



## CITY COUNCIL REGULAR MEETING AGENDA

May 7, 2024

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\\_ZmQZIHlH-ECEPZ2VwZg](https://www.youtube.com/channel/UCB_ZmQZIHlH-ECEPZ2VwZg)

Notice is hereby given that the City Council will hold a Regular Meeting on May 7, 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](mailto: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).

### CALL TO ORDER

Pledge of Allegiance.

Moment of Silence – First Responders and Military Members.

Roll Call.

Next Resolution No.: 2024-21  
Next Ordinance No.: 654

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.

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.**

## **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.*

1. RATIFY CHECK WARRANTS  
Ratify Warrant Register Dated April 30, 2024.
2. City Treasurer’s Investment Report for the Month Ending March 31, 2024.
3. Consideration of a Resolution To Receive and Accept the Housing Element Annual Progress Report for Calendar Year 2023 and Direct Staff to Submit the Report to the California Department of Housing and Community Development and the Governor’s Office of Planning and Research. Staff Recommendation: Approve Resolution.
4. Consideration of a Resolution Authorizing Dahlin Group to Prepare and Distribute a Request for Proposals (RFP) for Architectural Services for the Livingston Rec Plex Pursuant to Proposition 68 Grant. Staff Recommendation: Approve Resolution.
5. Consideration of a Resolution Authorizing the City Attorney and Human Resources Coordinator to Request for Proposals (RFP) for the Selection of a Firm to Lead the Recruitment Process of a New Permanent City Manager. Staff Recommendation: Approve Resolution.

## **PUBLIC HEARINGS**

6. Consideration of an Ordinance of the City Council of the City of Livingston Repealing and Replacing a Portion of Chapter 4 of Title 7 of the Livingston Municipal Code Pertaining to Fireworks. Staff Recommendation: Waive the First Reading of the Ordinance by Title Only, Open the Public Hearing, Close the Public Hearing and Approve the Ordinance as Presented.

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

### **CLOSED SESSION**

7. Conference with Labor Negotiator  
(Government Code Section 54957.6)  
Labor Negotiator: Christopher Lopez, Interim City Manager  
Employee Organizations:  
OE3- Clerical Bargaining Unit  
OE3 - Police Supervisory Employees Association.  
OE3 - Management/Confidential Bargaining Unit

OE3 - Livingston Police Officer Association  
AFSCME- Public Works and Park Unit

8. Public Employment, Pursuant to Government Code section 54957 Title: Chief of Police.

**ADJOURNMENT**



# STAFF REPORT

**AGENDA ITEM:** Warrant Register April 30, 2024  
**MEETING DATE:** May 7, 2024  
**PREPARED BY:** Nancy Fuentes, Accounting Technician  
**REVIEWED BY:** Christopher Lopez, Interim City Manager

**RECOMMENDATION:**

Ratify the warrant register dated April 30, 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:

**April 11, 2024 – April 30, 2024**

<b>GENERAL WARRANTS.....</b>	<b>\$</b>	<b>1,433,216.29</b>	<b>10916-11079</b>
<b>PAYROLL/WIRE WARRANTS.....</b>	<b>\$</b>	<b>520,241.60</b>	<b>3115-3154</b>
<b>TOTAL WARRANTS.....</b>	<b>\$</b>	<b>1,953,457.89</b>	

**ATTACHMENTS:**

Warrant Register (detailed by date and check number)

# Accounts Payable

## Checks by Date - Summary by Check Date

User: nfuentes  
 Printed: 5/1/2024 8:03 AM



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

Check No	Vendor No	Vendor Name	Check Date	Check Amount
10916	543	Albert M.Peche, A.M. Peche & Associates,	04/11/2024	2,875.28
10917	250	Alhambra	04/11/2024	308.15
10918	1381	Brink's Incorporated	04/11/2024	348.22
10919	1018	CalPERS	04/11/2024	62,603.00
10920	398	Central SanJoaquin Valley Risk Manageme	04/11/2024	77,363.00
10921	399	Central SanJoaquin Valley Risk Manageme	04/11/2024	100,758.00
10922	272	Charter Communications Holdings, LLC	04/11/2024	221.39
10923	914	Cintas Corporation No. 2	04/11/2024	58.87
10924	884	Monica Cisneros	04/11/2024	112.38
10925	291	City of Livingston c/o L & L District Irrigati	04/11/2024	5,238.01
10926	1239	Clark Pest Control of Stockton, Inc.	04/11/2024	81.00
10927	1438	Lorena Davalos	04/11/2024	85.00
10928	293	Department of Justice Accounting Office	04/11/2024	1,876.98
10929	886	Tara Fields	04/11/2024	150.00
10930	188	Frontier	04/11/2024	1,443.37
10931	262	Gilton Solid Waste	04/11/2024	106,723.06
10932	1059	Angelo Gonzalez	04/11/2024	250.00
10933	1302	Johnny Guillen	04/11/2024	150.00
10934	907	Maribel Herrera	04/11/2024	150.00
10935	811	Pete Hulse, DVM, Pa Hilmar Animal Hospi	04/11/2024	253.00
10936	675	Lance, Soll & Lunghard, LLP	04/11/2024	6,547.50
10937	461	LEAF	04/11/2024	1,038.23
10938	862	Leopoldo Jimenez	04/11/2024	950.00
10939	1435	Livingston Union School District	04/11/2024	2,525.00
10940	615	McClatchy Company LLC	04/11/2024	146.14
10941	487	Mchenry Village Cleaners Corp.	04/11/2024	353.02
10942	269	Merced Pest Control	04/11/2024	80.00
10943	389	Mid Valley IT	04/11/2024	7,253.18
10944	740	Claudia Millan	04/11/2024	150.00
10945	170	MintierHarnish Planning Consulants	04/11/2024	12,382.50
10946	1441	Teresa Miranda	04/11/2024	150.00
10947	180	Mission Linen Service	04/11/2024	120.96
10948	270	Modern Air Mechanical	04/11/2024	129.00
10949	302	Office Depot, Inc./ODP Business Solutions.	04/11/2024	83.56
10950	1147	PAC Machine Company, INC.	04/11/2024	7,883.89
10951	203	PG&E	04/11/2024	124.72
10952	500	Safeguard Business Systems	04/11/2024	416.82
10953	408	Sapient Family Trust	04/11/2024	1,000.00
10954	739	Self- Help Enterprises	04/11/2024	4,991.58
10955	307	Shred-It, C/O Stericycle, Inc.	04/11/2024	448.14
10956	1439	Gladys Soto	04/11/2024	132.50
10957	323	Springbrook Holding Company LLC	04/11/2024	2,176.00
10958	1068	Steele Public Safety Systems	04/11/2024	3,995.43
10959	310	Totlcom, Inc.	04/11/2024	382.72
10960	313	U.S. Bank Equipment Finance	04/11/2024	531.34
10961	1422	Maria B. Valenzuela	04/11/2024	150.00
10962	314	Valley Coffee & Water	04/11/2024	80.15

Check No	Vendor No	Vendor Name	Check Date	Check Amount
10963	504	VIP Audio Visual Company, Inc	04/11/2024	1,500.00
10964	296	Visual Edge IT, Inc	04/11/2024	769.94
10965	1440	Stephanie Zavala	04/11/2024	100.00
Total for 4/11/2024:				417,641.03
10966	395	Administrative Solution, Inc.	04/24/2024	120.00
10967	434	AFSCME District Council 57	04/24/2024	534.38
10968	UB*02074	MARCOS AGUILAR	04/24/2024	70.33
10969	393	California State Disbursement Unit	04/24/2024	893.06
10970	UB*02075	ERIKA FERNANDEZ	04/24/2024	177.70
10971	612	Livingston Peace Officers Association	04/24/2024	1,926.50
10972	UB*02076	ANDREA MCKEAN	04/24/2024	58.58
10973	1284	State of California	04/24/2024	65.08
10974	1452	Kristin Ackerman	04/24/2024	150.00
10975	747	All Star Elite Sports	04/24/2024	8,665.71
10976	1220	Rayona Armenta	04/24/2024	100.00
10977	253	AT&T	04/24/2024	240.04
10978	454	Backflow Apparatus & Valve Co.	04/24/2024	265.36
10979	748	Emma Barragan	04/24/2024	337.21
10980	193	BSK Associates	04/24/2024	2,046.00
10981	140	Fernando Bugarin	04/24/2024	150.00
10982	863	California Department of Tax & Fee Admin	04/24/2024	1,831.00
10983	272	Charter Communications Holdings, LLC	04/24/2024	129.98
10984	1239	Clark Pest Control of Stockton, Inc.	04/24/2024	82.00
10985	283	CoreLogic Solutions, LLC	04/24/2024	200.00
10986	1454	Uvaldo Davalos	04/24/2024	3,000.00
10987	293	Department of Justice Accounting Office	04/24/2024	220.00
10988	1450	Jesus Diaz	04/24/2024	150.00
10989	548	Doras Fashion	04/24/2024	995.50
10990	1449	Yesenia Equinua	04/24/2024	150.00
10991	294	Etch This! And That...	04/24/2024	407.84
10992	188	Frontier	04/24/2024	532.72
10993	387	Frontier Communications Corp Frontier Co	04/24/2024	165.50
10994	706	Hi Tec Transmission Automotive	04/24/2024	4,216.16
10995	501	Hunt & Sons, Inc.	04/24/2024	8,885.51
10996	520	Interstate Truck Center	04/24/2024	3,438.41
10997	1130	Kellogg Supply	04/24/2024	151.49
10998	318	La Rue Communications	04/24/2024	1,941.00
10999	268	Language Line Services, Inc.	04/24/2024	408.90
11000	1445	Libertel Associates	04/24/2024	319.82
11001	1453	Ana Lopez	04/24/2024	150.00
11002	1451	Angelica Lopez	04/24/2024	150.00
11003	483	Loprest Division of WRT	04/24/2024	1,528.66
11004	278	Merced Irrigation District	04/24/2024	757.23
11005	415	Merced Irrigation District	04/24/2024	339.60
11006	180	Mission Linen Service	04/24/2024	588.20
11007	1448	N.D.T Construction, Inc.	04/24/2024	20,000.00
11008	199	Northstar Chemical	04/24/2024	1,906.58
11009	203	PG&E	04/24/2024	651.88
11010	948	Pump Pros Inc.	04/24/2024	1,297.06
11011	1015	Pyro Spectac	04/24/2024	13,170.00
11012	1446	Annibelle Roest	04/24/2024	500.00
11013	439	Sharpening Shop	04/24/2024	755.85
11014	307	Shred-It, C/O Stericycle, Inc.	04/24/2024	663.38
11015	671	Natalie Sobalvarro	04/24/2024	125.00
11016	412	State of California Department of Transport	04/24/2024	621.48

