions, OPEB, leases and subscriptions.
- Documentation of procedures for the year end close process
- Assistance with implementation of a month-end close process
- Training and other accounting assistance, as needed

QUALIFICATIONS/PERSONNEL

Our dedicated team of professionals have a combined 60 years of expertise working in and with government agencies. Key members of our team and their requisite experience is listed below. Detailed resumes can be found at the end of the proposal.



In addition to our services listed above, LSL is uniquely positioned to assist our clients as our team is comprised of government industry experts who have worked in local governments themselves. Our team understands the complexities of government accounting and can ensure your accounting is accurate and well maintained. In addition, our team has implemented ERP systems as both consultants and as members of local government which allows us to design policies and procedures with accounting in mind.

Also, having a team that has worked in local government, we can assist with other projects the City may need such as training and support of finance department staff, evaluations of efficiencies in the department and assessments to help determine where staff capacity exists, and serving as a backup for day-to-day transaction processing such as utility billing, accounts payable and payroll.

In addition to our consulting department, we are able to leverage the unique expertise of the Government Audit department and Government Technology Consulting Department within LSL. Our Government Audit department, led by Brandon Young, has extensive knowledge of the government industry including internal control related matters, grant compliance in accordance with Uniform Guidance, technical issues related to the implementation of new GASB standards, and much more. Our Technology Consulting department, led by a former government auditor and technology solution expert Gail Gray, has been implementing custom software solutions for government agencies since 2001, primarily focusing on software implementation, training, customization, process automation consulting, and robotic process automation (RPA).



Kelly Telford, CPA, Partner

Kelly has a wealth of experience in both public accounting and local government. She has previously served as Finance Director for the City of Costa Mesa and the City of Seal Beach. She has also conducted numerous presentations focused on GASB 87 and 96 and has assisted many clients with implementing these standards.

In addition to her experience with GASB standards, Kelly has a proven track record of helping agencies overcome internal control challenges, completing year-end close procedures, and serving as an outsourced Finance Director. Her practical recommendations are instrumental in helping our audit staff and clients achieve a high-quality and efficient audit while providing valuable feedback for organizational improvements.



Krystal Cabrera, MSA, CPA, Manager

Krystal is a former auditor who uses her skills and expertise in government audits and accounting to assist clients with month end close, year-end close and audit readiness.

Krystal has been a key member of the training team in past years developing approaches to implementing new GASB pronouncements. Through her experience in accounting services, she has developed an expertise in reconciling grants, assisting with pension and OPEB reporting, implementation of GASB 96 for subscription-based IT arrangements and preparation of annual financial statements.



Amber Haston, Manager

Amber brings over 10 years of experience in government agencies, encompassing full-service and contract cities as well as special districts. Her career began at South Coast Water District and she subsequently held financial roles in Newport Beach, Yorba Linda, Costa Mesa, and Lake Forest. Alongside accounting services, she has expertise in multiple municipal finance department services – legislative analysis, fiscal policy development, budgeting, long-range financial planning, software optimization, levy analysis, and purchasing.

Most recently, Amber has developed a specialty in implementation of GASB 96 for subscription-based IT arrangements, working with clients on extracting applicable data and completing verification for compliance.



Louis Li, Manager

Louis has over 6 years of experience in governmental accounting and budgeting including managing the implementation of a new financial software, reconciling multiple types of accounts, reviewing transactions and/or journal entries before posting to general ledger, budget processes to present to Council, and various consulting and agreed-upon procedures projects.

His background in municipal finance and budgeting has developed a deep understanding

DOLLAR-COST PROPOSAL

Our standard hourly rates are as follows:

LSL 2024 Hourly Rates	
Title	Rates
Group Training	\$420
Partner	\$360
Senior Manager	\$270
Manager	\$230
Supervisor	\$200
Senior Accountant	\$180
Experienced Staff	\$150
Staff Accountant	\$130
Clerical	\$110

Based on our initial discussions, LSL estimates the cost of these services to be between \$70,000 and \$120,000, depending on the extent of services provided and assistance from the City's staff. If circumstances require additional hours, the LSL team will communicate with the City before the time and costs are incurred.

Additional circumstances may arise that could impact our estimated fee such as, but not limited to, increase in scope, issues encountered with the timely delivery, availability, quality, or completeness of the information you provide to us, changes in your personnel or operations that impact our services or other unanticipated items that arise during our engagement and that require additional time to complete the agreed-upon services. You agree that you will deliver all records requested and respond to all inquiries made by our staff to complete this engagement on a timely basis. You agree to pay all fees and expenses incurred whether or not we issue deliverable(s). Should these circumstances exist, our team will communicate with City staff prior to time being incurred.

Any non-personnel-related costs will be billed and reimbursed as they are incurred, if necessary. Progress bills will be sent monthly during the course of the engagement plus out-of-pocket expenses incurred in accordance with the firm's proposal.

The rates above are effective through December 31, 2024. Rates increase annually on January 1 based upon market rates for similar services and generally range between 3% to 7%.

ADAPTING TO A REMOTE WORKING RELATIONSHIP

LSL is fully equipped with software and communication tools to support a remote process. We leverage Microsoft Teams to easily connect over a video call in a face-to-face setting, giving us the ability to share screens and information in real-time. Additionally, having the customizable *LSL CaseWare Cloud Portal* makes the exchange of secure information easy and painless. LSL is also accustomed to working in our client's financial software solutions in a remote environment, taking advantage of VPN connections and remote desktops. In an effort to reduce costs, our team has become accustomed to working remotely using remote desktop technology. It is anticipated that the work would be performed entirely remotely. If onsite time is required, this can be discussed on a case-by-case basis.

CONCLUSION

Our collective experience in local government accounting backed by our comprehensive understanding of all facets of municipal government operations has resulted in our development of efficient procedures and a streamlined work plan approach, which we believe makes LSL one of the best-qualified teams to perform this engagement for the City.

Our proposal is a firm and irrevocable offer for **90 days** following the closing date for the receipt of proposals. For this proposal, Kelly Telford, CPA, Partner, is authorized to make representations for our firm. She can be reached by phone at (714) 458-5292 or by email at Kelly.Telford@lslcpas.com.

Very truly yours,

Lance, Soll & Loughard, LLP

BENEFITS OF WORKING WITH LSL

LSL is a multi-location firm with formidable resources that provides a personal feel and hands-on client experience. LSL is ranked #15 on the Orange County Business Journal's CPA Firm Book of Lists, which highlights the top accounting firms in Orange County.



Ranked # 15 on the Orange County Business Journal's CPA Firm Book of Lists



94 years young and the wisdom to go with it!



14 Partners who are dedicated to solving your issues



145 employees (and growing!)

OUR CORE VALUES

As we continue to grow and evolve, we recognized our core values needed to grow and change with us. Our values weren't decided on by management and handed down, every member of the LSL team worked together to share what values matter most to us. From there, we came up with the following five core values that embody how we approach each other, our work, and our clients.



PURSUE EXCELLENCE



LOVE WHAT YOU DO



LEAD WITH INTEGRITY



ACCOMPLISH MORE TOGETHER



FORWARD THINKING

BEST OF ACCOUNTING AWARD

LSL CPAs delivers high-quality service and has consistently secured the ClearlyRated *Best of Accounting* award. This exclusive program awards accounting firms who demonstrate high-level service of excellence within the accounting industry and solely leverages statistically validated survey responses from our clients.



4.7 based on 646 ratings

ACCOUNTING TODAY REGIONAL LEADER

LSL CPAs has been recognized as an Accounting Today Regional Leader in 2023. The list ranks the top CPA firms that have shown exceptional growth, embraced technology, and who 'think outside the box' when providing solutions.



TRAINING & SEMINARS

LSL regularly leads seminars and training courses on introductory governmental accounting, preliminary views on financial reporting, internal control risk assessments, and all GASB updates and best practices, which are made available to our clients for additional information and continued support. These will be opportunities made available through our firm to the County for training or continuing professional education credits on current issues or governmental auditing and accounting in general.

LSL PROFILE

LSL CPAs was established in 1929 and has grown as a leader in the government sector. LSL is a full-service accounting firm with company headquarters in Brea, California, and additional offices located in Laguna Hills, Santa Ana, and Sacramento California, as well as in The Woodlands, Texas. Our firm has one hundred fifty (150) employees, including sixteen (16) Partners.

LSL provides auditing, accounting, and consulting services to over 100 municipal clients, including cities, counties, water and electric utilities, and special-purpose government agencies. Generally, our government sector services break down into the following major classifications: attestation, compliance, consulting, outsourced accounting and reporting, year-end close assistance, interim staffing, strategic planning, and tax services.

Our extensive experience in local government accounting has led to the development of efficient procedures and a comprehensive understanding of all federal and state grant programs awarded to municipalities. Our work plan approach takes full advantage of accumulated experiences, which we believe makes LSL one of the best-qualified teams to perform this engagement for the City.

Our dynamic team of industry experts holds extensive experience providing services to a full range of government entities. We lead seminars and training courses on introductory government accounting, preliminary views on financial reporting, internal control risk assessments, and all GASB updates and best practices.

LICENSE TO PRACTICE

LSL CPAs is a limited liability partnership and is not a wholly owned subsidiary of a parent company. LSL is a public accounting firm licensed by the State of California, Department of Consumer Affairs, as a Public Accounting Partnership. Under [Section 901.461](#) of the State of Texas Public Accountancy Act, LSL is authorized to practice in the State of Texas as an out-of-state firm. We are also members of the American Institute of Certified Public Accountants. All key staff to be assigned to this engagement are or will be licensed by the State of California to practice as Certified Public Accountants and are pending approval for licensure in the State of Texas.

DESK REVIEWS/DISCIPLINARY ACTION

There have been no disciplinary actions against our organization since its inception. There have been no litigations against our firm in the past three years. Our Single Audit reports are desk reviewed either by the federal cognizant agency or the State Controller's Office acting as the Oversight Agency. We have never had a report rejected by any of these agencies, which demonstrates our thorough understanding of federal grant programs. LSL is highly regarded and recognized by the staff of the State Controller's Office for top-quality reports.

PEER REVIEW

Our firm has participated in the AICPA Peer Review Program since its inception. All our peer reviews have covered governmental engagements and have received *pass* ratings. Our most recent peer review, conducted by Spafford and Landry CPAs, is provided on the following pages.

Report on the Firm's System of Quality Control

To Lance, Soll & Lughard, LLP
and the Peer Review Committee of the California Society of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Lance, Soll & Lughard, LLP (the firm) in effect for the year ended May 31, 2022. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a system review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported on in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing and complying with a system of quality control to provide the firm with reasonable assurance of performing and reporting in conformity with the requirements of applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported on in conformity with the requirements of the applicable professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design and compliance with the firm's system of quality control based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act and employee benefit plan audits.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Lance, Soll & Lunghard, LLP in effect for the year ended May 31, 2022, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency (ies)*, or *fail*. Lance, Soll & Lunghard, LLP has received a peer review rating of *pass*.

Spafford & Landry, Inc.

March 30, 2023

QUALIFICATIONS & EXPERIENCE

CONTINUING EDUCATION

As a firm policy, all professional government staff meet the requirement of 40 hours of continuing education every year, with at least 24 hours in governmental accounting and auditing in a two-year period. Our educational programs include training from CalCPA, AICPA, Government Audit Quality Center, and GFOA.

RECENT EXPERIENCE

As a firm, we have extensive experience with municipalities including cities, counties, water and electric utilities, special districts, joint powers authorities and compliance with OMB Uniform Guidance. We are familiar with all federal and state grant programs typically awarded to municipalities. Generally, our government sector services break down into the following major classifications: attestation, compliance, consulting, interim staffing, strategic planning, and tax services. A list of current government clients can be provided upon request.

As a part of our consulting services, we also provide accounting services that include outsourced accounting services, year-end close assistance, audit preparation, bank reconciliation, training, accounting software implementation, and GASB implementation services. Our team is well-versed in using most accounting software solutions, including Munis, One Solution, PeopleSoft, and Incode.

Our collective experience in local government accounting, backed by our comprehensive understanding of all federal and state grant programs awarded to municipalities, has refined our development of efficient procedures and streamlined work plan approach, which we believe makes LSL one of the best-qualified teams to perform these services.

CLIENT REFERENCES

The services LSL provides to our clients differ depending on the needs of each client. Below is a showcase of our wide-ranging experience in providing accounting and consulting services to other governmental organizations.

City of Moses Lake, WA	
Contact	Madeline Prentice, Director of Finance
Telephone	(509) 764-3732
Email Address	mprentice@cityofml.com
Scope of Work	LSL assisted with the City's new ERP implementation, performing year-end closing procedures along with city staff, including year-end analysis and journal entries for all general ledger accounts. The LSL team prepared the government-wide conversion journal entries, the Annual Comprehensive Financial Report, along with managed and trained department staff.

Georgetown Divide Public Utilities District, CA

Contact	Jessica Buckle, Office/Finance Manager
Telephone	(530) 330-4356 x 103
Email Address	jbuckle@gd-pud.org
Scope of Work	The LSL Team provides monthly accounting services and full year-end close services which includes analysis and workpapers for all accounts and preparation of all journal entries necessary to ensure a complete and accurate general ledger.

City of Marfa, TX

Contact	Mandy Roane, City Manager
Telephone	(432) 729-4315
Email Address	mroane@cityofmarfa.com
Scope of Work	LSL was asked to assist with the City's year-end close. This has evolved into assistance with Tyler Incode, monthly reconciliations and other assistance as challenges arise. The deliverable included all the required documents for the audit and the journal entries needed to finalize the accounting records and representing the City with their outside auditors.

ENGAGEMENT TEAM RESUMES



Kelly A. Telford, CPA

PARTNER, GOVERNMENT SERVICES

ACHIEVEMENTS

Kelly is a respected leader in public finance and is known for being a change agent and thought leader in organizational strategy. She has developed her expertise in accounting and auditing, financial forecasting, budget development, public utilities, investment management, grant management, human resources, and information technology. She has taught classes for GFOA and has presented at annual conferences for CSMFO and GFOA.

CONTINUING EDUCATION

130 total hours over the last three years, 104 of which were in governmental accounting and auditing subjects. Kelly meets the requirements of governmental CPE Government Auditing Standards.

EXPERIENCE

Kelly has 20 years of experience working both in and with government agencies including counties, cities, successor agencies, special districts, and native american tribes and tribal casinos. She served as a Director of Finance/City Treasurer for the cities of Seal Beach and Costa Mesa, and served as the Director of Financial Management for the Los Angeles County Community Development Agency. She has also been an auditor and consultant for 14 years specializing in the audits of government agencies. Her work has entailed:

- Implementation of month-end and year-end close procedures for numerous organizations.
- The preparation of the ACFR for submission for the GFOA award.
- Implementation of new ERP systems, including PeopleSoft, Incode and QuickBooks.
- Audit review and technical assistance throughout the year to deliver the most up-to-date information with current GASB pronouncements
- Presentations to City Councils, Board of Supervisors, Boards of Directors, and Audit Committees
- Currently serves as a technical reviewer for the Government Finance Officers Association (GFOA) Certificate of Excellence in Financial Reporting and the Distinguished Budget Presentation Award Program
- Serves on the CSMFO Professional Standards Committee

MEMBERSHIPS

American Institute of Certified Public Accountants (AICPA)
California Society of Certified Public Accountants (CaICPA)
California Society of Municipal Finance Officers (CSMFO)
Government Finance Officers Association (GFOA)
Texas Municipal League (TML)
Government Finance Officers Association of Texas (GFOA-T)

EDUCATION

Bachelor of Arts, Accounting – California State University, Fullerton, 2003

LICENSE

Certified Public Accountant:
California License #102596
Texas License #123586

CONSULTING ENGAGEMENTS

City of American Canyon
City of Marfa
City of Moses Lake
City of Rancho Cucamonga
City of Santa Maria
City of Tustin
City of Manteca
County of Hidalgo
County of San Bernardino
Georgetown Divide Public Utilities
District, CA
Pomona Valley Transportation
Authority, CA
Puente Hills Habitat Preservation
Authority, CA
Yolo County Public Agency Risk
Management Insurance Auth.

AUDIT ENGAGEMENTS

City of Barstow, CA
City of Downey, CA
City of Inglewood, CA
City of Irwindale, CA
City of Lake Elsinore, CA
City of Manhattan Beach, CA
City of Palm Desert, CA
City of Redondo Beach, CA
City of Shafter, CA
Mesa Water District
Ontario International Airport Auth.



Amber Haston

MANAGER, GOVERNMENT SERVICES

ACHIEVEMENTS

Amber has extensive experience in municipal finance departments gained through her work in local government agencies. As a consulting manager, she combines her strategic problem-solving approach with firsthand knowledge of our client's operations, allowing her to understand their needs and serve as a trusted partner and extension of their departments. Amber's expertise has been instrumental in helping government agencies maximize the use of their existing resources to meet a broader range of priorities.

EXPERIENCE

Amber brings over 10 years of experience in government agencies, encompassing full-service and contract cities as well as special districts. Her career began at South Coast Water District and she subsequently held financial roles in Newport Beach, Yorba Linda, Costa Mesa, and Lake Forest. Alongside accounting services, she has expertise in legislative analysis, fiscal policy development, budgeting, long-range financial planning, software optimization, levy analysis, and purchasing.

Her work has entailed:

- Designing fiscal policies and procedures to ensure efficiency, compliance, and adherence to government regulations.
- Preparing year-end financial projections and developing budgets.
- Conducting research, analyzing fiscal impacts, and providing recommendations for implementing approved legislation.
- Developing a long-term funding strategy and financial model for IT needs through an internal service fund and rates.
- Performing cash analysis and audits of capital funds to validate restricted fund balance amounts.
- Development of calendar and tracking tool for annual departmental tasks and reports.
- Implementation of GASB 97 for leases and GASB 96 for subscription-based IT arrangements, working with clients on extracting applicable data and completing verification for compliance.

MEMBERSHIPS

California Society of Municipal Finance Officers (CSMFO)
Government Finance Officers Association (GFOA)
Municipal Management Association of Southern California (MMASC)

EDUCATION

Bachelor of Science, Business Management, Colorado State University, 2016:
Specialization in Public and Non—Profit Management
Leadership Academy, GFOA, 2022

CONSULTING ENGAGEMENTS

City of Beverly Hills
City of Brawley
City of Elk Grove
City of Glendora
City of Inglewood
City of Irwindale
City of Manteca
City of Palm Desert
City of Redwood City
City of Santa Maria
City of West Sacramento
City of Woodland
City of Marfa
City of St. Augustine
Cosumnes Community Services District
Eastern Municipal Water District
Georgetown Divide Public Utility District
Ontario International Airport Authority
Puente Hills Habitat Preservation Authority
Town of Windsor
United Water Conservation District



Krystal Cabrera, MSA, CPA

MANAGER, GOVERNMENT SERVICES

ACHIEVEMENTS

Krystal specializes in Cities and special districts, conducting all aspects of government accounting. Additionally, Krystal actively engages in diverse consulting projects, offering accounting services, spearheading special initiatives, and providing advisory expertise.

EXPERIENCE

Krystal has 10 years of experience in auditing and advising governmental agencies and has a strong background in municipal finance. She possesses an in-depth understanding of the intricacies involved in managing government agency finance departments. She enjoys collaborating with clients to develop tailored solutions for enhancing their internal systems and procedures.

Her work has entailed:

- Assistance with month and year-end close procedures for numerous organizations.
- The preparation of the ACFR for submission for the GFOA award.
- Advising and technical assistance throughout the year to deliver the most up-to-date information with current GASB pronouncements
- Presentations to City Councils, Board of Supervisors, Boards of Directors, and Audit Committees
- Assisting clients with the preparation and review of GASB 68, 75, 87 and 96 journal entries
- Review of capital assets, debt service, and federal and state award schedules
- Providing trial balance analysis to identify issues and inconsistencies prior to audit.

MEMBERSHIPS

American Institute of Certified Public Accountants (AICPA)
California Society of Municipal Finance Officers Member (CSMFO)

EDUCATION

Master of Science in Accountancy May 2014, California State University, Fullerton
Bachelor of Arts, Business Administration (emphasis in accounting) May 2012, California State University, Fullerton

LICENSE

Certified Public Accountant:
California License #144139
AICPA Advanced Single Audit
Certificate

CONSULTING ENGAGEMENTS

City of American Canyon
City of Barstow
City of Glendora
City of Manteca
City of Marfa
City of Moses Lake
City of Redondo Beach
City of Santa Maria
County of San Bernardino
Georgetown Divide Public Utilities
District
Seattle Southside Regional Tourism
Authority
Puente Hills Habitat Preservation
Authority



Louis Li

MANAGER, GOVERNMENT SERVICES

ACHIEVEMENTS

Louis thrives in the challenges of helping clients find solutions through new systems and procedures, and he helps to adapt to new financial systems. He began his career as an accountant and transitioned to consulting, specializing in working with government agencies such as the City of Costa Mesa, the City of Seal Beach, and the LACDA.

EXPERIENCE

Louis has over 7 years of experience in governmental accounting and budgeting including managing the implementation of a new financial software, reconciling multiple types of accounts, reviewing transactions and/or journal entries before posting to general ledger, budget processes to present to Council, and various consulting and agreed-upon procedures projects.

His background in municipal finance and budgeting has developed a deep understanding of the demands of government agency finance departments, and he enjoys working with clients in developing solutions for their internal systems and procedures.

His work has entailed:

- Perform multiple bank reconciliations and other reconciliations including journal entries to prepare agency for year-end audit.
- Implementation of month-end close procedures.
- Conduct year-end close procedures.
- Analyze and review system errors to confirm general ledger balances are posted to the correct accounts and to confirm if system need reconfiguring.
- Reviewing financial procedures to offer updated or new procedures to assist with the separation of duties.
- Advise best practices in processes from accounts payable, payroll, and accounts receivable.

MEMBERSHIPS

Firm Member, PrimeGlobal

EDUCATION

Bachelor of Arts Degree in Business Economics with an emphasis in Accounting – University of California, Santa Barbara

CONSULTING ENGAGEMENTS

City of American Canyon
City of Brawley
City of Elk Grove
City of Garden Grove
City of Glendora
City of Lemon Grove
City of Manteca
City of Marfa
City of Moses Lake
City of Ojai
City of Santa Fe Springs
City of Santa Maria
City of Winters
County of San Bernardino
Foresthill Public Utility District
Georgetown Divide Public Utility District
Pomona Valley Transportation Authority
Puente Hills Habitat Preservation Authority
Yolo County Public Agency Risk Management Insurance Authority

STAFF REPORT

AGENDA ITEM: Consideration of a Resolution Approving a Franchise Agreement for Solid Waste, Recyclable Materials, and Organic Waste Collection Services between the City of Livingston and Gilton Solid Waste Management, Inc.

MEETING DATE: March 19, 2024

PREPARED BY: Anthony Chavarria, Director of Public Works

REVIEWED BY: Christopher Lopez, Interim City Manager

RECOMMENDATION:

Staff recommends that the City Council:

- (1) Adopt a Resolution of the City Council of the City of Livingston Approving a Franchise Agreement to Gilton Solid Waste Management, Inc. for Solid Waste, Recyclables Materials and Organic Waste Collection Services.
- (2) Authorize the Interim City Manager to execute said agreement.

BACKGROUND:

The current Solid Waste Collection Agreement between the City of Livingston and Gilton Solid Waste Management, Inc. (Gilton) will terminate on March 31, 2024. To adequately update the current Franchise Agreement to comply with State laws, City Staff released a Request for Proposals for an Agreement for Solid Waste, Recyclable Materials, and Organic Waste Collection Services (New Franchise Agreement). A significant focus of the scope of the RFP was how the hauler would assist the City in complying with the state mandates and CalRecycle regulations governing management of recyclable materials and organic waste. Assembly Bill 341 (AB 341) mandates that all commercial customers participate in a recyclable diversion program. Senate Bill 1383 (SB 1383) mandates that all customers must actively participate in an organic waste diversion program to substantially reduce organic waste being sent to landfills. Non-participation in organic waste or recyclable materials diversion programs may result in fines for the City and/or residents and businesses. The new recycling and organic recycling programs, included in the New Franchise Agreement, are both key aspects of meeting state regulatory compliance mandates and are not negotiable.

The City released an RFP for Collection Services on December 2, 2022. The following three service providers submitted proposals:

1. Gilton Solid Waste Management, Inc (Gilton)
2. Mid Valley Disposal (Mid Valley)
3. Modesto Garbage Company, Inc (WM)

The City subsequently contracted with HF&H Consultants, LLC (HF&H) to assist the City as technical advisors in evaluating the proposals received, providing their thoughts on the proposals and items for negotiation, requesting additional information to assist the evaluation, and ultimately evaluating the proposals. An evaluation team made up of City Staff and HF&H evaluated the three proposals. The evaluation team performed reviews of the technical and rate proposals received from the three proposers. Additionally, HF&H performed reference checks of all three proposers and requested clarifying responses from each proposer based on their submitted proposals. The service providers were evaluated based off of their technical and rate proposals, references, and responses to the clarifying questions. Based on the

proposals, references, clarifying responses, and overall experience as the incumbent service provider, the evaluation committee ranked Gilton as the top-ranked company.

As the incumbent collection and processing service provider for the City of Livingston for the last thirty-eight (38) years, Gilton Solid Waste Management, Inc. stated that they will take full responsibility for meeting all performance requirements in the New Franchise Agreement and will continue to keep the City in compliance with CalRecycle regulations, including SB 1383 and AB 341. Furthermore, Gilton provided the most cost competitive proposal of the three companies to mitigate the fiscal impact of the new services for Livingston's residential and commercial ratepayers. Therefore, Gilton demonstrated that they have the staffing, management tools, technology, financial ability, and local knowledge to provide a high level of customer service and good value to the City's residents and businesses.