Check No	Vendor No	Vendor Name	Check Date	Check Amount
11017	1068	Steele Public Safety Systems	04/24/2024	1,449.56
11018	530	Telstar Instruments	04/24/2024	6,472.01
11019	284	Trans Union LLC	04/24/2024	348.33
11020	313	U.S. Bank Equipment Finance	04/24/2024	406.29
11021	1288	VAC-CON, INC	04/24/2024	622,256.51
11022	1150	Valley 29 Electric, LLC	04/24/2024	3,006.80
11023	314	Valley Coffee & Water	04/24/2024	87.45
11024	367	Verizon Wireless	04/24/2024	1,702.38
Total for 4/24/2024:				721,960.03
11025	251	ABS Direct, Inc.	04/30/2024	967.88
11026	1434	Aerial & Crane Experts, Inc	04/30/2024	1,363.02
11027	1145	Agri-Turf Distributing LLC	04/30/2024	1,012.02
11028	1238	Alert-All Corp.	04/30/2024	1,998.22
11029	250	Alhambra	04/30/2024	251.92
11030	1307	Amazon Capital Services	04/30/2024	62.87
11031	282	AT&T Mobility	04/30/2024	2,005.97
11032	1417	Axces Industrial Supply Inc.	04/30/2024	1,124.91
11033	454	Backflow Apparatus & Valve Co.	04/30/2024	868.93
11034	162	Steve Bassi	04/30/2024	25.00
11035	446	Belkorp Ag, LLC	04/30/2024	907.27
11036	193	BSK Associates	04/30/2024	638.00
11037	1100	CAL FIRE	04/30/2024	2,270.08
11038	1239	Clark Pest Control of Stockton, Inc.	04/30/2024	123.00
11039	1308	CSG Consultants, Inc.	04/30/2024	78,084.28
11040	1455	Designs by K and A, LLC	04/30/2024	625.00
11041	547	Don's Mobile Glass	04/30/2024	299.00
11042	258	Ewing Irrigation Products, Inc.	04/30/2024	2,190.12
11043	163	EZ Auto Supply	04/30/2024	554.26
11044	1410	FFP Fund VII TEI Partnership I, LLC	04/30/2024	10,324.08
11045	260	First Communications, LLC	04/30/2024	13.90
11046	1151	Jose Flores	04/30/2024	25.00
11047	420	Frantz Wholesale Nursery, LLC.	04/30/2024	893.72
11048	1135	Nancy Fuentes	04/30/2024	18.92
11049	164	Garza Tire & Wheel, Inc	04/30/2024	1,825.50
11050	425	HdL Coren & Cone	04/30/2024	49.50
11051	267	Hoffman Security	04/30/2024	193.95
11052	501	Hunt & Sons, Inc.	04/30/2024	3,429.60
11053	165	J L Analytical Services, Inc.	04/30/2024	122.50
11054	476	Jorgensen Company	04/30/2024	425.91
11055	360	Krazan & Associates, Inc	04/30/2024	1,330.00
11056	1404	Lozano Smith	04/30/2024	585.00
11057	615	McClatchy Company LLC	04/30/2024	435.16
11058	278	Merced Irrigation District	04/30/2024	44,535.28
11059	389	Mid Valley IT	04/30/2024	531.19
11060	180	Mission Linen Service	04/30/2024	1,073.16
11061	459	Municipal Maintenance Equipment	04/30/2024	999.38
11062	635	Normac- Modesto	04/30/2024	44.64
11063	199	Northstar Chemical	04/30/2024	5,063.63
11064	302	Office Depot, Inc./ODP Business Solutions.	04/30/2024	588.44
11065	1147	PAC Machine Company, INC.	04/30/2024	73,279.33
11066	500	Safeguard Business Systems	04/30/2024	850.19
11067	561	Safe-T-Lite of Modesto, Inc.	04/30/2024	143.12
11068	1330	James D Sanders	04/30/2024	400.00
11069	691	Seegers Printing	04/30/2024	156.97
11070	307	Shred-It, C/O Stericycle, Inc.	04/30/2024	524.76



Check No	Vendor No	Vendor Name	Check Date	Check Amount
11071	530	Telstar Instruments	04/30/2024	2,540.00
11072	1150	Valley 29 Electric, LLC	04/30/2024	315.00
11073	1204	Valley Sanitation & Rentals LLC	04/30/2024	787.47
11074	1447	Velocity Triple Automotive, Inc	04/30/2024	44,535.44
11075	296	Visual Edge IT, Inc	04/30/2024	1,390.57
11076	818	Renee Waite-Mendonca	04/30/2024	25.00
11077	536	Robert Wallis	04/30/2024	25.00
11078	597	Work Wellness	04/30/2024	287.00
11079	286	Xerox Financial Services	04/30/2024	475.17
Total for 4/30/2024:				293,615.23
Report Total (164 checks):				1,433,216.29



## ELECTED OFFICIAL'S REPORT

**AGENDA ITEM:** Treasurer's Report: March 2024  
**MEETING DATE:** May 7, 2024  
**PREPARED BY:** Katherine Schell Rodriguez – Elected City Treasurer

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### **RECOMMENDATION:**

Receive and File Treasurer's Report for the month ending March 31, 2024.

### **BACKGROUND:**

The Treasurer's Report is required to be presented to the governing body.

### **DISCUSSION:**

Total Cash and City Investments including cash in the bank, and cash in the Local Agency Investment Fund is \$41,767,601.60 and represents a 1.79% decrease from the previous month.

The attached Treasurer's report is a "snapshot" report of our cash position on the last day of the month in all our accounts per Bank Statements.

### **FISCAL IMPACT:**

None.

### **ATTACHMENTS:**

March 31st, 2024, Treasurer's Report with signature



# TREASURER'S REPORT

Bank Statement Period Ending  
 Report Date  
 Meeting Date

March 31, 2024  
 April 20, 2024  
 May 07, 2024

The following cash and investment information pertains to the period ending per Bank Statements

Institution	Acct#	Investment Type	Average Monthly Yield %	Balance MARCH
State of California LAIF (Local Agency Investment Fund)	xx-xx-463	Pooled	4.232%	39,457,578.36
<b>Non Interest Bearing Items</b>				
Farmers & Merchants Bank	xxxxxx5801	Operating Account	N/A	1,791,309.66
Farmers & Merchants Bank	xxxxxx6601	Payroll Account	N/A	7,664.25
Farmers & Merchants Bank	xxxxxx8201	Web Payments Account	N/A	511,049.33
<b>Subtotal F&amp;M Bank</b>			<b>Subtotal</b>	<b>2,310,023.24</b>
<b>Total Cash &amp; Investments</b>			<b>Totals</b>	<b>41,767,601.60</b>

Notes

- 1) There are currently no Investments, In an Institution, with a Maturity Date, and/or a Maturity Date of 12 Months or More. The City's Portfolio consists of Non Interest Bearing Items in F&M Bank, and funds deposited with the State Local Investment Agency (LAIF)
- 2) Percentage Yield Rate from the LAIF Website "PMIA Average Monthly Yield"
- 3) The Average Daily Balance in F & M Bank for the month was \$2,593,437.93 per statements

Prepared By:

*Katherine Schell-Rodriguez*  
 Katherine Schell-Rodriguez City Treasurer

# STAFF REPORT

**AGENDA ITEM:** City of Livingston Housing Element Annual Progress Report for Calendar Year 2023

**MEETING DATE:** May 7, 2024

**PREPARED BY:** Gary Conte, Community Development Director

**REVIEWED BY:** Christopher Lopez, Interim City Manager

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## **RECOMMENDATION:**

Adopt a Resolution of the City Council of the City of Livingston accepting the Housing Element Annual Progress Report for Calendar Year 2023 and direct staff to submit the report to the California Department of Housing and Community Development and the Governor's Office of Planning and Research.

## **BACKGROUND AND DISCUSSION:**

Each year, California cities are required to prepare an annual progress report on the status of implementing the General Plan Housing Element and submit the report to the California Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR). Using a form provided by HCD, the annual progress report provides a snapshot of housing unit production across affordability levels, development applications received and processed during the reporting year, affordable housing production, and provide an update on housing program implementation. Pursuant to California Government Code Section 65400, the City is required to submit the annual progress report to HCD and OPR by April 1<sup>st</sup> of each year. There is an allowance of up to 60 days following the April 1<sup>st</sup> deadline to submit the report.

City Council (Council) adopted its 2015-2022 Housing Element on June 21, 2016, and subsequently received certification by HCD on July 11, 2016. The Housing Element is 1 of 7 mandated Elements of the General Plan and includes information related to the City's existing housing needs, an analysis of the City's population and employment trends, household characteristics, an inventory of land suitable for residential development and programs and implementation measures.

The Housing Element is required to identify sites to accommodate its Regional Housing Needs Allocation (RHNA), as determined by HCD and the Merced County Association of Governments (MCAG). In summary, the RHNA process allocates the State of California's future housing needs to each County throughout the State. The State of California requires HCD to identify housing needs for each region in response to projected population and household growth. State law further mandates that each Council of Governments (COG), in this case, MCAG, distribute the RHNA to each jurisdiction within the COG's region. In turn, the City, in its Housing Element, identified a number of sites that could accommodate the City's fair share of the RHNA, in all income categories (e.g., very-low-, low-, moderate-, and above-moderate).

The purpose of the annual report is to provide the City Council and the State Departments (HCD and OPR) progress on the City's effectiveness in implementing the Housing Element's programs

and meeting the City's fair share in the RHNA (as discussed below). The annual progress report forms provided by HCD require the following information:

- Status of the plan and progress in its implementation.
- Progress in meeting its share of the locally adopted Regional Housing Needs Allocation.
- The number of housing development applications received in the prior year.
- The number of units included in all development applications in the prior year.
- The number of units approved and disapproved in the prior year.
- List of sites rezoned to accommodate that portion of the City's share of the regional housing need for each income level.
- Number of new net units of housing, including both rental and for-sale housing, which have been issued an entitlement, a building permit, or a certificate of occupancy.
- Locally owned lands included in the Housing Element that have been sold, leased, or disposed of.

Staff has prepared the 2023 Livingston Housing Element Annual Progress Report, included in Attachment 2 of this Staff Report. Some highlights of the 2023 calendar year include:

#### Development Application Processed

The City received and processed two entitlement application requests for new housing in 2023:

- SPDR 2023-01: Tri-plex at 1222 B Street; and
- GPA 2023-02, REZ 2023-02, CUP 2023-04 & SPDR 2023-05: Self-Help Enterprise B Street Apartment Complex.

Of the two entitlement application requests received, only one was approved – Tri-plex at 1222 B Street. The entitlement application request for the Self-Help Enterprise B Street 80-unit Apartment Complex was subsequently withdrawn by the applicant and is now preceding forward under Assembly Bill 2011 (AB 2011) by right development pathway to which the project is no-longer subject to discretionary entitlement requirements or approvals.

No entitlements were approved for very low-, low- or moderate-income categories.

#### New Home Construction

The City of Livingston issued building permits for four residential units in 2023 for the following:

- 1 Single-Family Residence
- 3 Accessory Dwelling Units

No building permits were issued or very low-, or low-income categories. Of the 4 building permits issued, 2 units were completed and issued a certificate of occupancy. The two units that received a certificate of occupancy were accessory dwelling units (ADUs).

**Table B**

**Regional Housing Needs Allocation Progress**

**Permitted Units Issued by Affordability**

		<b>1</b>	<b>2</b>									<b>3</b>	<b>4</b>
<b>Income Level</b>		<b>RHNA Allocation by Income Level</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>Total Units to Date (all years)</b>	<b>Total Remaining RHNA by Income Level</b>
Very Low	Deed Restricted	249	-	-	-	-	-	-	-	-	-	-	249
	Non-Deed Restricted		-	-	-	-	-	-	-	-	-		
Low	Deed Restricted	178	-	5	-	-	-	-	-	-	-	9	169
	Non-Deed Restricted		-	-	-	4	-	-	-	-	-		
Moderate	Deed Restricted	163	-	-	-	-	-	-	-	-	-	17	146
	Non-Deed Restricted		-	-	-	7	-	1	9	-	-		
Above Moderate		435	34	69	24	76	105	39	-	4	-	351	84
<b>Total RHNA</b>		<b>1,025</b>											
<b>Total Units</b>			<b>34</b>	<b>74</b>	<b>24</b>	<b>87</b>	<b>105</b>	<b>40</b>	<b>9</b>	<b>4</b>	<b>-</b>	<b>377</b>	<b>648</b>

### Progress Toward Meeting RHNA

As illustrated in Table B of the HCD Forms below on the following page and included in Exhibit A of Attachment 1 of this Staff Report, the City has issued 377 building permits for residential development since 2016. Table B illustrates the City's RHNA by Income Level and progress toward meeting RHNA.

### Progress Toward Meeting the Housing Element Implementation Programs

Table D of the HCD Forms included in Exhibit B of Attachment 1 of this Staff Report provides a progress report on each implementation program identified in the City's Housing Element.

### **ISSUES:**

Staff did not identify any issues with this report.

### **FISCAL IMPACT:**

No fiscal impact.

### **ENVIRONMENTAL REVIEW:**

The Housing Element Annual Progress Report for Calendar Year 2023 is not considered a project as prescribed by the California Environmental Quality Act (CEQA). No environmental review is necessary for this item.

### **PLANNING COMMISSION ACTION AND RECOMMENDATION:**

The Planning Commission (Commission) held a public hearing to consider the Housing Element Annual Progress Report for Calendar Year 2023 at their regular scheduled meeting on April 9, 2024. A PowerPoint staff report was presented to the Commission. No members of the public addressed the Commission on this item and the Commission had no comment on the item. On a 4-0 vote, the Commission adopted Resolution No. 2024-01, recommending that the Council accept the Housing Element Annual Progress Report for Calendar Year 2023 and direct staff to submit the report to the California Department of Housing and Community Development and the Governor's Office of Planning and Research (refer to Attachment 2).

### **RECOMMENDATION:**

Staff and the Commission recommend the Council adopt a Resolution accepting the Housing Element Annual Progress Report for Calendar Year 2023 and direct staff to transmit the report to the California Department of Housing and Community Development and the Governor's Office of Planning and Research

### **ATTACHMENTS:**

1. City Council Resolution Adopting the Housing Element Annual Progress Report for Calendar Year 2023
  - Exhibit A - Table B, Regional Housing Needs Allocation Progress & Permitted Units Issued by Affordability
  - Exhibit B – Table D, Program Implementation Status Pursuant to GC Section 65583
2. Planning Commission Resolution No. 2024-01

**RESOLUTION NO. 2024-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON TO RECEIVE AND ACCEPT THE HOUSING ELEMENT ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2023 AND DIRECT STAFF TO SUBMIT THE REPORT TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE GOVERNOR'S OFFICE OF PLANNING AND RESEARCH**

**WHEREAS**, California Government Code Section 65400(2), requires the planning agency to provide an annual report to the City Council, the State Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR) regarding the progress toward implementing the housing element of the general plan; and

**WHEREAS**, planning staff has prepared an annual progress report for the calendar year 2023, utilizing the prescribed forms and instructions provided by HCD; and

**WHEREAS**, the Annual Progress Report includes information about the City's progress in meeting its Regional Housing Needs Allocation (RHNA) and efforts to remove governmental constraints on the development of housing; and

**WHEREAS**, the Planning Commission of the City of Livingston (Commission) held a regular meeting on April 9, 2024 and by Resolution No. 2024-01 recommended that the City Council of the City of Livingston (Council) receive and accept the Housing Element Annual Progress Report for Calendar Year 2023; and

**WHEREAS**, the Council considered the Annual Progress Report at a public meeting where members of the public were allowed to provide written comments and oral testimony; and

**WHEREAS**, the Council has reviewed all written evidence and oral testimony presented in connection with the Housing Element Progress Report for Calendar Year 2023.

**NOW, THEREFORE, BE IT RESOLVED** by the Council that it hereby receives and accepts the Housing Element Annual Progress Report for Calendar Year 2023 referenced and incorporated herein as "Exhibit A" and "Exhibit B" and authorizes City staff to submit the Annual Progress Report to the California Department of Housing and Community Development and the Governor's Office of Planning and Research.

I hereby certify that the foregoing Resolution 2024-\_\_\_\_\_ is full, true and correct copy of a resolution duly passed and passed and adopted by the City Council of the City of Livingston at a regular meeting duly held on the 7<sup>th</sup> day of May 2024, by the vote recorded as follows:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Jose A. Moran, Mayor  
of the City of Livingston



ATTEST:

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Monica Cisneros, Deputy City Clerk  
of the City of Livingston

**APPROVED AS TO LEGAL FORM**

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Roy C. Santos, City Attorney

**EXHIBIT A**

Housing Element Annual Progress Report for Calendar Year  
2023

Table B  
Regional Housing Needs Allocation Progress  
&  
Permitted Units Issued by Affordability

<b>Jurisdiction</b>	Livingston	
<b>Reporting Year</b>	2023	(Jan. 1 - Dec. 31)
<b>Housing Element Planning Period</b>	5th Cycle	03/31/2016 - 03/31/2024

<b>Building Permits Issued by Affordability Summary</b>		
<b>Income Level</b>		<b>Current Year</b>
Very Low	Deed Restricted	0
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		4
<b>Total Units</b>		<b>4</b>

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

<b>Units by Structure Type</b>	<b>Entitled</b>	<b>Permitted</b>	<b>Completed</b>
Single-family Attached	0	0	0
Single-family Detached	0	1	0
2 to 4 units per structure	3	0	0
5+ units per structure	0	0	0
Accessory Dwelling Unit	0	3	2
Mobile/Manufactured Home	0	0	0
<b>Total</b>	<b>3</b>	<b>4</b>	<b>2</b>

<b>Infill Housing Developments and Infill Units Permitted</b>	<b># of Projects</b>	<b>Units</b>
Indicated as Infill	5	4
Not Indicated as Infill	0	0

<b>Housing Applications Summary</b>	
Total Housing Applications Submitted:	2
Number of Proposed Units in All Applications Received:	83
Total Housing Units Approved:	3
Total Housing Units Disapproved:	0

<b>Use of SB 35 Streamlining Provisions - Applications</b>	
Number of SB 35 Streamlining Applications	0
Number of SB 35 Streamlining Applications Approved	0

<b>Units Constructed - SB 35 Streamlining Permits</b>			
<b>Income</b>	<b>Rental</b>	<b>Ownership</b>	<b>Total</b>
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>Streamlining Provisions Used - Permitted Units</b>	<b># of Projects</b>	<b>Units</b>
SB 9 (2021) - Duplex in SF Zone	0	0
SB 9 (2021) - Residential Lot Split	0	0
AB 2011 (2022)	0	0
SB 6 (2022)	0	0
SB 35 (2017)	0	0

<b>Ministerial and Discretionary Applications</b>	<b># of Applications</b>	<b>Units</b>
Ministerial	0	0
Discretionary	2	83

<b>Density Bonus Applications and Units Permitted</b>	
Number of Applications Submitted Requesting a Density Bonus	0
Number of Units in Applications Submitted Requesting a Density Bonus	0
Number of Projects Permitted with a Density Bonus	0
Number of Units in Projects Permitted with a Density Bonus	0

<b>Housing Element Programs Implemented and Sites Rezoned</b>	<b>Count</b>
Programs Implemented	28
Sites Rezoned to Accommodate the RHNA	0