The highlights of the agreement are as follows:

- 10 year initial term with option of two 5 year extensions.
- City will receive a 15% Franchise Fee from Collectors gross revenues from residential, commercial, and industrial accounts.
- City will adjust the maximum rates under this agreement to reflect annual changes in the consumer price index for all urban consumers (CPI).
- Collector will provide for two (2) curbside bulky item collection events per calendar year from residential customers.
- Collector shall collect, recycle, or dispose of specified E-Waste (as defined in Exhibit F) from residential customers up to four (4) times per calendar year.
- Collector will provide a residential Christmas tree collection and recycling program. Each year, during the first two full weeks of January, Collector will pick up Christmas trees from the front of residential properties in the City.
- Collector shall provide Solid Waste, Recyclables, and Organic Waste collection services to all City owned and operated facilities and parks at no additional charge to the City.
- At the City's request, Collector will provide waste containers, plus Solid Waste, Organic Waste and Recyclables removal and disposal services for three community events per year.
- No less than twice per year, if requested by City, Collector will distribute informational flyers or brochures to City Customers regarding the importance of recycling and separating wastes in order to achieve greater waste diversion, as well as the applicable commercial recycling requirements set forth in AB 341, AB 1826, and SB 1383. In addition, Collector will provide technical support and assistance to City Staff in preparation of articles or newsletters related to organic waste reduction, reuse, and recycling.
- Collector agrees to assist the City in meeting SB 1383 mandates by performing the additional services as detailed in Exhibit G.

FISCAL IMPACT:

The projected fiscal year 24/25 cost to the city for garbage collection, disposal, green waste processing and recycling processing is approximately \$2.6 million.

ATTACHMENTS:

1. Resolution
2. Exhibit "A" Franchise Agreement
3. Exhibit "B" Revised Rate Sheet

RESOLUTION NO. 2024-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON APPROVING
A FRANCHISE AGREEMENT FOR SOLID WASTE, RECYCLABLE MATERIALS,
AND ORGANIC WASTE COLLECTION SERVICES BETWEEN THE CITY OF
LIVINGSTON AND GILTON SOLID WASTE MANagements, INC.**

WHEREAS the current Solid Waste Collection Agreement between the City of Livingston and Gilton Solid Waste Management, Inc. (Gilton) will terminate on March 31, 2024; and

WHEREAS, to adequately update the current Franchise Agreement to comply with State laws, City Staff released a Request for Proposals for an Agreement for Solid Waste, Recyclable Materials, and Organic Waste Collection Services (New Franchise Agreement) and a significant focus of the scope of the RFP was how the hauler would assist the City in complying with the state mandates and CalRecycle regulations governing management of recyclable materials and organic waste; and

WHEREAS, non-participation in organic waste or recyclable materials diversion programs may result in fines for the City and/or residents and businesses; and

WHEREAS, the new recycling and organic recycling programs, included in the New Franchise Agreement, are both key aspects of meeting state regulatory compliance mandates and are not negotiable; and

WHEREAS, the City released an RFP for Collection Services on December 2, 2022, and the following three service providers submitted proposals:

1. Gilton Solid Waste Management, Inc (Gilton)
2. Mid Valley Disposal (Mid Valley)
3. Modesto Garbage Company, Inc (WM)

WHEREAS, based on the proposals, references, clarifying responses, and overall experience as the incumbent service provider, the evaluation committee ranked Gilton as the top-ranked company; and

WHEREAS, the highlights of the agreement are as follows:

- 10 year initial term with option of two 5 year extensions.
- City will receive a 15% Franchise Fee from Collectors gross revenues from residential, commercial, and industrial accounts.
- City will adjust the maximum rates under this agreement to reflect annual changes in the consumer price index for all urban consumers (CPI).
- Collector will provide for two (2) curbside bulky item collection events per calendar year from residential customers.
- Collector shall collect, recycle, or dispose of specified E-Waste (as defined in Exhibit F) from residential customers up to four (4) times per calendar year.
- Collector will provide a residential Christmas tree collection and recycling program. Each year, during the first two full weeks of January, Collector will pick up Christmas trees from the front of residential properties in the City.

- Collector shall provide Solid Waste, Recyclables, and Organic Waste collection services to all City owned and operated facilities and parks at no additional charge to the City.
- At the City's request, Collector will provide waste containers, plus Solid Waste, Organic Waste and Recyclables removal and disposal services for three community events per year.
- No less than twice per year, if requested by City, Collector will distribute informational flyers or brochures to City Customers regarding the importance of recycling and separating wastes in order to achieve greater waste diversion, as well as the applicable commercial recycling requirements set forth in AB 341, AB 1826, and SB 1383. In addition, Collector will provide technical support and assistance to City Staff in preparation of articles or newsletters related to organic waste reduction, reuse, and recycling.
- Collector agrees to assist the City in meeting SB 1383 mandates by performing the additional services as detailed in Exhibit G.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Livingston as follows:

Section 1. Adopt a Resolution of the City Council of the City of Livingston Approving a Franchise Agreement to Gilton Solid Waste Management, Inc. for Solid Waste, Recyclables Materials and Organic Waste Collection Services.

Section 2. Authorize the Interim City Manager to execute said agreement.

Section 3. This Resolution will become effective immediately.

I hereby certify that the foregoing Resolution No. 2024-___ is a full, true and correct copy of a resolution duly passed and adopted by the City Council of the City of Livingston at a regular meeting thereof duly held on the 19th day of March 2024, by the vote recorded as follows:

AYES:
 NOES:
 ABSENT:
 ABSTAIN:

By: _____
 Jose A. Moran, Mayor
 Of City of Livingston

ATTEST

 Monica Cisneros, Deputy City Clerk

APPROVED AS TO LEGAL FORM

Roy C. Santos, City Attorney

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT ("Agreement") is made and entered into this 1st day of April 2024 (the "Effective Date") by and between the City of Livingston ("City"), a municipal corporation of the State of California, and Gilton Solid Waste Management, Inc., a California corporation ("Collector"). The parties to this Agreement may each be referred to individually as a "Party" or collectively as the "Parties". There are no other parties to this Agreement.

RECITALS

A. The California State Legislature enacted the California Integrated Waste Management Act of 1989 ("AB 939") which authorizes local jurisdictions to make adequate provisions for solid waste handling within their jurisdictions; and

B. On October 6, 2011, the Legislature passed Assembly Bill 341 ("AB 341"), amending the California Public Resources Code (the "Public Resources Code") therein requiring cities to encourage and document commercial solid waste recycling programs; and

C. On September 28, 2014, the Legislature passed Assembly Bill 1826 ("AB 1826"), approved by the Governor of the State of California which added Chapter 12.9 (commencing with Section 42649.8) therein requiring cities to require businesses to separate their organic waste from the municipal waste stream for composting.

D. On November 10, 2020, the Legislature passed Senate Bill 1383, Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions ("SB 1383"), establishing a statewide target to decrease methane emissions at landfills by reducing the disposal of organic waste by 50% below 2014 levels by 2022 and by 75% below 2014 levels by 2025. SB 1383 establishes regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets and requires Jurisdictions to implement collection programs, meet processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements.

E. The collection and disposition of garbage, refuse and waste is governed and regulated by applicable provisions set forth in Title 8; Chapter 2 Municipal Code (the "Code"), which may be amended from time to time and is incorporated herein by this reference; and

F. The City previously entered into a franchise agreement with Collector on April 2, 2013, wherein the City selected Collector to provide services for the collection, recycling, and disposal of solid waste within the City.

G. The existing Agreement provides that the term of the agreement may be extended by mutual agreement of the Parties; and

H. The City and Collector now desire to update and extend the term of the existing Agreement. The term of this Agreement shall commence on the Effective Date and shall be in

force for 10 calendar years.

I. It is the City's objective to continue to engage Collector to provide refuse collection and disposal services for residential and commercial collection. By entering into this Agreement Collector shall assist City in meeting its AB 939, AB 341, AB 1826, and SB 1383 requirements; and

J. The City's refuse program shall be consistent with the County Solid Waste and Integrated Waste Management Plan and comply with all regulations promulgated by the local Merced County enforcement agency and the Department of Resources Recycling and Recovery; and

K. The Parties desire to rescind the existing Agreement which shall be fully replaced and superseded by this Agreement as of the Effective Date.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and sufficient consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above (the "Recitals") are incorporated herein by this reference and made a part of this Agreement. In the event any inconsistencies arise as between the Recitals and Sections I through 34 of this Agreement, Sections I through 34 shall prevail.

Section 2. Definitions. Unless otherwise noted in this Agreement, capitalized terms herein shall have the meanings set forth in **Exhibit A**. Whenever any term used in this Agreement has been defined by Division 30, Part I, Chapter 2 of the Public Resources Code or the City's Code, those definitions shall apply unless the term is otherwise defined in **Exhibit A**. In the event there is a discrepancy between the definitions contained in the Public Resources Code and the City's Code, the definitions set forth in the Public Resources Code shall supersede all other definitions.

Section 3. Termination of Existing Agreement. This Agreement hereby supersedes and replaces any existing agreement(s), whether written or oral, by mutual agreement and consent of the Parties as of the Effective Date of this Agreement. Hereafter all previous agreements shall terminate and be of no further force and effect except with respect to covenants therein for acts and omissions occurring prior to the Effective Date.

Section 4. Franchise Area.

4.1. Franchise Area Defined. The franchise area granted by this Agreement shall be all residential and commercial premises located within city limits of City, as more particularly shown on **Exhibit B** ("Franchise Area"). As provided below, the Franchise Area may be changed by annexation, de-annexation, or re-organization.

4.2. Annexation Covered by Existing Franchise. All territories annexed during the Term of this Agreement may be subject to this Agreement. However, properties served by another collector at the time of annexation, shall continue to be served by collector for 1 year. All new construction in the annexed area will be serviced by Gilton Solid Waste (Gilton).

Section 5. Waste Collection and Disposal.

5.1. Scope of Services. Except as set in Section 5.4, the City hereby grants Collector the exclusive franchise, right and privilege to collect all Solid Waste, Organic Waste and Recyclables within the Franchise Area and to transport the same to a High Diversion Organic Waste Processing Facility, sanitary landfill, transfer station, compost/mulching site, or waste-to-energy facility outside the City, which has been approved by the governmental agency having jurisdiction of the territory in which said site is located (the "Services"). When transporting collected material out of Merced County, after processing, Collector will return an amount equal to the residual municipal solid waste portion to a Merced County Regional Waste Management Authority (RWA) facility as required by the RWA's flow control. Waiver requests for recyclables and organic materials must be submitted to the RWA for approval. City may designate alternative processing facilities if public health, safety, or fiscal interest is required, or compliance with applicable law necessitates the alternative and will be at cost to the Collector. Collector shall furnish all labor, supervision, materials, permits, licenses, and equipment necessary to provide residential and commercial refuse collection Services for Customers within the Franchise Area of City. Collector shall perform its obligations under this Agreement in accordance with all applicable local, state, or federal laws and in a manner that maximizes the City's Solid Waste diversion rate to the extent possible.

5.2. Residential Service. Collector shall provide Solid Waste and Organic Waste collection services to all residential premises within the City. Collector may provide Recyclables collection services to residential premises within the City. If the City elects to make residential Recyclables collection service mandatory, Collector shall provide such service to all residential premises and shall charge rates that will be amended for such services.

5.3. Commercial Service. Collector may provide Solid Waste collection services to all commercial premises within the City. In addition, pursuant to the requirements set forth in AB 341, AB 1826, and SB 1383, Collector shall provide recycling collection services and/or organic collection service to any business that meets the mandatory threshold of each legislation.

5.4. Excepted Services. Collector's exclusive franchise in this Agreement shall not include governmental entities if and to the extent the City has no legal power to require such entities to use Collector's Services. The provisions of this franchise shall not preclude or prohibit the City or any officer or employee thereof or any employee of the State, or any governmental subdivision thereat; from collecting, removing, and disposing of Solid Waste, Recyclables, or Organic Waste from the City or State facilities.

Section 6. Collection and Bins.

6.1. Provision of Receptacles. Collector agrees to continue to provide and maintain all Carts, Bins and Roll-Off Boxes for the proper and secure storage of Solid Waste, Organic Waste

or Recyclables for all residential and commercial Customers. All residential Cart Customers shall be serviced once per week and commercial Bin Customers shall be serviced from one (1) to six (6) times per week as requested by the Customer. Roll-Off box Customers will be serviced as arranged between the Customer and Collector.

6.2. Hours of Collection. Collection service of all Carts, Bins, and Roll-Off Boxes in residential areas and from commercial premises adjacent to residential areas shall not start before 6:00 a.m. or continue after 6:00 p.m., subject to change by resolution of the Livingston City Council ("City Council"). However, the hours of collection may be extended temporarily as a result of extraordinary circumstances or conditions with the prior consent of the Livingston City Manager ("City Manager").

6.3. Receptacle Replacement. Collector, without expense to City or any Customer, will replace stolen carts when a police report has been filed within seventy-two (72) hours. Collector shall clean, paint over or replace, at its discretion, graffiti-tagged Carts as needed. Collector shall replace Carts damaged due to normal wear and tear within the time frame of one collection cycle. Collector shall maintain records of lost, stolen, damaged and graffiti-tagged Carts by specific address. Collector may charge for additional replacement Carts based on the actual cost of the Carts and their delivery.

Section 7. Term of Agreement.

The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect for ten (10) calendar years. This Agreement may be extended at the sole option of the City via two options for a five (5) -year extension. The City may in its sole discretion advertise for competitive bids for solid waste franchise collection services with such services to commence after the expiration of the contract term of this Agreement. Nothing herein shall be deemed or construed to impair the rights of the City to immediately terminate this Agreement with Collector due to Collector's substantial failure to perform the services and responsibilities specified and agreed to in this Agreement.

Section 8. Acceptance; Waiver. Collector agrees to be bound by and comply with all the requirements of this Agreement. Collector waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license, or permit issued or granted by any governmental entity including any right under Section 49520 of the Public Resources Code.

Section 9. Maximum Rates and Fees.

9.1. Rates. The maximum rates to be charged by Collector are set forth in Exhibit C ("Rate" or "Rates") and the maximum rates may be adjusted by resolution of the City Council. For the first year of the Agreement, Collector shall charge rates that are no greater than the maximum rates as established by the City. The City will establish a separate administration fee for processing solid waste billing. In the remaining years of the Agreement Term, the City will adjust the maximum rates under this Agreement to reflect annual changes in the Consumer Price Index for All Urban Consumers ("CPI") published by the U.S. Department of Labor for the San Francisco-Oakland-San Jose, CA statistical area. The adjustment shall become effective on the anniversary of the Effective Date of this Agreement and be based on the previous twelve-month index analysis based

on the Effective Date of this Agreement. In all subsequent years, the Collector may request, and the City Council shall consider, rate adjustments based on other adjustments provided for under subsections 9.3. and 9.4.

9.2 Tipping Fees. The Parties acknowledge and agree that the maximum rates include compensation to Collector for tipping, gate or other disposal fees charged by any applicable disposal facilities. Notwithstanding any provision in this Agreement to the contrary, Collector, except in the case of Roll-Off Box Customers, shall not be entitled to receive from City, or any Customer, a separate or additional payment for tipping or gate fees. In addition to any other rate adjustments to which Collector may be entitled, Collector may request to increase its rates to the extent necessary to recover increased landfill, waste-to-energy facility, transfer station, and material recovery facility tipping or gate fees. Collector shall provide City with notice of the proposed new rates within thirty (30) days of such notice being received from Merced County or other applicable authority and shall provide the City with a copy of any notice regarding an increase in landfill or waste-to-energy facility tipping or gate fees. Collector shall not increase the Rates to recover increased tipping or gate fees, without prior written approval from City.

9.3 Extraordinary Cost Increases. Collector may petition City for an extraordinary rate adjustment or adjustments at any time during the Term of this Agreement, provided that such petition may be made based only upon increases in fuel costs or increased costs as a result of federal, state, county mandates, increased insurance costs or other documented impacts, which require changes in Collector's Services or operations under this Agreement. Collector shall include in its petition a financial presentation which demonstrates the extraordinary increase in operating costs. Any petition shall be considered by the City Council at a public hearing held after providing any required notices pursuant to this Section and applicable law. The City Council may grant or reject any such petition in its sole and complete discretion.

Section 10. Additional Services. In exercising the right and privilege to collect Solid Waste, Organic Waste or Recyclables within the boundaries of City as herein granted, Collector agrees to act in accordance with the following:

Collector agrees to provide without additional charge to the City or its customers:

10.1. Curbside Bulky Item Collection Program. Collector shall collect and dispose of bulky item wastes, as defined in **Exhibit D**, from residential Customers up to two (2) times per calendar year. Such collections will be made by appointment as arranged between Customer and Collector.

10.2. Curbside E-Waste Collection Program: Collector shall collect, recycle, or dispose of specified E-Wastes (as defined in **Exhibit F**) from residential Customers up to four (4) times per calendar year. Such collections will be made by appointment as arranged between the Customer and Collector.

10.3. Christmas Tree Program. Collector will provide a residential Christmas tree collection and recycling program. Each year, during the first two (2) full weeks of January, Collector will pick-up Christmas trees from the front of residential properties in the City. Collections will be scheduled to coincide with the normal waste collection days.

10.4. City Facilities. Collector shall provide Solid Waste, Recyclables, and Organic Waste collection services to all City owned and operated facilities and parks at no additional charge to the City. This does not include C&D Debris generated from City owned and operated facilities. In addition, Gilton will continue to provide recycling collection for city residents at city corporation yard.

10.5. Community Events. At the City's request, Collector will provide waste containers, plus Solid Waste, Organic Waste and Recyclables removal and disposal services for three community events per year.

10.6. Promotional/Educational Support. No less than twice per year, if requested by City, Collector will distribute informational flyers or brochures to City Customers regarding the importance of recycling and separating wastes in order to achieve greater waste diversion, as well as the applicable commercial recycling requirements set forth in AB 341, AB 1826, and SB 1383. In addition, Collector will provide technical support and assistance to City Staff in preparation of articles or newsletters related to organic waste reduction, reuse and recycling.

10.7. Commercial Recycling Programs. Collector will fully cooperate with and assist the City with the implementation of any State mandated commercial recycling programs.

10.8. AB 939 Data. Collector agrees to continue to assist City in data collection and reporting pertaining to compliance with the Integrated Waste Management Act (AB 939), including any State required waste composition studies.

10.9. C&D Diversion Policy. When properly notified, Collector will assist City customers in their compliance with the City's C&D Debris Diversion Policy, attached at **Exhibit E**, as it may be amended. Collector shall comply with the City's C&D Debris Diversion Policy as applicable.

10.10 SB 1383 Services. Collector agrees to assist the City in meeting SB 1383 mandates by performing the additional services as detailed in Exhibit G.

Section 11. Specific Service Requirements.

11.1 Collector Duty of Care and Diligence. Collector and Collector's employees, contractors, sub-contractors, operators, officers, directors, supervisors, owners, board members, representatives, and agents ("Collector's Agents") shall exercise all reasonable care and diligence in performing their obligations under this Agreement. Every effort will be made to prevent spilling, scattering or dropping Refuse during the collection or transportation process. However, in the event that Refuse is spilled, scattered or dropped, the truck operator shall immediately clean up the material and place it in the truck. Every Cart, Bin and Roll-Off Box (collectively, "Container") must be replaced in an upright position. It shall be further noted that Refuse collection easements are frequently co-located with other utility easements. Particular attention must be given to the location of water meters, transformers, guy wires, utility poles and irrigation structures. Authorization to use the easement does not abrogate Collector's responsibility to exercise caution to not infringe upon, damage, or trespass the property rights of other authorized users or property owners. Collector shall be familiar with and operate within the guidelines set forth by the Occupational Safety Health Act (29 U.S.C. section 651 *et. seq.*). Collector is granted the right to use dedicated streets, alleys and refuse collection easements for the purpose of performing the Services, but this right is not exclusive. The Collector shall handle the Services in a manner that will cause the least inconvenience or annoyance to the general public and to property owners.

11.2. Hazardous Waste. Under no circumstance shall Collector's employees knowingly collect Hazardous Waste or remove unsafe or poorly containerized Hazardous Waste from Customer premises. If Collector determines that material placed in a container for collection is Hazardous Waste, Excluded Waste, or other material that may not be legally accepted at an approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility or that presents a hazard to Collector employees, Collector shall have the right to refuse to accept such material. Collector shall leave, at the time of non-collection,

a non-collection notice with Customers indicating the reason for refusing the material. Collector shall contact the generator and request that the generator arrange for proper disposal service. If the Hazardous Waste, Excluded Waste, or other objectionable material is identified at time of delivery to the approved sanitary landfill, transfer station, compost/mulching site, waste-to-energy facility or other permitted disposal facility and the generator cannot be identified, Collector shall be solely responsible for handling and arranging transport and disposition of the Hazardous Waste, Excluded Waste, or other objectionable material.

11.3. Force Majeure. Collector shall not be in default under this Agreement in the event that the collection transportation, recycling and disposal services of Collector are temporarily interrupted or discontinued due to a "Force Majeure" event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods earthquakes, landslides and fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Collector. Force Majeure does not include: Collector's financial inability to perform; Collector's failure to obtain any necessary permits or licenses from other governmental agencies; or Collector's failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Collector.

11.4. Independent Contractor. Collector is an independent contractor and not an officer, agent, servant or employee of City. Collector is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and sub-grantees. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Collector. Neither Collector nor its officers, employees, agents or sub-grantees shall obtain any right to retirement or other benefits or right which accrue to City employees.

11.5. Property Damage. Collector shall be responsible for any damage to City's driving surfaces, whether or not paved, resulting from vehicles providing Services under this Agreement. Collector shall be responsible for repairing or replacing any private or public property which is damaged due to the acts or omissions of employees, contractors, or agents of Collector to private or public property shall be repaired or replaced.

11.6 Right of Entry. Collector shall have the right, to enter or drive on any private street, court, place, easement, or other private property for the purpose of collecting or transporting Refuse pursuant to this Agreement. This right of entry shall last until the sooner of the termination of this Agreement or receipt by Collector of a written notice from City revoking Collector's right of entry. This right of entry is limited to carrying out the Services required by this Agreement.

Section 12. Customer Service Requirements.

12.1 Availability of Representatives. A responsible representative for the Collector who is qualified to respond to public inquiries shall be available at Collector's office during office hours, excluding lunchtime closure, for communication with City, Customers or the public.

12.2. Employees. Collector shall exercise reasonable care to hire responsible employees, to supervise the work of such employees, and to discipline and, if necessary, discharge an employee failing to meet reasonable standards for performance of work set forth in this Agreement.

Collector shall comply with applicable state and federal law pertaining to employment, including, but not limited to, applicable equal opportunity employment and affirmative action requirements.

12.3. Manner of Collection. Collector shall perform all collection services in a quiet and courteous manner and ensure that all Carts are placed on the premises from which they were removed in an upright position, with lids closed, and within five (5) feet of where they were originally placed before collection.

12.4. Office Hours. Collector's office hours shall be, at a minimum, from 8 a.m. to 5 p.m. daily, except for a lunch hour and closed on Saturdays, Sundays, and federal or State recognized holidays. A representative of Collector shall be available during office hours for communication with the public at Collector's principal place of business.

12.5. Service Complaints. All Service complaints shall be directed to Collector. Collector shall respond to all complaints, other than missed pickups, within twenty-four (24) hours if the twenty-four (24) hour period ends during the office hours specified in subsection 12.5, otherwise on the next business day. Collector shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all complaints and shall use its best efforts to resolve any complaints within the two (2) business days following the date on which such complaint is received. Complaints that cannot be reasonably resolved may be appealed to the City Manager or designee for final resolution.

12.6. Complaint Log. Collector agrees to maintain a log of all oral and written service complaints registered with Collector from Customers or the public within the City ("Complaint Log"). Collector shall record in the log all written and oral complaints, noting the name and address of the complainant, date and time of complaint, nature of complaint, and method and date of resolution. Such log shall be kept so that representatives of the City, upon request, may conveniently inspect it. Collector shall deliver, along with the quarterly reports specified in Section 13 or otherwise upon request of the City, a summary of complaints by number and type and excerpts from the log reflecting action to date.

12.7. Missed Pickups. In the event of a missed pickup, Collector shall complete the pickup the same day if the complaint is received by 12:00 p.m. or by 12:00 p.m. the following business day if the complaint is received after 12:00 p.m.

Section 13. Reports.

Collector shall provide the City with annual reports detailing Collector's operations within City during that time. Reports will contain the information required by the City for compliance with

AB 939, AB 341, AB 1826 and SB 1383 and for City to measure Collector's performance of items in this Agreement. Collector agrees to provide additional reports regarding its collection services as may be reasonably requested by the City to meet future reporting requirements of the City or the State. City or a consultant to City, on request, shall have the right to review the collection records of Collector at reasonable times and upon reasonable notice.

Section 14. Vehicles.

14.1. Compliance with Applicable Regulations. Collector shall at all times comply with all applicable rules, statutes, orders, and requirements adopted by any governmental agency with jurisdiction over air quality, including, but not limited to, the California Air Resources Board and the San Joaquin Valley Air Pollution Control District. In addition to any indemnification obligations set forth in this Agreement, Collector shall defend, indemnify, and hold harmless the City against any fines, penalties, losses, or claims arising out of Collector's failure to comply with this Section. All vehicles used by Collector under this Agreement shall be registered with the Department of Motor Vehicles of the State of California, be kept clean and in good repair, shall be uniformly painted, and shall be washed at least once every seven (7) calendar days. Collector's name, phone number, and vehicle number shall be prominently displayed on its vehicles.

14.2. Fluids and Waste. Collector shall immediately clean up any fluids or waste spilled from collection vehicles and shall deploy and remove absorbent materials to the extent necessary to absorb all fluids. Collector shall provide the City with a copy of any spill report that Collector is required to provide, and at the same time it is provided, to the State Office of Spill Prevention and Response. When necessary, Collector shall apply a suitable cleaning agent to the street surface or shall employ hydraulic steam cleaning to provide adequate cleaning. Collector shall comply at all times with all recommendations or limitations concerning laden weight of collection vehicles established by the State or any government agency, or the vehicle manufacturer.

Section 15. Collector's Employees.

15.1. Prohibition of Drugs or Alcohol. Collector will prohibit the use of intoxicating substances by Collector's Agents, including its drivers and crewmembers, while on duty or in the course of performing the Services. Upon request by City, Collector will demonstrate compliance with the federal alcohol and drug testing statutes and regulations.

15.2. Employee Uniform. Collector's employees shall be required to wear a clean uniform bearing Collector's name. Employees who normally and regularly come into direct contact with Customers, including drivers, shall bear some means of individual identification such as a name tag or identification card.

15.3. Identification Required. Collector shall provide every employee, contractor, grantees, or sub-grantees that are in contact with the public with identification cards and badges. Upon request of City, Collector shall notify all Customers of the form of identification that each employee shall be carrying or displaying so that all Customers may easily identify one of Collector's employees. Collector shall provide City with a list of current employees, contractors, grantees, and sub-contractors to City upon request.

15.4. Valid Driver's License. Employees driving Collector's vehicles shall at all times possess and carry a valid and appropriate vehicle operator's license issued by the State of California, including a commercial driver's license, if required.