**EXHIBIT B**

Housing Element Annual Progress Report for Calendar Year  
2023

Table D  
Program Implementation Status Pursuant to GC Section  
65583

## ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

<b>Jurisdiction</b>	Livingston		
<b>Reporting Year</b>	2023	(Jan. 1 - Dec. 31)	
<b>Table D</b>			
<b>Program Implementation Status pursuant to GC Section 65583</b>			
<b>Housing Programs Progress Report</b>			
Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.			
1	2	3	4
<b>Name of Program</b>	<b>Objective</b>	<b>Timeframe in H.E</b>	<b>Status of Program Implementation</b>
<b>#1. Housing Diversity: Use a variety of incentives including zoning and land use controls, flexible development standards, technical assistance, and expedited processing to promote affordable housing or to promote a range of housing types. Encourage and support the use of the City's Planned Development Process in the review and consideration of new housing projects. This may include exceptions to setbacks, clustering of units and lot configuration, lot size, and lot coverage.</b>	<b>Approval at least four developments that include a range of housing types.</b>	<b>Ongoing</b>	<b>The City continues to process development applications efficiently and encourage the use of Planned Development Zoning to provide flexible development standards.</b>

<p><b>#2. Economic Development: Continue to identify and promote economic development opportunities that bring additional employment for City residences, including jobs paying a range of wages. Conduct targeted outreach to businesses in order to get them to locate in Livingston.</b></p>	<p>Continue outreach efforts to encourage new businesses to locate in Livingston.</p>	<p>Provide outreach annually subject to resource limitations.</p>	<p>This program is ongoing, and the City continues to outreach annually, depending on resource availability, to industrial and commercial businesses to locate in Livingston.</p>
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<p><b>#3. Maintain Adequate Sites; In order to ensure that there are sufficient sites to address the City's share of the regional housing need, the City will monitor the existing inventory of available land and, if necessary, rezone land within the existing city limits or annex land within its Sphere of Influence (SOI). To ensure sufficient residential capacity is maintained to accommodate the RHNA, the City will develop and implement a formal ongoing (project-by-project) evaluation procedure pursuant to Government Code Section 65863. Should an approval of development result in a reduction of capacity below the residential capacity needed to accommodate the remaining need for lower income households, the City will identify and, if</b></p>	<p>Maintain the existing inventory of vacant sites suitable for residential sites and annex land, if necessary, to provide adequate sites for housing consistent with the objectives identified in the Housing Element</p>	<p>Develop and implement a formal evaluation procedure pursuant to Government Code Section 65863 by 2016.</p>	<p>The City continues to maintain the Vacant Site Inventory that was developed as part of the Housing Element update.</p>
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<p><b>#4. Tax-Sharing Agreement: Re-establish a master tax-sharing agreement with the County in order to facilitate the annexation of land within the City's SOI when sites are needed to address housing needs.</b></p>	<p><b>Complete a master tax-sharing agreement to facilitate future annexation of land.</b></p>	<p><b>2017</b></p>	<p><b>Discussions continue with the County regarding the tax-sharing agreement.</b></p>
<p><b>#5. Multi-Family Lot Consolidation and Lot Split Program: In order to provide vacant parcels of adequate size to encourage affordable multi-family development, encourage the consolidation of adjacent parcels zoned High Density Residential (R-3) or Downtown Commercial (DTC) and the splitting of large R-3 zoned parcels. This may include working with property owners to consolidate parcels, coordinating with local property owners to support the development of affordable multifamily housing developments, or working with developers to identify suitable vacant adjoining R-3 or DTC sites.</b></p>	<p><b>Encourage consolidated of similar R-3 zoned lots to make affordable multi-family development feasible.</b></p>	<p><b>Provide assistance to property owners as interest is received.</b></p>	<p><b>The City continues to encourage lot consolidation and lot splits in the R-3 zone. As development applications are submitted, City Staff staff reviews potential opportunities that would allow the development of additional dwelling units.</b></p>

<p><b>#6. Annual Reporting:</b>  Review and report annually on the implementation of Housing Element programs and the City's effectiveness in meeting the program objectives for the prior calendar year. Present the annual report at a public hearing before submitting the annual report to the California Department of Housing and Community Development (HCD) and the Office of Planning and Research (OPR).</p>	<p>Prepare annual report on progress toward Housing Element goals.</p>	<p>Submit report to HCD annually in April.</p>	<p>The Housing Element Annual Report is prepared each year by City staff and presented to the Planning Commission and City Council prior to transmitting to HCD and OPR.</p>
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<p><b>#7. Incentives for Affordable Housing: Use a variety of incentives including zoning and land use controls, flexible development standards, technical assistance, reduced development fees (see Program 16) and expedited processing (see Program 20) to promote affordable housing, including housing that meets the needs of special groups (e.g., seniors, persons with disabilities, persons with developmental disabilities, farmworkers, large households, and the homeless). Work with developers to identify sites and potential funding sources for the development of affordable housing and special needs housing.</b></p>	<p>At least four developments during the planning period.</p>	<p>Provide incentives and work with developers interest is received.</p>	<p>As applications for Affordable Housing are submitted to the City, staff will work with developers to provide technical assistance, development incentives, and expedite processing procedures.</p>
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<p><b>#8. First-Time Homebuyer Program: Continue to identify and apply for funding in order to continue the City's first-time homebuyer program to help lower-income homebuyers, including extremely low-, very low-, and low-income, with downpayment and closing costs.</b></p>	<p><b>Assist five households annually.</b></p>	<p><b>Discontinued</b></p>	<p><b>The City discontinued to promotinge the First Time Homebuyer Program on the City's website and in-person, due to market constraints limiting the ability for low-income households to qualify for mortgages.</b></p>
<p><b>#9. Extremely Low-Income Housing Development Funding: Support applications for funding for the development of extremely low-income housing. Research potential funding opportunities and reach out to affordable housing developers on an annual basis to identify grants or loans and provide expedited processing of applications for the development of extremely low-income housing.</b></p>	<p><b>Support at least one extremely low-income housing development.</b></p>	<p><b>Annual research of funding opportunities and reach out to affordable housing developers.</b></p>	<p><b>City staff continues to support development of extremely low-income housing and will assist developers in technical assistance to secure monies for the development of such housing.</b></p>

<p><b>#10. Farmworker Housing:</b> Support regional efforts, such as those of the Merced County Housing Authority and other organizations, to identify sites, including sites within the SOI, and secure funding for permanent and seasonal farmworker housing. Provide assistance in the form of reduced development standards and/or fee deferrals to developers of affordable farmworker housing.</p>	<p>Work with local non-profit developers to secure funds for one farmworker housing and provide assistance to two farmworker housing.</p>	<p>Annually reach out to affordable developers.</p>	<p>The City supports the Merced County Housing Authority to provide for development of farmworker housing.</p>
<p><b>#11. Section 8 Rental Assistance:</b> Encourage new multifamily apartment owners to participate in the Housing Choice (Section 8) Voucher Program by accepting vouchers at their complexes. Refer extremely low and very low-income households seeking rental assistance to the Merced County Housing Authority's Housing Choice Voucher Program.</p>	<p>Promote participation by new apartment owners in Section 8 program.</p>	<p>Ongoing</p>	<p>The City refers extremely low and very-low income households to the Merced County Housing's Housing Choice Voucher Program.</p>

<p><b>#12. Housing Program Information. Make information on housing, housing programs, and housing assistance available to all members of the community, including information on second units and information on the availability of sites at the Monte Cristo Mobile Home Park. Continue to provide materials in both Spanish and English. Place information at a public counter in City Hall, and the City's website, and at other public locations.</b></p>	<p>Provide information on housing programs and assistance to residents.</p>	<p>Ongoing</p>	<p>The City continues to provide information on the City website and in person.</p>
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<p><b>#13. Infrastructure Improvements: Continue to identify and apply for loans and grants to improve and upgrade City infrastructure, such as the water, sewer, storm drainage, and circulation system in order to meet future residential, industrial, and commercial demand. Give priority to providing infrastructure to vacant R-3 parcels, especially those in the southeastern portion of the city, as well as DTC parcels in order to support the development of multifamily housing in these areas.</b></p>	<p>Apply for at least one grant/loan. Target efforts toward expanding infrastructure to support the development of multi-family housing on vacant R-3 parcels.</p>	<p>Apply for CDBG funds at least biennially, starting in 2017.</p>	<p>The City received grant funding for water line improvements and completed construction in 2019. The City continues to research grant opportunities for infrastructure funding. City staff shall continue to apply for CDBG funds at least biennially.</p>
<p><b>#14. Impact Fee Program: Periodically review and update the City's impact fees to ensure that they are consistent with the City's costs to provide these services and that they do not act as a constraint to residential development.</b></p>	<p>Review City fees to ensure that they are not a constraint to affordable development.</p>	<p>Review fee schedule biennially, starting in 2018.</p>	<p>The City reviewed the Development Impact Fee Program biennially to ensure that the fees are consistent with the City's costs.</p>

<p><b>#15. Provide Information on Reasonable Accommodation: Consistent with the Reasonable Accommodation provisions of City Code, prepare a notice of availability of reasonable accommodation for persons with disabilities, including developmental disabilities, and display it prominently at the public information counter in the Planning and Building Departments advising the public of the availability of the procedure. Make forms for requesting reasonable accommodation available to the public in the Planning and Building Departments.</b></p>	<p>Promote reasonable accommodation procedures.</p>	<p>2017</p>	<p>The City provides information related to Reasonable Accommodation as requests are received. Information is provided in person when development proposals and applications are submitted.</p>
<p><b>#16. Permitting Fees: As appropriate and feasible, waive, reduce or defer permitting fees for new housing developments in the city City affordable to extremely low-, very low-, and moderate-income households.</b></p>	<p>Waive, reduce or defer fees, and application requirements, for two affordable housing projects.</p>	<p>Ongoing</p>	<p>As applications for Affordable Housing are submitted to the City, staff may consider the waiver of development impact fees for new housing developments affordable to extremely low-, very low-, and moderate-income households.</p>