15.5. No Employment Relationship with City. Collector's Agents are not and shall not identify themselves as being employees of the City at any time, for any reason.

15.6. Employee Behavior. All contact by Collector with Customers will be done with courtesy and respect. Any incident with a Customer must be reported immediately to the City.

15.7. Employee Conduct. All superintendents, foremen and workers, or contractors employed by the Collector shall be capable and safety conscious workers, skilled in their respective trades. Collector shall not employ any person who is incapable or negligent in the due and proper performance of his or her duties. Collector shall furnish such supervision, labor and equipment as is considered necessary for the fulfillment of the Services in an acceptable manner at a satisfactory rate of progress. City reserves the right to request for any worker of Collector to be prohibited from providing Services to City without cause for any reason.

15.8. Supervision. It is the Collector's responsibility to supervise the Services rendered and to provide direction to its employees and agents in the field. While City employees may suggest possible solutions to problems or unusual situations, Collector retains the responsibility for all Services and how the Services will be delivered and conducted to the City and the Customers.

Section 16. Franchise Fees, Billing and Reports.

16.1. Franchise Fees. Collector and the City agree that for the exclusive rights herein granted to Collector, City shall retain a sum equal to fifteen percent (15%) of the gross revenues from residential, commercial, and industrial accounts. Gross Revenues for this computation will exclude the City established Administration Fee. Further, the Parties hereby agree to the fifteen percent (15%) franchise fees is a reasonable estimate of the value of the City's franchise given the number of exclusive customers being provided to the Collector as the franchise hauler. The Collector shall also pay the City fifteen percent (15%) of the gross revenues from the Collector's Debris Box and/Roll-Off container services.

16.2. Billing. The City shall provide regular billing statements to residential, commercial and industrial customers that have cart and bin service. The Collector shall provide billing statements to Debris Box/Roll-off customers.

16.3. City and Collector Billing. As of the commencement of this Agreement, the Parties acknowledge that the City is responsible and will continue to bill residential, commercial and industrial customers that have cart and bin service. The Collector shall bill all customers that have Debris Box and/or Roll-Off Container service.

Section 17. Collector's Books and Records: Audits. The books and records of Collector shall be subject to audit and inspection for the purpose of reviewing billing operations, accounts receivable and customer service, by City, its auditors or agents. Collector shall maintain all records relating to the Services, including, but not limited to, Customer lists, billing records, maps, AB 939 compliance records, AB 34 l compliance records, and Customer complaints (collectively, the "Records"), for no less than three (3) years after the termination or expiration of the Term, or as may or any longer period required by applicable law. City shall have the right, upon five (5) business days advance notice, to inspect all Records, and other like materials of Collector which reasonably relate to Collector's compliance with the provisions of this Agreement.

Collector's Records shall be made available to City at a City facility, if reasonably practicable, or at Collector's regular place of business during regular business hours. If such audit discloses an underpayment of the Franchise Fees or other sums due under this Agreement, Collector shall promptly tender to the City the amount of such underpayment.

Section 18. Indemnification.

18.1. Indemnification of City. Collector agrees that it shall protect, defend, indemnify and hold harmless City, its elected and appointed councils, commissions, directors, officers, employees, agents, and representatives ("City's Agents") from and against any claim, action or proceeding that arises from this Agreement or any Services performed pursuant to or in connection with this Agreement ("Claim"), including but not limited to all losses, liabilities, fines, penalties, claims, damages, liabilities, judgments, attorney's fees, costs incurred for staff time, court costs, other expenses of litigation, or expenses of litigation awarded to the prevailing Party or Parties. This indemnification does not include gross negligence or willful acts of the City, or City's Agents. At City's discretion, Collector shall satisfy the obligation of this Section by reimbursing City for tendering its own defense. If Collector undertakes the defense of a Claim by providing City-approved representation, City may, participate in the defense of any such Claim.

To the extent permitted by Public Resources Code Section 40059.1, and to the extent noncompliance is caused by Collector's breach of or noncompliance with a provision of this Agreement, Collector agrees to protect and defend City or City's Agents, with counsel selected by the City, and to indemnify and hold harmless City or City's Agents from and against all fines or penalties imposed by the State if the waste diversion goals specified in the Public Resources Code are not met by the City with respect to the Solid Waste collected by Collector under this Agreement. Collector shall indemnify, defend with counsel acceptable to the City, protect and hold harmless the City and City's Agents from and against all claims, damages (including but not limited to special, consequential, and natural resources damages), injuries, response mediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties, and attorney and expert fees for the adverse party and expenses (including but not limited to attorney's and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, the City or City's Agents arising from or attributable to the negligence or willful misconduct of Collector or its affiliates and their respective officers, directors, employee and shareholders in handling Hazardous Waste either knowingly or under circumstances in which a reasonable person would or should have known that Hazardous Waste was being handled. The foregoing indemnity is also intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section 9607(c) and California Health and Safety Code Section 25364, to defend, insure, protect, hold harmless and indemnify the City from liability.

18.2. Indemnification of Collector. City shall indemnify, defend and hold Collector, its affiliates and their respective officers, directors, employees and shareholders harmless from and against any and all liabilities, losses, damages, claims, actions and causes of action, costs and expenses (including reasonable attorney's fees) arising from or in any manner arising out of the negligent acts of the City or the City's employees. Subject to this indemnification, and upon demand of Collector, made by and through Collector's counsel, City shall appear in defense of Collector, and its officers, employees and agents in any claims or actions, whether judicial, administrative, or otherwise arising out of the exercise of this Agreement. Nothing in this Agreement shall alter the requirements of the Government Tort Claims Act as established within the Government Code and/or any indemnities provided to the City pursuant to any state, federal or local law, statute, or ordinance.

Section 19. Insurance. Collector will continue to carry insurance, which shall be placed with insurers with a current AM Best's rating of no less than A VII, and which shall include all of the following:

19.1. Required Insurance.

19.1.1 Worker's Compensation. Collector shall obtain and maintain in full force and effect throughout the Term, worker's compensation insurance in accord with the provisions and requirements of the California Labor Code. Endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the Term. The policy providing coverage shall not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. The policy shall also be amended to waive all rights of subrogation against the City, its

elected or appointed officials, employees, agents or representatives for losses which arise from the Services performed by the Collector pursuant to this Agreement.

19.1.2. General Commercial Liability Insurance. Collector shall carry commercial or comprehensive general liability insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence/ aggregate for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form GG 00 01 11 88).

19.1.3. Automobile Liability Insurance. Collector shall carry automobile insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage, and which shall provide coverage for rented and non-owned vehicles. Coverage shall be at least as broad as Insurance Service form number CA 00 01 06 92 covering Automobile Liability, code I (any auto).

19.1.4. Public Liability Insurance. Collector shall carry public liability insurance with a combined single limit of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, personal injury, and property damage.

19.1.5. Pollution or Environmental Liability Insurance, Collector shall carry Environmental or Pollution liability coverage appropriate for the waste activity contemplated in this Agreement, including sudden and accidental upset pollution liability for the amount of One Million Dollars (\$1,000,000.00) per claim or occurrence and One Million Dollars (\$1,000,000.00) in the aggregate.

19.2. Additional Insurance Requirements. Within five (5) days of the Effective Date, Collector shall provide City with certificates of insurance for all of the policies required under this Section 19 ("Certificates"), excluding the required worker's compensation insurance. With the exception of the worker's compensation insurance, all of the insurance policies required in this Section 19 shall: provide that the policy will not be cancelled, allowed to expire, or materially reduced in coverage without at least thirty (30) days' prior written notice, or ten (10) days' in the case of non-payment of premium by Collector (as per insurance industry standard), to City of such cancellation, expiration, or reduction and each policy shall be endorsed to state such; name City, and City's Agents as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Collector or operations performed by or on behalf of the Collector to perform the Services including materials, parts, or equipment furnished in connection with the Services or operations by endorsement; be primary, with respect to any insurance or self-insurance programs covering City or City's Agents and any insurance or self-insurance maintained by City or City's Agents shall be excess of Collector's insurance and shall not contribute to it; and contain standard separation of insured provisions.

19.3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to City and City's Agents, or Collector shall provide a financial guarantee satisfactory to City guaranteeing payment of loss related investigations, claim administration and defense expenses.

19.4. Verification of Coverage. Before the Services commence, Collector shall furnish City with original Certificates and endorsements affecting coverage required by this Section 19. The endorsements shall be on forms approved by the City which contain all of the information required in Section 19.

19.5. Subcontractors. Collector shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all the requirements stated in this Section 19.

Said insurance shall protect Collector and City from any claim for damages for bodily injury, including accidental death, as well as from any claim for property damage which may arise from the Services, whether such operations be by Collector itself, or by its agents, employees, contractors or sub-grantees. Copies of the policies or endorsements evidencing the above insurance coverage shall be filed with the City Clerk. All of the following endorsements are required to be made a part of the insurance policies required by this Agreement.

19.6. Increase in Coverage Requirements. The limits for the insurance coverage required under this Section 19 and the ratings required for insurance companies shall be subject to review and approval by the City Attorney every year and may be increased at that time, at the City Attorney's discretion, to match the coverage provided by the City's own liability insurance policy.

Section 21. Title to Solid Waste.

All Solid Waste, Recyclables, and Organic Waste collected pursuant to this Agreement shall remain the property of the Customer until such time as it is collected for disposal. It is expressly understood that all Solid Waste, Recyclables, and Organic Waste collected under this Agreement becomes the property of Collector upon collection, subject to the requirement of delivery to an appropriate disposal site. Collector is hereby granted the right to retain, dispose of, and otherwise use such Solid Waste, Recyclables, and Organic Waste, or any part thereof, in any fashion or for any lawful purpose desired by Collector, and to retain any benefit or profit resulting therefrom. Solid Waste which is disposed of at a disposal site shall become the property of the owner or operator of the disposal site once deposited there by Collector.

Section 22.

Rights of City to Perform During an Emergency. Should Collector, for any reason whatsoever, excluding a Force Majeure as defined in Section 11.2, be unable to perform any of the Services required by this Agreement, for a period of more than seventy-two (72) hours, and the City

Manager reasonably finds that the resulting accumulation of Refuse in City endangers or menaces the public health, safety or welfare, then, City shall have the right to temporarily take possession of and use Collector's Equipment to carry out Collector's obligations under this Agreement, upon twenty-four (24) hour prior written notice to Collector. Collector agrees that in such event it will fully cooperate with City to affect such a transfer of possession for City's use.

Collector agrees that, in such event, City may take temporary possession of and use all said Equipment and facilities without paying Collector any rental or other charge, provided that when City takes possession of Collector's Equipment and facilities under this Section 22, City shall assume complete responsibility for the proper and normal use of such Equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above-mentioned property to Collector upon receipt of written notice from Collector stating it is able to resume its normal responsibility under this Agreement.

Section 23. Customer Confidentiality.

Collector shall strictly observe and protect the right of privacy of the Customers. Information identifying individual Customers, or the composition or contents of a Customer's Refuse, shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude Collector from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939 or SB 1383.

Collector shall not market or distribute, without City's advance written consent, which City may withhold in its sole and absolute discretion, mailing lists with the names or addresses of Customers.

The rights accorded Customers pursuant to this Section shall be in addition to any other privacy right accorded Customers pursuant to federal or state law.

Section 24. Reports and Adverse Information.

24.1. Reports. Within ninety (90) days after the close of Collector's fiscal year, Collector shall submit a written annual report, in a form approved by City, including, but not limited to, the following information:

24.1.1. A report on City's progress in meeting and maintaining its ability to meet its goals under AB 939 and SB 1383 as applied to the Franchise Area, along with any recommended changes. Collector shall also provide the City's Public Works Director with quarterly reports on the quantity (by weight) of all Commercial Solid Waste, Residential Solid Waste, Recyclables, and Organic Waste collected.

24.1.2. A list of Collector's officers and members of its board of directors.

24.1.3. A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in Collector and any subsidiaries.

24.1.4. The most current annual audited financial statement, upon request. To the extent permitted by the Public Records Act, this document shall remain confidential.

24.1.5. A current financial statement, upon request.

24.2. Adverse Information. Collector shall provide City two (2) copies of all reports, or other material adversely affecting this Agreement, which Collector submits to: the State or federal Environmental Protection Agency; the Department of Resources Recycling and Recovery; or any other federal, State, or local agency. Copies shall be submitted to City simultaneously with Collector's filing of such matters with said agencies. Collector's routing correspondence to said agencies need not be automatically submitted to City but shall be made available to City upon written request.

Collector shall submit to City copies of all pleadings, applications, notifications, communications and documents of any kind, submitted by Collector to any federal, state and local courts, regulatory agencies and other government bodies relating to Collector's performance of Services pursuant to this Agreement, as well as copies of all decisions, correspondence and actions by such agencies. Any confidential data exempt from public disclosure shall be retained in confidence by City or its authorized agents and shall only be made available for public inspections, as required by law.

Collector shall submit to City such other information or reports in such forms and at such times as City may reasonably request or require.

All reports and records required under this, or any other section herein shall be furnished to City at the sole expense of Collector.

24.3. Failure to Report. The refusal, failure, or neglect of Collector to file any report required may be deemed a material breach of this Agreement if not corrected by Collector within ninety (90) days, and may subject Collector to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

Section 25. Bonds and Security.