<p><b>#17. Remove CUP Requirement in R-3 Zone:</b>  The City shall amend the Zoning Ordinance to remove the Conditional Use Permit requirement for projects within the R-3 Zone District that consist of 25 units or more or a density of 24 units per acre or more. The City shall continue to require site plan approval for projects within the R-3 zone.</p>	<p>Remove the CUP requirement for multi-family residential uses in the R-3 zone.</p>	<p>2018</p>	<p>This program, established in 2018, has not been accomplished.</p>
<p><b>#18. Permit Streamlining:</b>  Continue to encourage applicants to meet for pre-application conferences to address any issues before the application is submitted. As funding permits, hire additional planning staff to handle permit processing.</p>	<p>Reduce processing and permit times.</p>	<p>Ongoing</p>	<p>City staff continues to encourage developers to apply for a pre-application and meet with City representatives to discuss proposed development.</p>

<p><b>#19. Development Handbook: Develop an informational handbook for developers interested in building in Livingston. The handbook should include information on permit processing requirements, steps in the process, and a schedule of building and permitting fees, among others. The handbook should be designed to provide information, answer typical questions, and reduce confusion about the permit process for developers. Continue to maintain and update information on the City's website.</b></p>	<p>Provide informational handbook to developers.</p>	<p>2020, as funding permits</p>	<p>The Development Handbook was developed in 2020.</p>
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<p><b>#20. Expedited Processing:</b> Provide expedited processing for developments that contain units that are affordable to extremely low-, very-low-, and low-income households as well as special needs groups, such as persons with disabilities, including developmental disabilities. The City will also provide expedited processing to commercial and industrial projects by businesses, with will generate higher paying jobs in the community.</p>	<p>Provide expedited processing for affordable housing projects as well as commercial and industrial projects that create high paying jobs for residents.</p>	<p>Ongoing</p>	<p>City sStaff continues to offer expedited application processing for projects as well as commercial and industrial developments.</p>
<p><b>#21. Zoning for Special Needs Housing:</b> Amend the Zoning Ordinance to: allow residential care facilities for more than 15 persons in appropriate zones in the cityCity; and add a definition of single-room occupancy (SRO) and allow SROs in the DTC zone.</p>	<p>Amend the Zoning Ordinance.</p>	<p>2017</p>	<p>The City amended it's Zoning Ordinance to allow for ADUs and JADUs in all residential and DTC districts.</p>

<p><b>#22. Conservation of Affordable Housing:</b>  <b>Monitor affordable multifamily housing projects to help prevent the conversion of affordable units to market rate. Work with non-profit organizations and other agencies to preserve the affordability of these units. Ensure tenants are properly noticed and informed of their rights and eligibility to obtain special Section 8 vouchers reserved for tenants of converted HUD properties.</b></p>	<p>Preserve 99 at-risk units.</p>	<p>Ongoing</p>	<p>The City continues to monitor multi-family housing projects to help prevent the conversion of affordable housing to market-rate.</p>
<p><b>#23. Housing Rehabilitation Program:</b>  <b>Continue to provide loans to lower-income households and special needs groups, such as seniors and the disabled, for rehabilitation assistance and emergency housing repairs.</b></p>	<p>Provide rehabilitation and emergency repair assistance to five lower-income owner and renter households annually.</p>	<p>Ongoing</p>	<p>This program is not active due to the lack of HUD funding. The City currently manages a portfolio of existing rehabilitation loans.</p>

<p><b>#24. Overcrowding Reduction: Encourage developers of both affordable and market-rate housing to construct housing units with three or more bedrooms to accommodate large households and alleviate overcrowding in Livingston. Where feasible, provide incentives to developers who provide housing units affordable to lower-income households that have three or more bedrooms. Such incentives may include, but are not limited to flexible development standards, fee deferrals, density bonus, or expedited processing.</b></p>	<p><b>Encourage two affordable developments and two market-rate rental developments to include units with three or more bedrooms.</b></p>	<p><b>Ongoing</b></p>	<p><b>City staff meets with prospective developers at pre-application conferences where development proposals are presented to staff and staff is able to encourage additional housing units and the development of housing units that can accommodate large families with 3 or more bedroom housing units as well as incorporating ADU's.</b></p>
<p><b>#25.Code Enforcement: Continue code enforcement efforts to identify substandard housing and housing in need of substantial rehabilitation. Provide information about the City's rehabilitation program to low-income and moderate-income households with homes or apartments in need of repairs.</b></p>	<p><b>Identify substandard housing or housing with code violations and provide information on rehabilitation program to eligible households.</b></p>	<p><b>Ongoing</b></p>	<p><b>The City continues code enforcement efforts to identify substandard housing conditions.</b></p>

<p><b>#26. Fair Housing Services. Collaborate with the County and fair housing service providers that serve the County to:</b>  <b>1) identify funding sources to support fair housing and landlord/tenant counseling programs; 2) provide information on fair housing laws at City Hall, the library, senior center, on the City's website, and other areas in which the community gathers information; and 3) address or refer complaints of housing discrimination to appropriate State or federal agencies.</b></p>	<p>Work in partnership with local fair housing service agencies and provide fair housing information and services to residents.</p>	<p>Ongoing</p>	<p>The City continues to work with the County of Merced to identify funding sources and provide additional information to support fair housing.</p>
<p><b>#27. Weatherization Assistance: Continue to provide weatherization assistance to lower-income households through the City's rehabilitation program. Provide information at City Hall on PG&amp;E and the Merced Irrigation District's (MID) weatherization and energy assistance program.</b></p>	<p>Provide weatherization to five lower-income owner and renter households annually through the Housing Rehabilitation Program.</p>	<p>Ongoing</p>	<p>The City provides information related to energy savings from Pacific Gas and Electric Company (PG&amp;E) and the Merced Irrigation District to residents.</p>

<p><b>#28. Innovative Neighborhood Design: Encourage the use of pedestrian-oriented design, greenbelts, parks, bicycle routes, and open-space to enhance new residential neighborhoods in Livingston. Make available on the City's Website the City's Design Guidelines.</b></p>	<p>Encourage developers to use designs that incorporate smart growth and community sustainability practices, such as the use of greenbelts or walkways, which enhance pedestrian and bicycle use.</p>	<p>Ongoing</p>	<p>The City encourages developers to use designs that encourage Smart Growth and consistency with the City's Design Guidelines.</p>






**General Comments**

**ATTACHMENT 2**

Planning Commission Resolution No. 2024-01

**RESOLUTION NO. 2024-01**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LIVINGSTON RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF LIVINGSTON TO RECEIVE AND ACCEPT THE HOUSING ELEMENT ANNUAL PROGRESS REPORT FOR CALENDAR YEAR 2023 AND AUTHORIZE STAFF TO SUBMIT THE REPORT TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND THE GOVERNOR'S OFFICE OF PLANNING AND RESEARCH**

**WHEREAS**, California Government Code Section 65400(2), requires the planning agency to provide an annual report to the City Council, the State Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR) regarding the progress toward implementing the housing element of the general plan; and

**WHEREAS**, planning staff has prepared an annual progress report for the calendar year 2023, utilizing the prescribed forms and instructions provided by HCD; and

**WHEREAS**, the Planning Commission has reviewed all written evidence and oral testimony presented to date.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Livingston, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend the City Council receive and accept the annual progress report on the Housing Element, and authorize staff to forward the report to the California Department of Housing and Community Development and the Governor's Office of Planning and Research pursuant to Government Code Section 65400(2).

Passed and adopted by the Planning Commission of the City of Livingston this 9<sup>th</sup> day of April 2024, by the following vote:

AYES: Planning Commissioners: Robert Wallis, Jose Flores, Vice-Chair Renee Mendonca,  
and Chair Steve Bassi  
NOES: Planning Commissioners: None  
ABSTAIN: Planning Commissioners: None  
ABSENT: Planning Commissioners: None

ATTEST:



Chair, Steve Bassi



Gary Conte, AICP,  
Secretary of the Planning Commission



## STAFF REPORT

**AGENDA ITEM:** Resolution Authorizing Dahlin Group to Prepare and Distribute a Request for Proposals (RFP) for Architectural Services for the Livingston Rec Plex. Pursuant to Proposition 68 Grant.

**MEETING DATE:** May 7, 2024

**PREPARED BY:** Jacquelyn Benoit, Recreation Superintendent

**REVIEWED BY:** Christopher Lopez, Interim City Manager

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### **RECOMMENDATION:**

Approve Resolution 2024-\_\_ authorizing Dahlin Group out of Pleasanton to develop and distribute a Request for Proposals (RFP) for Architectural & Engineering Design and Consultant services for the design of the Livingston Rec Plex pursuant to Proposition 68.

### **BACKGROUND:**

The City of Livingston was awarded a \$7.3M grant for the land acquisition and development of the Livingston Rec Plex in December of 2021. On August 11, 2022, the Mayor and City Council approved an agreement with Dahlin Group to serve as project manager and has been working with staff to take the project to the finish line since then.

Dahlin has worked with the city to lay out a wish list/test fit for a conceptual building plan and master site plans which was completed in 2023. The city has approved the conceptual building plan in accordance with the Prop 68 deliverables and is a basis of design provided to the architectural consultant for reference. It is not intended to be a final conceptual design.

The Request for Proposal has been reviewed by Community Development, Public Works, the City Manager's Office, and the City Attorney. The attached RFP is the final version.

### **FISCAL IMPACT:**

By putting out the RFP, staff will be able to determine the costs associated with these services and budget accordingly. The actual impact is not known until a consultant is chosen; however previous estimates total approximately 10% of the project for a projected cost of approximately \$1.2M.

### **ATTACHMENTS:**

1. Resolution 2024-\_\_\_, Resolution of the City Council of the City of Livingston Authorizing Dahlin Group to prepare and Distribute a Request for Proposals for Architectural & Engineering Design and Consultant for the Livingston Rec Plex in pursuant of Prop 68.
2. RFP Final Architectural & Engineering Design and Consultant Services

**RESOLUTION NO. 2024-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON AUTHORIZING DAHLIN GROUP TO PREPARE AND DISTRIBUTE A REQUEST FOR PROPOSALS (RFP) FOR ARCHITECTURAL SERVICES FOR THE LIVINGSTON REC PLEX. PURSUANT TO PROPOSITION 68 GRANT**

**WHEREAS**, The City of Livingston was awarded a grant for 7.3 million dollars for the land acquisition and development of the Livingston Rec Plex in December of 2021. By council approval the city has acquired a project manager, Dahlin Group to work along with staff to take the project to the finish line; and

**WHEREAS**, Dahlin has worked with the city management and department heads to lay out a wish list/test fit for a conceptual building plan and master site plans which was complete January 2023; and

**WHEREAS**, The city has approved the conceptual building plan in accordance with the prop 68 deliverables and as a basis of design for providing to the seek Architectural & Engineering Design and Consultant for reference. It is not intended to be a final conceptual design; and

**WHEREAS** The Request for Proposal for the seek Architectural & Engineering Design and Consultant has gone through all department heads, city manager and city attorney for review and approval; and.

**WHEREAS**, By putting out the Request for Proposals, staff will be able to determine the costs associated with these services and budget accordingly. The actual impact is not known until a consultant is chosen however there is an estimation from past practice of 10% of the project equaling somewhere in the neighborhood of \$1.2 million.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby approves Resolution 2024-\_\_\_\_, authorizing the Dahlin Group to develop and distribute an RFP to seek Architectural & Engineering Design and Consultant for the Livingston Rec Plex pursuant Prop 68.

I hereby certify that the foregoing Resolution 2024-\_\_\_\_ is full, true and correct copy of a resolution duly passed and passed and adopted by the City Council of the City of Livingston at a regular meeting duly held on the 7<sup>th</sup> day of May 2024, by the vote recorded as follows:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Jose A. Moran, Mayor  
of the City of Livingston

ATTEST:

---

Monica Cisneros, Deputy City Clerk  
of the City of Livingston

**APPROVED AS TO LEGAL FORM**

---

Roy C. Santos, City Attorney



**CITY OF LIVINGSTON  
1416 C STREET  
LIVINGSTON, CA 95334**

**REQUEST FOR QUALIFICATIONS/PROPOSALS  
FOR THE LIVINGSTON REC PLEX**

**ARCHITECTURAL & ENGINEERING  
DESIGN AND CONSULTANT SERVICES**

**Release Date:** April 29, 2024

**Mandatory Pre-Submittal Meeting:** May 8 at 11:00 am

**Submission Due Date:** May 28, 2024 by 4:00 p.m.

**RFPs shall be delivered electronically per the detailed Submission Instructions**

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## **I. INTRODUCTION & PROJECT DESCRIPTION**

### **A. Invitation**

1. The City of Livingston ("City") is requesting written Proposals ("Proposals") of licensed professional architectural/engineering firms/team ("Consultant") with a combined experience in planning, architecture, landscape architecture, parks and recreation, community/recreation center architecture, and engineering design development, construction cost estimating, preparation of construction and bid documents, and design support during demolition, construction and code required building commissioning (collectively "Services"). The City is specifically seeking the services of a design team with highly successful recreation and community center design experience, experience in designing creative projects that are environmentally responsible and resource efficient, along with the incorporation of innovative technologies, as well as experience working with the public sector.
  - a. DAHLIN serves as City Project Manager and is excluded from proposing.

### **B. Background & History**

1. On December 8, 2021, the City of Livingston was awarded a \$7.3 M grant for the new Livingston Rec Plex via Proposition 68 – the California Parks, Environment, and Water Bond Act of 2018. The grant included \$1.9 million for the acquisition of a second parcel to house a new community park. .
2. On July 21, 2022 a "Passing of the Keys or Completion" Ceremony was held on the site and the Livingston Farmers Association passed the building keys to the City. At this Ceremony, DAHLIN was announced as the Project Manager.
3. Programming and test fit for a Conceptual Building Plan and Master Site Plan was completed by DAHLIN in January 2023. See Appendix H . The City of Livingston approved the Conceptual Building Plan and Master Site Design as a basis of design for providing to the Consultant for reference. It is not intended to be a final conceptual design.

### **C. Project Description**

1. The existing project is currently spread over 3 total parcels, all of are owned by the City.
  - a. An existing 25,000 sf warehouse and distribution center building on a 0.78 acre lot (APN 024-153-011)
  - b. 0.26 acre vacant parking lot (APN 024-153-003)
  - c. 1 acre undeveloped lot (APN 024-154-005)
2. The Conceptual Site Layout and Design (Figure 2), will serve as the starting point for the Consultant's Conceptual and Schematic design work. Split between three parcels, the Project site is approximately 2.05 acres in total, located three blocks east of City Hall,

between C and D Streets, adjacent to the Union Pacific railroad line. Based on the Conceptual Building Plan and Master Site Plan, the immediate site around the former renovated packing shed facility is envisioned to feature parking, areas for outdoor seating, and displays of public art. For the parcel east of 7th Street, adjacent to C Street, the Conceptual Site Plan envisions approximately 1.0 acre of dedicated parking, a combined restroom/shelter overhang, permanent game tables, large playground, splash pad, and ninja gym.

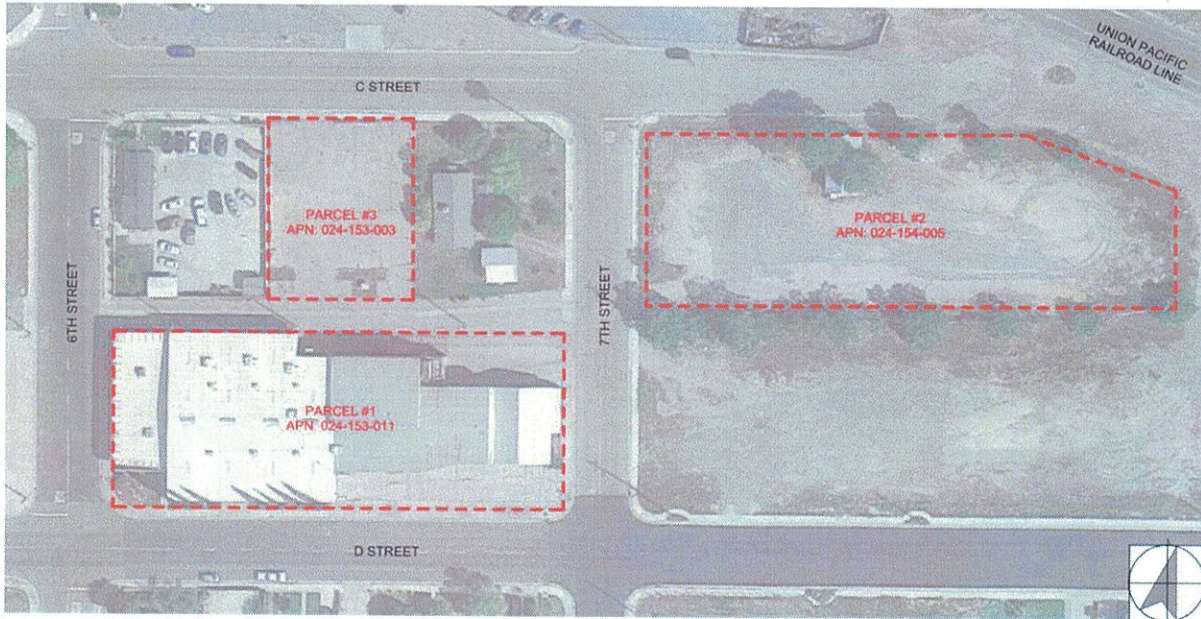
The Conceptual Site Plan (Figure 2), is created to address the needs for parking and outdoor recreation facilities. The Conceptual Facility Plan (Figure 3) features a single renovated 24,200 SF single story building with space dedicated to the recreation center and basketball courts, Multipurpose rooms, Teen/Senior Facilities, administrative and support space, commercial kitchen facilities, and 305 SF to public works storage. The existing building was originally built in 1910 and previously owned by the Livingston Farmer's Association. The proposed design should maintain the industrial feel and commemorate the history of the existing building. The existing railroad tracks just to the north of the building is envisioned to host a public art feature depicting the history of the site when it was still a Grower's Co-op. All lighting fixtures, electrical panels, and HVAC will be removed and replaced to accommodate the new program. All restrooms will have to be upgraded for ADA compliance. The interior finishes and exterior siding will need to be brought up to date to reflect the program.

3. The Project also includes the closing of 7<sup>th</sup> street between C Street and D Street to create a pedestrian friendly area between the Park and Rec-Plex facility. The City has started the street closure process with the Planning Department.
4. The City intends to Phase the project into 2 phases, as shown in the Phased Plans (Figure 4). All components identified in the Prop 68 Grant must be included in Phase 1. Phase 1 is to include all exterior building improvements as well. Phase 2 encompasses the additional programs elements that the City would like to incorporate.
5. Initial Studies and Reports
  - a. CEQA / NEPA
    - i. CEQA for the existing warehouse parcel (APN 024-153-011) is not required.- it is exempt. NEPA compliance may be required for the building portion of the project.
    - ii. CEQA / NEPA compliance **will** be required for the park parcel (APN 024-154-005) and for the parking lot parcel (APN 024-153-003). NEPA compliance will also be. This will be the responsibility of the Proposer.
    - iii. It is anticipated that the project will meet one or more categorical CEQA and NEPA exemptions. Proposer will be responsible for verification and processing. Associated required studies/ reports required should be incorporated into the

Proposer's scope of work.

- b. A Phase 1 Hazardous Materials report for the entire structure was completed in March 2023 (report can be provided upon request). Phase II Environmental Site Assessment may be required and will be the responsibility of the Proposer.
- c. Geotechnical Investigation and Report were completed in April 2023 (report can be provided upon request).
- d. Structural Assessment has not completed and will be the responsibility of the Proposer.