25.1 Performance Bonds. Contemporaneously with the execution of this Agreement, Collector shall secure and execute a performance bond to be held by the City (the "Performance Bond") to ensure performance of Collector in an amount equal to twenty-five percent (25%) of the City's estimate of the Contractor's annual gross revenue under the Agreement. The Performance Bond shall be on terms and in a form acceptable to the City Attorney and shall be issued by a California admitted insurer. The Performance Bond shall serve as security for the faithful performance by Collector of all the provisions and obligations of this Agreement.

Thirty (30) days following Collector's failure to pay City an amount owed under this Agreement, if ever, the Performance Bond may be assessed by City upon five (5) days prior written notice to Collector for purposes including, but not limited to:

- A. Failure of Collector to pay City any sums due under the terms of the Agreement.
- B. Reimbursement of costs borne by City to correct violations of this Agreement, after five (5) days' advance written notice to Collector.
- C. Monetary remedies or damages assessed against Collector due to a breach of this Agreement.

Section 26. Breach of Agreement.

26.1. Determination of Breach. If the City Manager reasonably determines that Collector's performance pursuant to this Agreement has not been in conformity with reasonable industry standards obtained in similar cities in Central California, the provisions of this Agreement, the requirements of the Department of Resources Recycling and Recovery, including, but not limited to, requirements for source reduction and recycling (as to the waste stream subject to this Agreement) or any other applicable federal, state or local law or regulation, including but not limited to the laws governing transfer, storage or disposal of Hazardous Waste, the City Manager may advise Collector in writing of such deficiencies. If Collector commits a material breach of this Agreement ("Breach"), City may terminate this Agreement, impose Liquidated Damages, or avail itself of any and all remedies set forth in Section 27 of this Agreement, in addition to all other remedies available to the City in law or equity.

26.2. Events that Constitute a Breach. A Breach includes but is not limited to the following:

26.2.1. Misrepresentation. Collector commits, or attempts to commit, any fraud, intentional material misrepresentation or deceit upon the City in relation to this Agreement or in the statements or materials submitted to City by Collector in connection with this Agreement as of the time the representation or disclosure is made.

26.2.2. Seizure or Attachment of Equipment. There is a seizure or attachment (other than a prejudgment attachment) of, or levy affecting possession on, the operating Equipment of Collector, including without limit its vehicles, maintenance or office facilities, or any part thereof of such proportion as to impair Collector's ability to perform under this Agreement and which cannot be released, bonded, or otherwise lifted within forty-eight (48) hours excluding weekends and City-approved holidays.

26.2.3. Collector Bankruptcy. Collector files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to Collector or necessary for this Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator, or similar official of Collector for a part of Collector's operating assets or any substantial part of Collector's property, or shall make any general assignment for the benefit of Collector's creditors, or shall fail generally to pay Collector's debts as they become due.

26.2.4. Court Order or Decree. Any court having jurisdiction enters a decree or order for relief with respect to Collector, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Collector consents to or fails to oppose any such proceeding, or any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of Collector or for any part of Collector's operating equipment or assets, or order the winding up or liquidation of the affairs of Collector.

26.2.5. Failure to Notify City. Collector fails to notify City in a timely manner of any receipt of notice of violation or official communication from those regulatory agencies regulating Solid Waste, Recyclables, and Organic Waste collection, transport, processing, or disposal activities.

26.2.6. Lapse of Financial Requirement. If Collector fails to provide or maintain in full force and in effect, the following: any of the insurance policies required pursuant to Section 16 herein; the full amount of the Performance Bond required under Section 25.1 herein; or the full amount of the Payment Bond required under Section 25.2 herein.

26.2.7. Regulatory Violation. Collector violates any orders or filings of any regulatory body having jurisdiction over Collector relative to this Agreement, provided Collector may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred.

26.2.8. Cessation of Services. Collector ceases to provide collection, transportation, processing, or recycling services as required under this Agreement for a period of three (3) consecutive business days or more, for any reason within the control of Collector.

26.2.9. Failure to Meet Payment or Reporting Requirements. Collector fails to make any payment required under this Agreement or refuses to provide City with required information, reports, or records in a timely manner as provided for in the Agreement.

26.2.10. Violation of AB 939 or SB 1383. Any other act or omission by Collector, which materially violates the terms, conditions or requirements of AB 939 and SB 1383 as may be amended from time to time; or any other directive rule or regulation issued thereunder; unless the violation is corrected or remedied within the time set on the written notice of violation; or if Collector cannot reasonably correct or remedy the violation within the time set

forth in such notice, Collector commences to correct or remedy such violation within the time set forth in such notice and diligently and in good faith continues to cure, correct, or remedy such violation thereafter.

26.2.11. Unremedied Acts or Omissions. Collector commits any act or omission which violates the terms, conditions, or requirements of this Agreement, or any other applicable laws and which is not corrected or remedied within the time set in the written notice of the violation or, if Collector cannot reasonably correct or remedy the breach within the time set forth in such notice, Collector should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

26.2.12. Failure to Correct Breach. Collector fails to correct any Breach within the applicable Cure Period.

26.3. Cure Rights. Notwithstanding any other provision of this Section 26 to the contrary, City shall provide Collector with reasonable notice of and a reasonable opportunity to cure any Breach of this Agreement during the time periods set forth below (the "Cure Period"). Collector shall begin cure of any Breach as soon as it becomes aware of the Breach, whether discovered by Collector or through notice from the City. Upon becoming cognizant of the Breach, Collector shall proceed to cure such Breach as follows:

26.3.1. Immediately, if the City determines the Breach endangers the health, safety, or welfare of the public; or

26.3.2. Within fifteen (15) days of giving or receiving notice of the Breach, provided that if the nature of the breach is such that it will reasonably require more than fifteen (15) days to cure, Collector shall have such additional time as is reasonably needed, no longer than thirty (30) days to expeditiously complete a cure. During any Cure Period, Collector shall provide City weekly written status updates informing City of Collector's progress curing the Breach.

26.4 Right to Appeal. Collector may submit a response to claims of Breach contained in any written notice from the City within ten (10) days of receipt of such notice. The City Manager shall review Collector's response and refer the matter to the City Council or decide the matter and notify Collector of that decision, in writing. A decision or order of City Manager shall be final and binding on Collector. Unless a governing ordinance or statute provides otherwise, if the Collector seeks further relief, the Collector shall file a petition for writ of mandate in superior court pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision or order.

Section 27. Termination, Liquidated Damages and other Remedies.

27.1. Termination. In the event Collector commits a Breach of this Agreement, City shall have the right to terminate this Agreement ("Termination").

27.2. Liquidated Damages.

27.2.1. City finds, and Collector agrees, that as of the Effective Date of this Agreement, it is impractical, if not impossible to reasonably ascertain the extent of damages which will be incurred by City as a result of a Breach by Collector of its obligations under this Agreement. Some reasons for the impracticability of ascertaining damages include but are not limited to: the difficulty in estimating the substantial damage that results to Customers who are denied Solid Waste disposal services or denied quality or reliable service; and the difficulty valuing the damage caused from the inconvenience, anxiety, frustrations and deprivation of the benefits provided under the Agreement to individual members of the general public for whose benefit this Agreement exists. The Parties agree that these damages manifest in subjective ways and in varying degrees of intensity and are incapable of measurement in precise monetary terms. The Parties agree that any remedy for such breaches, including the termination of this Agreement are, at best, a means of future correction and not remedies, which can adequately make the public whole for past breaches.

27.2.2. The City Council may, at its discretion, assess liquidated damages not to exceed the sum of Two Thousand Dollars (\$2,000) per day, for each calendar day that the Services are not provided by Collector in accordance with this Agreement for a period not to exceed forty-five (45) days ("Liquidated Damages"). In addition, the City Council may order assessment against the Performance Bond and Payment Bonds required by Section 25 as set forth herein, the termination of this Agreement, or both.

27.2.3. The City finds, and Collector acknowledges and agrees that the above-described liquidated damages provision represents a reasonable sum in light of all the circumstances. Said liquidated damage sums shall be applicable to each calendar day of delay during which Collector has been found by the City Council to be in Breach pursuant to Section 26. Collector shall pay any Liquidated Damages assessed by the City Council within thirty (30) days after they are assessed. If they are not paid within the thirty-day (30) period, City may withdraw said amount from the Performance Bond or Payment Bond, as appropriate, pursuant to Section 25, order the Termination of the Franchise granted by this Agreement, or both.

27.3, Remedies Not Exclusive. The right of Termination or to impose Liquidated Damages are in addition to all other rights of City upon a failure of Collector to perform its obligations under this Agreement, including but not limited to the rights provided in Section 28.

Section 28. City's Additional Remedies. In the event Collector commits a Breach of this Agreement, and the City has terminated this Agreement, in addition to the remedies set forth in Section 27, City shall have the following rights:

28.1. Rental of Collector Equipment. Notwithstanding the provisions set forth in Section 22 of this Agreement, City shall have the right to rent or lease Equipment from Collector for the purpose of collecting, transporting and disposing of Refuse which Collector is obligated to collect, transport and dispose of pursuant to this Agreement, for a period not to exceed six (6) months. If such Equipment is not owned by Collector, Collector shall assign to City, to the extent possible, the right to possess the Equipment. If City exercises its rights under this Section, City shall pay to Collector the reasonable rental value of the Equipment so taken for the period of City's possession thereof.

28.2. Right to License others to Provide Disposal Services for the City. City shall have the right to license others to perform the Services otherwise to be performed by Collector hereunder, or to perform such Services itself.

28.3. Right to Other Damages. City shall have the right to obtain damages or injunctive relief. The Parties recognize and agree that in the event of Breach by Collector, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement by Collector and to enjoin the Breach thereof.

Section 29. Compliance with Applicable Law.

Collector agrees that it shall comply with all applicable federal, state, and local laws and regulations, expressly including the provisions set forth in the Code which are applicable to the work or business in which it is herein franchised, and with any and all amendments to such applicable provisions during the Term.

Section 30. Assignment.

The Franchise granted by this Agreement shall not be transferred, sold, hypothecated, sublet or assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold or transferred, either in whole or in part nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person, except Collector, either by act of the Collector or by operation of law, without the prior written consent of City expressed by a resolution or ordinance approved by the City Council, which may be withheld for any reason, conditioned or granted in the City's sole discretion. Any attempt by Collector to assign this Franchise without the consent of City shall be null and void.

If Collector attempts to transfer the Franchise prior to obtaining City consent, all of the profits or twenty-five percent (25%) of the gross revenues received pursuant to the Services

provided under this Agreement, from the date of attempted transfer until the date of City consent, whichever is greater, shall be returned to City.

Section 31. Franchise Transfer: Fees.

Any application for a Franchise transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in an amount to be set by the City by resolution or ordinance of the City Council, to cover the cost of all direct and indirect administrative expenses, including consultants and attorneys, necessary to adequately analyze the application and to reimburse City for all direct and indirect expenses. In the event that City's actual costs exceed the amount of the transfer fee, Collector shall reimburse City for all additional costs which are not covered by the transfer fee, up to, but not exceeding Five Thousand Dollars (\$5,000.00). Bills shall be supported with evidence of the expense or cost incurred. The applicant, for any such transfer, shall pay such bills within thirty (30) days of receipt. The Franchise transfer fees detailed in this Section are over and above any franchise fees specified in the other portions of this Agreement.

Section 32. City Must Approve Change in Control of Collector.

City consent is required for any change in control of Collector. Collector is a corporation, and any acquisition of more than forty-five percent (45%) of Collector's voting stock by a person, or group of persons acting in concert shall be deemed a change in control. Any change in control of the Collector occurring without prior City approval shall constitute a material breach of this Agreement.

Section 33. Amendment to Agreement.

This Agreement is intended to carry out City's obligations to comply with the provisions of AB 939 and SB 1383 and implemented by regulations of the Department of Resources Recycling and Recovery ("Regulations"), as they may from time to time be amended. In the event that AB 939, SB 1383 or other state or federal laws or regulations enacted after the Effective Date, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except for Rate adjustments made pursuant to Section 9, this Agreement may be amended or modified only by a written agreement duly authorized and executed by both the City and Collector.

Section 34. General Provisions.

34.1. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of California. Venue for all legal proceedings arising from this Agreement shall be in the Superior Court for the County of Stanislaus in the State of California. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Eastern District of the State of California.

34.2. Notices. Any notice or communication required hereunder between City and Collector must be in writing, and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

To City:

With courtesy copy to:

To Collector: Gilton Solid Waste Management, Inc.
755 S. Yosemite Ave.
Oakdale CA 95361
Attention: President

34.3. Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

34.4. Exhibits Incorporated. The following "Exhibits" are attached hereto and incorporated herein by this reference:

<u>Exhibit Designation</u>	<u>Exhibit Title</u>
Exhibit A	Definitions
Exhibit B	Franchise Area
Exhibit C	Rates
Exhibit D	Bulky Item Collection Program
Exhibit E	C&D Debris Diversion Policy
Exhibit F	Specified E-Waste
Exhibit G	SB 1383 Additional Services

34.5. Time of Essence. Time is of the essence for the Agreement and each provision contained within and each provision is made and declared to be a material, necessary and essential part of the Agreement.

34.6. Authority. All Parties to the Agreement warrant and represent that they have the power and authority to enter into the Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into the Agreement. By entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

34.7. Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of the Agreement.

Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

34.8. Entire Agreement. This Agreement, together with its specific references, attachments and Exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

34.9. Supersedes Prior Agreement. It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

34.10. Captions. The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction or meaning of the provisions of this Agreement.

34.11. Mandatory and Permissive. "Shall" and "will" and "agrees" are mandatory. "May" and "can" are permissive.

34.12. Successors and Assigns. All representations, covenants, and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of, any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns.

34.13. Counterparts. This Agreement may be executed simultaneously and, in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

34.14. Attorney's Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

34.15. Necessary Acts and Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of the Agreement.

34.16. Waiver. No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

[SIGNATURES ON A FOLLOWING PAGE.]

EXHIBIT A

Definitions

Capitalized words in the Agreement shall have the following meanings:

1. "AB" shall mean an Assembly Bill of the California Legislature.
2. "AB 341" shall mean the amendments to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), Chapter 476, as amended, supplemented, superseded, and replaced from time to time.
3. "AB 939" shall mean the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.
4. "AB 1826" shall mean the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.
5. "Agreement" shall mean this Franchise Agreement between the City and Collector, including all exhibits and future amendments.
6. "Bin" or "Bins" shall mean receptacles provided by Collector for customers which are picked up by Collection trucks by means of a front-loading apparatus.
7. "Bulky Items" shall mean large items of Solid Waste such as appliances, furniture, branches, and other oversize wastes whose large size precludes or complicates their placement in containers or handling by normal collection, processing, or disposal methods, but excluding Excluded Waste; items larger than five cubic yards or heavier than 500 pounds; and items of excessive size or density, such as engine blocks, spas, boats, and trailers. A list of acceptable and unacceptable Bulky Items is attached as **Exhibit D**.
8. "Breach" shall be as defined in Section 26.1 of this Agreement.
9. "Cart" or "Carts" shall mean industry standard receptacles for disposal of Solid Waste, Organic Waste, and Recyclables, in a range of sizes. A Cart has wheels, a handle for ease of movement, and a light-fitting, attached lid and is designed to be dumped manually or mechanically into a Solid Waste collection vehicle.
10. "Certificates" shall be as defined in Section 19.2 of this Agreement.
11. "City" shall mean the City of Livingston, Merced County, State of California.
12. "City's Agents" shall be as defined in Section 18.1 of this Agreement.

13. "City Attorney" shall mean the city attorney for the City of Livingston.
14. "City Council" shall mean the City Council of the City of Livingston.
15. "City Engineer" shall mean the city engineer for the City of Livingston.
16. "City Manager" shall mean the city manager for the City of Livingston.
17. "Claim" shall be as defined in Section 18.1 of this Agreement.
18. "Collector" shall be as defined in the Preamble to this Agreement.
19. "Construction and Demolition Debris" or "C&D Debris" shall mean waste building materials, packaging, and rubbish resulting from construction, remodeling, repair, and demolition operations on pavements and on houses, commercial buildings, and other structures, but not including any Excluded Waste.
20. "Container" or "Containers" shall be as defined in Section 11.1 of this Agreement.
21. Contamination Monitoring shall be monitoring for prohibited container contaminants and notifying generators if contamination is found.
22. "Cure Period" shall be as defined in Section 26.3. of this Agreement.
23. "Customer" or "Customers" shall mean an individual(s), entity or entities that receive any services provided by Collector pursuant to this Agreement. Customer shall also mean the person, organization, or corporation receiving services to which billing statements are sent.
24. "Effective Date" shall be as defined in the Preamble to the Agreement.
25. "Electronic Waste" or "E-Waste" shall mean waste containing or consisting of electronic devices and components, such as computers, monitors, terminals, computer cards and components, computer peripheral devices, main frame computers, keyboards, mice, printers and scanners, mini-systems, power supply units, servers, connectors/cables, storage discs, consumer electronics, printed circuit boards, televisions, chips and components, cellular and other phones, telecommunications equipment, and fax machines and copiers, but not including Excluded Waste.
26. "Equipment" shall mean Collector's vehicles, tools, and equipment for the Services for which it is responsible under this Agreement.
27. "Excluded Waste" shall mean Hazardous Waste; Medical and Infectious Waste; liquid wastes; volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material; waste that Collector reasonably believes would, as a result of or upon disposal, be a violation of local, state, or federal law, regulation, or ordinance, including land use restrictions or conditions; waste that cannot be disposed of in Class III landfills; waste that in Collector's reasonable opinion would present a significant risk to human health or the

environment, cause a nuisance, or otherwise create or expose Collector or the City to potential liability. Excluded Waste does not include de minimis volumes or concentrations of waste of a type and amount normally found in residential Solid Waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Wastes in compliance with Sections 41500 and 41802 of the Public Resources Code.

28. "Exhibits" shall be as defined in Section 34.4. of this Agreement.
29. "Force Majeure" shall be as defined in Section 11.2. of this Agreement.
30. "Franchise Area" shall be as defined in Section 4.1. of this Agreement.
31. "Franchise Fees" shall mean both the fees retained by City and paid by Collector to City as defined in Section 16.1.
32. "Hazardous Waste" shall mean a waste, or combination of wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may do either of the following:
 - a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness.
 - b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. (Public Resources Code Section 40141.)
33. "HDPE (High Density Polyethylene)" shall mean a recyclable plastic that includes, but is not limited to, milk jugs.
34. High Diversion Organic Waste Processing Facility shall mean a facility that is in compliance with the reporting requirements of SB 1383 and meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent (50%) between January 1, 2022, and December 31, 2024, and 75 percent (75%) after January 1, 2025, as calculated pursuant to SB 1383 for Organic Waste received from the Mixed Waste.
35. "Household Hazardous Waste" shall maintain the meaning set forth in Title 14, California Code of Regulations, Section 18502 or successor laws and regulations as may be amended from time to time.
36. "Liquidated Damages" shall be as defined in Section 27.2.1 of this Agreement.
37. "Medical and Infectious Waste" shall mean biomedical waste generated at residences in excess of legal limits or at hospitals, public or private medical clinics, dental offices,

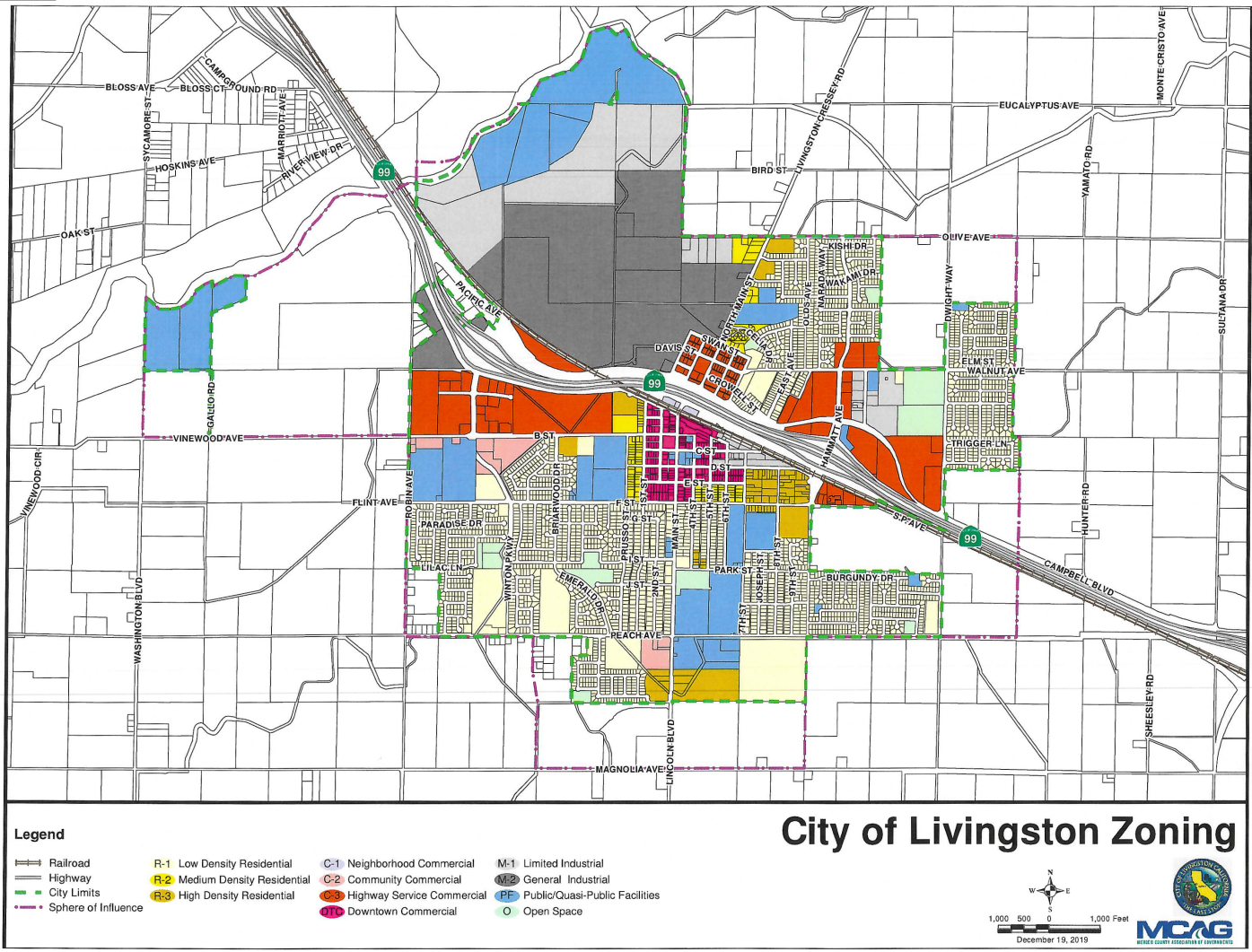
research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities, and other similar establishments.

38. "Notice or Appeal" shall be as defined in Section 26.4 of this Agreement.
39. "Organic Waste" shall be all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar plant materials, (but not including palm fronds or items longer than five (5) feet or with a diameter greater than six (6) inches), food, food scraps, food- soiled paper, wood waste, paper and cardboard.
40. "Party" or "Parties" shall be as defined in the Preamble to this Agreement.
41. "Payment Bond" shall be as defined in Section 25.2 of this Agreement.
42. "Performance Bond" shall be as defined in Section 25.1 of this Agreement.
43. "PET (Polyethylene Terephthalate)" PET means a recyclable plastic that includes, but is not limited to, 2-liter soda bottles.
44. "Rates" shall mean the rates charged by Collector or City to Customers within the City as set forth in Section 9.1.
45. "Recitals" shall be as defined- in Section 1 of this Agreement.
46. "Records" shall be as defined in Section 13 or this Agreement.
47. "Recyclable Materials" or "Recyclables" shall mean those materials that may be separated on a commercially reasonable basis from Solid Waste and returned to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Subject to mutually agreed revision by the Parties, Recyclable Materials or Recyclables include, newspaper (including inserts, coupons, and store advertisements), corrugated cardboard, mixed waste paper (including office paper, computer paper, magazines, junk mail, catalogs, Kraft bags and Kraft paper, paperboard, egg containers, phone books, brown paper, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, and cereal and other similar food boxes), glass containers (including colored glass bottles and jars), aluminum (including beverage containers, foil, food containers, and small scrap metal), plastic milk and juice containers, steel or tin cans, small scrap metal, PETE and HDPE plastic containers (natural and colored), used motor oil and oil filters, and any other commercially viable recyclable materials mutually agreed to by Collector and the City.
48. "Refuse" shall mean general term for waste, including Solid Waste,
49. "Regulations" shall be as defined- in Section 33 of this Agreement.

50. "Roll-Off Box" shall mean a container, with a minimum capacity of ten cubic yards, designed for mechanical emptying with a vehicle, and used for the storage and transportation of solid waste, Organic Waste, recyclables, and other commodities.
51. Route Review shall mean inspection and compliance review of a random sample to determine compliance and generate an electronic or written record for each inspection.
52. "SB 1383" shall mean Senate Bill 1383, Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions ("SB 1383"), establishing a statewide target to decrease methane emissions at landfills by reducing the disposal of organic waste by 50% below 2014 levels by 2022 and by 75% below 2014 levels by 2025.
53. "Services" shall be as defined in Section 5.1 of this Agreement.
54. "Solid Waste" shall mean and include all forms of residential and commercial waste generated within City limits and intended for disposal. Solid Waste as defined in Public Resources Code, Section 40191 and regulations promulgated thereunder and without limitation includes all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, Refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid or semisolid wastes, and other discarded solid and semisolid wastes. Notwithstanding any provision to the contrary, "Solid Waste" may include de minimis volumes or concentrations of waste of a type and amount normally found in residential solid waste after implementation of programs for the safe collection, recycling, treatment, and disposal of Household Hazardous Waste in compliance with Sections 41500 and 41802 of the Resources Code. For the purposes of this Agreement the Collector may, but is not required, to collect, haul, dispose or recycle any liquid wastes, abandoned vehicles, and parts thereof, industrial appliances; dewatered, treated or chemically fixed sewage sludge or manure.
55. "State" shall mean the State of California.
56. "Term" shall be as defined in Section 7 of this Agreement.
57. "Termination" shall be as defined in Section 27.1 of this Agreement.
58. "Universal Waste" shall mean any waste matter which the State of California classifies as 'universal waste,' including, but not limited to, items and materials listed in 22 CCR 6626 1.9, as it may be amended, as well as any items listed below not classified by the State of California as 'universal waste.' Universal Waste includes, but is not limited to, the following:
 - E-Waste;
 - Batteries (except automobile batteries);
 - Thermostats;

- Lamps with fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and other lamps with hazardous waste characteristics;
- Cathode ray tubes;
- Aerosol cans;
- Mercury-containing items, including light switches, pressure gauges, and thermometers;
- Appliances, devices, and other objects containing electronic components, including (but not limited to) computers, computer monitors, cellular telephones, copiers, fax machines, DVD players, VCRs, and televisions.