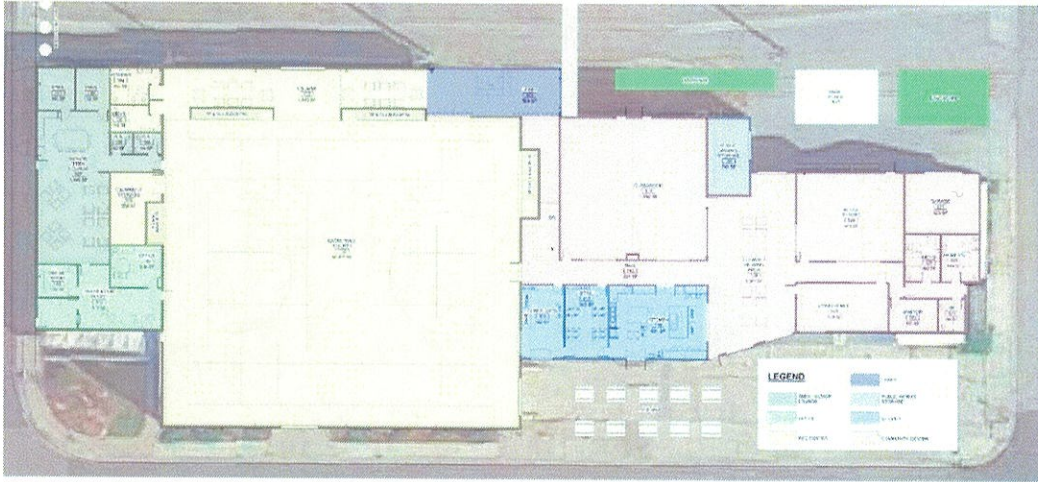
Existing Site (Figure 1)



Conceptual Site Plan (Figure 2)



**Conceptual Facility Plan (Figure 3a)**



\* Program Items to be included in Phase 1 – highlighted in Orange in Figure 4

<b>BUILDING PROGRAM AREAS</b>			
*	Entry Lobby	569	S.F.
*	Entry Lounge	1,140	S.F.
*	Basketball Courts	10,940	S.F.
*	Women’s Restroom (at Lounge)	150	S.F.
*	Men’s Restroom (at Lounge)	118	S.F.
*	Equipment Storage	288	S.F.
	Senior/Teen (ST) Lounge	1,300	S.F.
	ST Storage	150	S.F.
	ST Storage	133	S.F.
*	ST ADA All Gender Restroom	54	S.F.
	ST Restroom	42	S.F.
	Recreation Office	510	S.F.
	Private Office	206	S.F.
	Break Room	125	S.F.
	Lounge / Viewing	1,364	S.F.
*	Classrooms	1,996	S.F.
	Active Studio	916	S.F.
	Conference Room	422	S.F.
	Garage	423	S.F.
	Janitor	150	S.F.
	Unisex Restroom (CC)	80	S.F.
	Men’s Restroom (CC)	162	S.F.
	Women’s Restroom (CC)	169	S.F.
*	Kitchen & Concessions & Stg.	1283	SF.
<b>TOTAL APPROXIMATE GSF</b>		<b>24,200</b>	<b>SF.</b>

Conceptual Park Plan (Figure 3b)

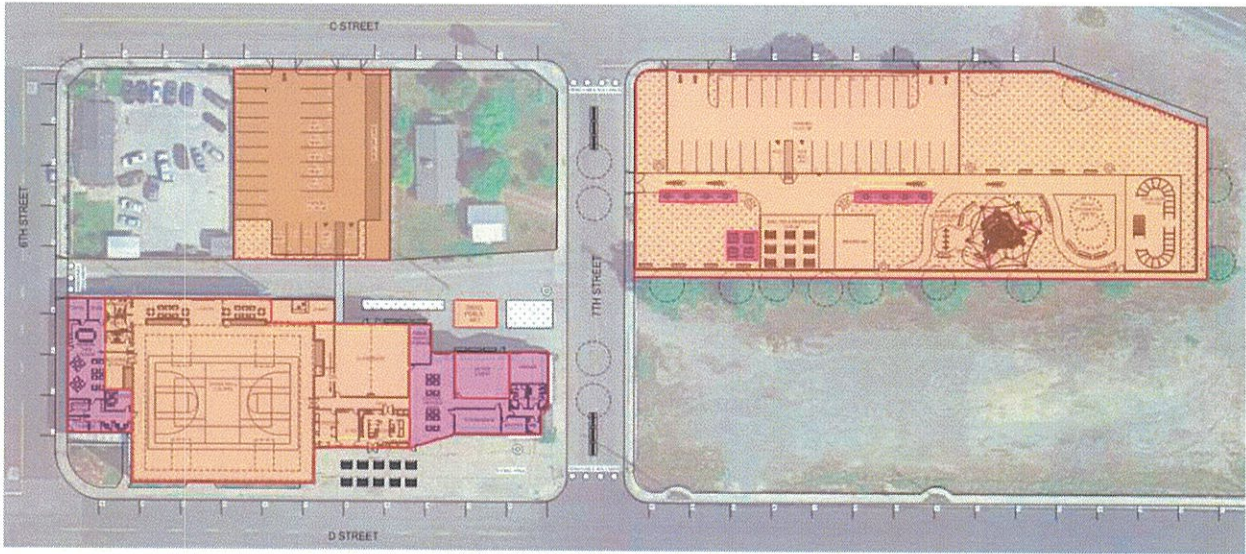


PARK PROGRAM ELEMENTS			
*	Parking lot		
*	Ninja gym		
*	Shade structure		
*	Picnic tables & grills		
*	Playground		
	Walking paths		
	Splash pad		
	Restroom building		
*	Lawn/Turf space		

\* Program Items to be included in Phase 1 – highlighted in Orange in Figure 4

- The Conceptual Facility Plan (Figure 3a) serves to identify essential community needs relative to the new program needs and, as importantly, confirmed that those needs could be met on the site and surroundings of the existing facility. Using the elements of the Conceptual Plan as a general framework, the City invites and encourages the creativity, vision, and experience of the selected design team to envision a fully functional facility from the renovated building and adjacent park. The facility will prioritize flexible spaces for a variety of programs serving all ages, efficiency in operation and staffing accommodation, and attention to design keeping the industrial feel and history of the existing building.

Phasing Plan (Figure 4a)



Program Items in Orange to be included as part of Phase 1.  
Program Items in Purple to be included as part of Phase 2

**D. Budget**

The City has established a preliminary construction budget of **\$7.3M** million dollars for Project (both Phases 1 and 2) based on Cost Estimate provided by DAHLIN/CUMMINGS in May 2023. The Project is funded using the Prop 68 Grant. The City is actively seeking other sources to fill the funding gap. The selected consultant will work with the City's team to validate, continually update, and adjust the Project budget and schedule as required, through all tasks of the design and regulatory permitting processes. Consultants are to be aware of this budget as the City will regard the Consultant's respect of and adherence to budget constraints with this Project as a key consideration. Consultant's response shall include insight to budget strategies including smart design, , phasing, etc.

**E. Project Schedule**

As a Prop 68 awarded Project , Phase 1 of the Project must be completed and open for operations by March 2028. Anticipated Design and Construction Schedule is outlined in Appendix D.

**F. Additional Documents Available**

City Website: <https://www.cityoflivingston.org/recreation/page/livingston-rec-plex-prop-68>

1. Prop 68 Submission Narrative Final
2. Conceptual Drawings presented to the Community
3. Award Announcement
4. Executed Grant Contract with State
5. Rec Plex ReZone
6. Proposed Site Plan
7. Overall Cost Estimate Summary Page
8. Civil Survey – Available to successful proposing team after award
9. Geotechnical Report – Available to successful proposing team after award

**RFP Appendices**

1. Appendix A: Form of Proposal
2. Appendix B: Conflict of Interest Statement
3. Appendix C: Not Used
4. Appendix D: Draft Project Schedule
5. Appendix E: Acronyms / Definitions
6. Appendix F: Design Professional Service Agreement
7. Appendix G: Debarment, Suspension, Ineligibility Certification



**II. PROPOSAL SUBMITTAL**

**A. Inquiries / Clarifications**

All requests for clarification for this RFQ/P must be in writing and directed to:

Stephanie Fujimura – Project Manager – DAHLIN  
 (925) 251-7288  
[Stephanie.Fujimiura@DahlinGroup.com](mailto:Stephanie.Fujimiura@DahlinGroup.com)

Requests for Information / clarification must be received in writing by **May 10, 2024 at 5:00pm**. Clarification responses will be provided to all Consultants that have expressed interest in this RFP. The City will not respond to verbal questions submitted by telephone or in person.

**B. Schedule for Submittal and Selection**

TASK	DATE/TIME
RFP Issued	4/29/2024
<b>Pre-RFP Mandatory Site Walk/ Conference</b>	<b>5/8/2024 @11 am</b>
Deadline for Submitting Questions	5/10/2024
Addendum Issued	5/17/2024
<b>Submission Deadline for RFP</b>	<b>5/28/2024 @ 4:00 pm</b>
Issue Notice of shortlist for Interviews	6/7/2024
Shortlist Interviews (in person)	Week of 6/24/2024
City Selection of Firm	7/8/2024
Start of Design Services	8/2024

1. A **MANDATORY** Pre-Proposal meeting and site walk will be held at the existing building on **May 8, 2024 at 11am**. Respondents will have an opportunity to ask questions about the RFP, including Proposal requirements and procedures, the services required, and Project details.

Project Site:  
 641 6<sup>th</sup> Street  
 Livingston, CA 95334

Those who are interested must register as a prospective proponent by sending an email notice of intent to attend to the Project PM –

Stephanie Fujimura - ;[Stephanie.Fujimura@DahlinGroup.com](mailto:Stephanie.Fujimura@DahlinGroup.com)

FTP upload links will be provided to those who RSVP and attend.

2. The City reserves the right to revise the RFP prior to the indicated due date and may extend the due date for the RFP for any reason, including significant revisions to the "Scope of Services" or cancelation / withdrawal of the RFP. Material changes, if any, to the scope of services or proposal procedures will only be transmitted by written addendum and posted to the City website. Addendums and answers to submitted questions will be provided per schedule below.