EXHIBIT B
Franchise Area



**EXHIBIT C
Rates Schedule**

Gilton Solid Waste Management, Inc.

Residential Rate Schedule

STANDARD SERVICE - WEEKLY COLLECTION ALL CONTAINERS

	Monthly Rate			
	Three (3) Carts:	*Three (3) Carts w/Carts > 2 Yrs. Replaced:	Two (2) Carts:	*Two (2) Carts w/Carts > 2 Yrs. Replaced:
<u>Bundled Basic Service</u>	(1) MSW (1) Organics (1) Recycle	(1) MSW (1) Organics (1) Recycle	(1) MSW / Recycle (1) Organics	(1) MSW / Recycle (1) Organics
96 Gallon Carts	\$34.88	\$33.22	\$34.80	\$33.14
<i>Note: Rates include Franchise Fees at 15%</i> <i>*Reduced Pricing available if existing hauler only replaces cans older than 2 years old.</i>				

Gilton Solid Waste Management, Inc.

Commercial Rate Schedule

Standard Service Per BIN

Bin Size	Collection Frequency	Monthly Rate	
		Three (3) Cart System	Two (2) Cart System
1 Cubic Yard	1	\$69.23	\$63.54
2 Cubic Yard	1	\$138.00	\$126.65
2 Cubic Yard	2	\$273.52	\$251.03
2 Cubic Yard	3	\$412.41	\$378.50
2 Cubic Yard	4	\$550.41	\$505.15
2 Cubic Yard	5	\$688.40	\$631.80
2 Cubic Yard	6	\$826.41	\$758.45
3 Cubic Yard	1	\$204.45	\$187.63
3 Cubic Yard	2	\$386.70	\$354.90
3 Cubic Yard	3	\$582.66	\$534.75
3 Cubic Yard	4	\$787.12	\$722.38
3 Cubic Yard	5	\$991.57	\$910.02
3 Cubic Yard	6	\$1,196.01	\$1,097.65
4 Cubic Yard	1	\$261.68	\$240.16
4 Cubic Yard	2	\$509.93	\$468.00
4 Cubic Yard	3	\$797.51	\$731.93
4 Cubic Yard	4	\$1,059.19	\$972.09
4 Cubic Yard	5	\$1,320.86	\$1,212.25
4 Cubic Yard	6	\$1,582.54	\$1,452.41
6 Cubic Yard	1	\$367.93	\$337.67
6 Cubic Yard	2	\$717.20	\$658.23
6 Cubic Yard	3	\$1,096.81	\$1,006.61
6 Cubic Yard	4	\$1,464.74	\$1,344.28
6 Cubic Yard	5	\$1,832.67	\$1,681.95
6 Cubic Yard	6	\$2,200.60	\$2,019.62

Note: Proposed rates include Franchise Fees at 15%

With either the two or three cart system there is an additional 96-gallon container available to be used for either organics or recycle material.

The rate for this service is \$ 30 per container per month.

EXHIBIT D

RESIDENTIAL BULKY ITEM COLLECTION PROGRAM

- Scheduled by appointment only. To arrange a pickup, please call our office at (209) 527-3781
- Program available to residents who currently subscribe to garbage service*
- Qualifying residents can have bulky item picked up at their home two times per year
- Verify that items you want to set out for pick up are **Acceptable Items** (see lists below)
- Once appointment for pick up has been scheduled, items must be set out in front of home **after 6:00 p.m. the day before scheduled appointment**. Place items on the street one foot from curb. Do **NOT** block sidewalks, driveways or mailboxes. Items should be at least 3 feet away from garbage cart
- Do **NOT** place pile under low hanging wires or low hanging tree branches
- Items set out for collection should not exceed a dimension of 6 feet tall, 6 feet wide and 6 feet deep
- Items will be picked up after 6:00 a.m. on scheduled pick up day

ACCEPTABLE ITEMS

- ✓ Refrigerators & Freezers – Doors taped shut or doors removed – Limit 1
- ✓ Washers & Dryers – Limit 1 of each
- ✓ Water Heaters, Water Softener – drained – Limit 1 of each
- ✓ Air Conditioning Units – Limit 1
- ✓ Dishwashers – Limit 1
- ✓ Toilets, Sinks, Bathtubs
- ✓ Hot Tubs – Limit 1
- ✓ Couches, Sofas, Recliners
- ✓ Table and Chairs
- ✓ Dressers, Desks
- ✓ Mattress, Box Springs, Bed Frame – Limit 2
- ✓ Barbeques, Grills – remove propane tank
- ✓ Patio Furniture
- ✓ Doors
- ✓ Ladders
- ✓ Lawn Mowers – gas & oil removed
- ✓ Bicycles
- ✓ Exercise Equipment
- ✓ Plywood Sheets – limit 2
- ✓ Wood – limit 10 pieces no longer than 8 feet
- ✓ Carpet – rolled up
- ✓ Dry, flattened cardboard – Bundled

UNACCEPTABLE ITEMS

- ✓ Tires
- ✓ Automobile Parts
- ✓ Household Garbage-No bags, boxes or containers with small items inside
- ✓ Hazardous Waste, Chemicals, Toxic Materials
- ✓ Liquids, Paints, Solvents
- ✓ Plate Glass
- ✓ TVs
- ✓ Computer Monitors

- ✓ Concrete, Asphalt, Sheetrock
- ✓ Construction & Demolition Debris
- ✓ Fencing, Treated Wood
- ✓ Yard Waste
- ✓ Tree Stumps
- ✓ Items Associated with Business
- ✓ Dead Animals
- ✓ Fluorescent Light Tubes
- ✓ Sod, Dirt
- ✓ Glass, Mirrors
- ✓ Items Small Enough to Fit in Garbage Can

EXHIBIT E

Construction & Demolition Debris Policy

The 2013 California Green Building Standards Code (CALGreen) instructs local jurisdictions to require contractors to develop and maintain a waste management plan, among other things, to verify a minimum 50 percent waste diversion. CALGreen further specifies for the WMP to be updated as necessary and shall be available for examination during construction. Sample WMP is provided in the actual CALGreen code publication under the Compliance Forms and Worksheets section. The California Department of Housing and Development's website also provides sample WMP for residential C&D projects.

EXHIBIT F

Acceptable E-Waste for Curbside Collection Program

Computers
Printers
Copiers
Scanners
Fax Machines
Telephones
Cellular Telephones Stereos
DVD Units
Televisions (Cathode Ray Tubes)
Computer Monitors
Flat Screen Televisions
Lap Top Computers
Networking Equipment
Printed Circuit Boards
Computer Servers
Computer Main Frame

EXHIBIT G

SB 1383 Additional Services

- Gilton staff to attend city public events providing outreach and education on SB 1383
- No less than twice per year, direct mail SB 1383 requirements to both residential and commercial customers. Fliers will be in English, Spanish and Punjabi.
- Annual route reviews for residential customers
- Cart and bin labels reinforcing proper separation of materials, by listing out which materials are accepted inside the container, and which are not accepted.
- Contamination Monitoring – contractor shall perform contamination inspections by utilizing on-board monitoring systems or physical container inspections.
- Cart contamination tags to inform customers of contamination issues and educate with solutions to resolve.
- Procurement – Contractor to provide Organic Waste Products (OWP, such as mulch and/or compost) to the City, to meet the annual Target Goal issued by CalRecycle to the City for that reporting year.
- Reporting – contractor will provide the data or prepare reports required to meet SB1383 requirements which include:
 - The number of generators that receive organic waste collection service.
 - The number of route reviews conducted for prohibited container contamination.
 - The number of times notices, violations or targeted education materials were issued to generators for prohibited container contaminants.

IN WITNESS WHEREOF, this Agreement has been entered into by and between City and Collector as of the Effective Date.

City:

Signed: _____

Date: _____

Gilton Solid Waste Management, Inc.:

Signed: _____

Date: _____

Gilton Solid Waste Management, Inc.

Revised Proposal for City of Livingston

Agreement for Solid Waste, Recyclable Materials, & Organic Waste Collection Services

Based on Increased Passthrough costs 03/01/2024

STANDARD SERVICE - WEEKLY COLLECTION ALL CONTAINERS

Two (2) Carts (1) MSW / Recycle (1) Organics	Monthly Rate
96 Gallon Carts <i>Basic Bundled Service</i>	\$35.25
<i>Additional carts available at a Monthly rate of \$10.00 per cart Carts are replaced as needed.</i>	

Standard Service Per Bin

Bin Size	Collection Frequency	Monthly Rate
1 Cubic Yard	1	\$67.35
1 Cubic Yard	2	\$134.65
1 Cubic Yard	3	\$201.93
1 Cubic Yard	4	\$269.21
1 Cubic Yard	5	\$336.49
1 Cubic Yard	6	\$403.85
2 Cubic Yard	1	\$134.26
2 Cubic Yard	2	\$266.11
2 Cubic Yard	3	\$401.23
2 Cubic Yard	4	\$535.41
2 Cubic Yard	5	\$669.59
2 Cubic Yard	6	\$803.85
3 Cubic Yard	1	\$198.90
3 Cubic Yard	2	\$376.21
3 Cubic Yard	3	\$566.86
3 Cubic Yard	4	\$764.64
3 Cubic Yard	5	\$961.43
3 Cubic Yard	6	\$1,160.33
4 Cubic Yard	1	\$254.58
4 Cubic Yard	2	\$496.10
4 Cubic Yard	3	\$775.89
4 Cubic Yard	4	\$1,025.84
4 Cubic Yard	5	\$1,276.65
4 Cubic Yard	6	\$1,452.41
6 Cubic Yard	1	\$357.95
6 Cubic Yard	2	\$697.76
6 Cubic Yard	3	\$1,067.07
6 Cubic Yard	4	\$1,419.66
6 Cubic Yard	5	\$1,776.83
6 Cubic Yard	6	\$2,134.78

96 Gallon carts are available to commercial customers
The rate for this service is \$ 30 per container per month.



STAFF REPORT

AGENDA ITEM: Discussion and Direction Regarding Whether to Commence the Process for Establishing Term Limits for City Council Members

MEETING DATE: March 19, 2024

FROM: Mayor Jose Moran

RECOMMENDATION:

This item is included for the City Council to have a discussion and provide direction regarding whether to commence the process for establishing term limits for City Council members.



STAFF REPORT

AGENDA ITEM: Discussion and Direction Regarding the Consideration of Allowing One Planning Commissioner to be Outside City Limits, but Within the Livingston Union School District

MEETING DATE: March 19, 2024

FROM: Mayor Jose Moran

RECOMMENDATION:

This item is included for the City Council to have a discussion and provide direction regarding the consideration of allowing one Planning Commissioner to be outside city limits, but within the Livingston Union School District.



STAFF REPORT

AGENDA ITEM: Discussion and Direction Regarding the Fireworks Ordinance and Possibly Changing the Administrative Penalty Fees

MEETING DATE: March 19, 2024

FROM: Mayor Jose Moran

RECOMMENDATION:

This item is included for the City Council to have a discussion and provide direction regarding the Fireworks Ordinance and Possibly Changing the Administrative Penalty Fees.

STAFF REPORT



AGENDA ITEM: Discussion and Direction Regarding the 4th of July Standing Committee Recommendations Including the Following: Overall Budget and the Schedule of Events for the 4th of July Event

MEETING DATES: March 19, 2024

PREPARED BY: Christopher Lopez, Interim City Manager

RECOMMENDATION

That the Mayor and City Council discuss and provide direction regarding the 4th of July Standing Committee recommendations including the following: overall budget and the schedule of events for the 4th of July event.

BACKGROUND:

On January 16, 2024, the Mayor and Council formed the 4th of July Standing Committee. Since that time, the Committee met on February 29, 2024, and formed a series of recommendations.

The recommendations are listed below:

1. Fireworks show to be held on July 5, 2024 (Friday).
2. Potential schedule of events as follows:

Thursday— July 4, 2024	Friday—July 5, 2024	Saturday— July 6, 2024	Sunday—July 7, 2024
Carnival	Carnival	Carnival	Carnival
	Live music/ entertainment/dj	Live music/ entertainment/dj	Live music/ entertainment/ dj (Headliner this day)
		Car show(s)	
	Fireworks		
			Jaripeo (Rodeo)
	Beer garden	Beer garden	Beer garden
Vendors	Vendors	Vendors	Vendors

3. A City allocation of \$50,000--\$60,000 for the event which does not include the price for the fireworks show.
4. Change the committee from a standing committee to an Ad-Hoc committee with an end date of August 4, 2024.

It should be noted that the City has historically generated approximately \$40,000 in revenue from the sale of carnival ride wristbands, which may be used to offset the cost of the event.

Additionally, there will be personnel expenses for overtime and other labor costs for the use of City staff on the weekends and after hours.

The 4th of July Ad-Hoc Committee met on March 14, 2024, and discussed the above-mentioned items and would like to provide Council with an update.