**C. Submission Instructions**

1. Submission Directions - All Proposals must be submitted electronically to the designated FTP site. RFP responses that do not arrive by the specified dates and times will be considered non-responsive. Proposers may submit their proposal any time prior to the above stated deadline.
  - a. **Electronic Submittal:** One (1) electronic, PDF format copy of the RFP response must be **received by 4:00 pm PST May 28, 2024** .prevailing local time. Submissions must be clearly marked
    - *TWO separate PDF's are to be uploaded:*
      1. *"City of Livingston Rec Plex – Design Services– Envelope A-FIRM NAME"*
      2. *"City of Livingston Rec Plex - Design, Architectural and Engineering Services Proposal – Envelope B-FIRM NAME"*
    - Cover Page must include the proposer's name, address, and telephone number.
    - Each Prime Proposer that is registered at the Mandatory Site Walk will be provided a set of detailed instructions including a unique link, password and FTP upload instructions for Electronic Submittal of Proposal.
    - All Electronic Submittals will be timestamped based on the receiving FTP site electronic timeclock. The Prime Proposer is responsible for providing themselves sufficient time to upload their document prior to the stated deadline.
    - 
    - Proposals received that do not conform to submittal requirements above, will be considered nonresponsive, and will be returned unopened to the proponent.
    - Proposals received after the time and date specified above will be considered nonresponsive and will be returned to the Consultant.
    - Unsigned submittals or submittals signed by an individual not authorized to bind the prospective Consultant will be considered nonresponsive and rejected.

2. Submissions shall include:

**ENVELOPE A – RESPONSE TO REQUEST**

- Responses relating to the proposed scope of services, qualifications, and relevant experience and Projects. - RFP content as identified in Section III Required Format for Proposals
- Form of Proposal (Appendix A) signed by a person legally authorized to bind the firm/consultant
- Signed Addendum Acknowledgement Form(s)
- Conflict Interest Statement (Appendix B)
- Comments on or confirmation of City's Standard Design Professional Service Agreement (Appendix F)

**ENVELOPE B – FEE PROPOSAL**

- Fee Proposal utilizing the FEE PROPOSAL MATRIX (Appendix C) to provide services for the work and the terms thereof as described, including maximum limits not to be exceeded
- Hourly rate sheets for each Consultant and all Sub-Consultants

3. Additional Terms and Conditions

- a. The terms and conditions of the proposal offer shall remain firm and open for acceptance by the City for a minimum of ninety (90) calendar days from the date of closing.
- b. Submissions become property of the City of Livingston and will not be returned. Submissions will be held in confidence unless otherwise required by law.
- c. The City reserves the right (in its sole discretion) to determine the completeness of all proposals.

**D. Required Format for Proposals**

1. RFP Response

The RFP Response should be presented in a format that corresponds to and references sections outlined below and should be presented in the same order. Responses to each section and subsection should be labeled to indicate which item(s) are being addressed. For ease of evaluation, proposals should be presented in the format described within this RFP. Please provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content. Descriptions on how any-and-all equipment and/or services will be used to meet the requirements of this RFP shall be provided in detail, along with any additional information documents that are appropriately marked.

## 2. Format

The City requires a specific format for the Statement of Qualifications and Proposal. The Sections of the Statement of Qualifications shall adhere to the page limitations set forth below. All Proposals shall also adhere to the following specifications:

- Primary page size: 8.5" x 11"
- Margins: Minimum one inch
- Font size / Spacing: Calibri, Minimum 11 point, 1-1/2 spaced for text and a minimum of 8 point for graphics
- Maximum 20 pages, double sided
  - Covers (front and back) and dividing tabs are not included in overall page count
  - Appendices are not included in overall page count
- Cost proposal in separate PDF (ENVELOPE B) – excluded from page limit – will be reviewed after Qualifications based selection is made.

## 3. Response to request

The primary response to this RFP shall be submitted in a sealed envelope / digital package, separate from your fee proposal. At a minimum, the response shall contain the following:

- a. Cover Letter (1 page)
  - The cover letter shall include a summary of the Statement of Qualifications, including a brief description of the proposed Team/Firm, Principal-in-Charge and key Project team members.
    - City prefers the Prime proposing firm to be an Architecture firm
- b. Company and Background (up to two (2) pages)
  - Proposers must provide a company profile. Information provided shall include:
  - Company ownership. If incorporated, the state in which the company is incorporated and the date of incorporation. An out-of-state Proposer must register with the State of California Secretary of State before a contract can be executed (<http://www.sos.ca.gov/business/>)
  - Location of the company offices and location of the office servicing this Project.
  - Name, address, and telephone number of the Proposer's point of contact for a contract resulting from this RFQ
  - Number of employees both locally, regionally, and nationally
  - Company background/history and why Proposer is qualified to provide the Services described in this RFQ.

- Length of time vendor has been providing services described in this RFP to the public and/or private sector. Please provide a brief description.
  - Errors and Omissions Claims History within the past 10 years.
  - A complete disclosure of any alleged significant prior or ongoing contract failures, any administrative proceedings, civil or criminal litigation or investigation, claims, lawsuits, or other exposures pending which involves the vendor or in which the vendor has been judged guilty or liable.
  - Financial Stability: The firm should demonstrate financial stability and capability in the following manner:
    - Corporate history
    - Years in existence
    - Size of corporation
- c. Firm Project Profile, Related Project Experience and References (up to six (6) pages)
- Provide team approach, process, experience, and previous professional work in similar public Projects.
  - Illustrate ability to Project manage and meet Project schedules and budgets, ability to communicate well with both design and construction personnel, and prior experience with public sector clients including the City of Livingston will also be some of the attributes considered in the selection of a consultant.
  - Project Experience: Provide information for five (5) similar Projects, either in progress or successfully completed, to demonstrate the relevant experience of the firms included on the team, including related work with public sector agencies such as the City of Livingston and other municipalities.
    - Include Project descriptions, status of the Projects / date completed, procurement method, construction costs and dollar values of services provided. The focus should be on experience for municipal Projects of similar type (Recreation and Community Centers) value and complexity.
  - Only recent Projects, preferably Projects completed in the past ten years, should be included in this section. Do not include Projects by the firm unless the key staff proposed had a significant role in the provided Project.
  - References: Firms should provide a minimum of three (3) references from similar Projects performed, by the prime firm within the last ten years. Information provided shall include:
    - Client name, title, and contact information;
    - Project description;
    - Project dates (starting and ending);
    - Services rendered;
    - Staff assigned to reference engagement that will be designated for work per this RFP;
    - Project Construction Cost;
    - Client Project manager name and telephone number.

- City of Livingston Design Professional Services Agreement review: Principal-in-Charge shall make a commitment to accept the terms and conditions in the RFP and proposed contract, including acknowledgment of receipt of all amendments and/or addenda to the RFQ/P. If there are any exceptions, they shall be noted here. Should the requested exceptions and contract language changes be determined unacceptable, the proposal may not be further considered by the City's selection committee.
- d. Project Understanding and Approach (up to six (6) pages)
- Demonstrate an understanding of the Project and scope of services. It should describe the A/E Team's specific approach, organization, and staffing key to the successful completion of *THIS* Project. It is not intended for the preliminary scope of services to be repeated in this section.
  - Suggested revisions, specific approach and / or additional scope of service items should be included in this section, along with the firm's overall understanding and approach specifically regarding the unique characteristics and challenges this Project entails.
  - Identify Project deliverables that are appropriate to schedule and scope set forth in RFP requirements.
  - Describe your proposed Cost Control and Project Budgeting Methodology. Provide evidence of successful budget management for a similar Project.
  - Analysis of proposed Project Schedule.
- e. Project Team Organization including subconsultants (up to two (2) pages)
- Identify specific Personnel that will be assigned to this Project and their role.
  - For each individual, identify team role and office location.
  - Subconsultant Information
    - Identify specific subconsultant and the specific requirements of this RFP for which each proposed subconsultant will perform services.
    - An official of each proposed subconsultant must sign and include as part of the response to this Proposal, a statement to the effect that the subconsultant has read and will agree to abide by the awarded Proposer's obligations.
- f. Staffing Resources, Qualifications and Staff References (up to four (4) pages)
- Identify all proposed key personnel responsible for accomplishing all tasks of the contract.
  - Identify the qualifications and related experience of key staff assigned to the contract through an abbreviated resume (full resumes may be included in the appendix). These resumes must identify Projects performed of comparable scope performed within the last ten years. Each resume shall also include number of years employed in the respective field, and how long the individual has been employed by Proposer / consultant firm.
    - Provide a minimum of two references for each key staff member.

- The Statement of Qualifications shall include a matrix of all key personnel's percentage availability throughout the Agreement's duration, and any known assignments that will overlap with this Project duration.
- The Firm's Principal-in-Charge for the City of Livingston Project shall be the responsible Principal in charge of the Project design and oversee all elements of the services rendered and deliverables submitted. His or her Project experience, qualifications (including any-and-all licenses and certifications), managerial skills, should be demonstrated. It is required, that the proposed consultant Project Architect have recent experience in the design of new and recreation facilities. Other factors for the basis of contract selection include the ability to respond to short timelines, to establish consensus amongst stakeholders and develop high quality and well-coordinated plans and other documents. Ability to manage design teams, ability to negotiate on behalf of the City's interest with design and engineering teams, and ability to solve difficult problems which arise during the planning and design tasks of the Project shall be considered in the selection of a Project Architect.
- Subconsultant Information
  - Identify specific subconsultant and the specific requirements of this RFP for which each proposed subconsultant will perform services.
  - An official of each proposed subconsultant must sign and include as part of the response to this Proposal, a statement to the effect that the subconsultant has read and will agree to abide by the awarded Proposer's obligations.
  - Identify successful Projects that Subconsultant has completed with Prime Consultant.
- Individuals that will be principally responsible for working with the City as the design team shall attend the interview / in-person presentation if the respondent is chosen as a finalist.
- The City reserves the right to approve any-and-all key personnel individually for work on this contract.
- Key staff shall be named in the contract. After the contract is signed, the Proposer may not replace key staff without written permission from the City. The City must approve replacement of key firm's staff before a substitute person is assigned to and engaged in the Project. The City reserves the right to request a Proposer replace a staff person assigned to the contract should the City deem a replacement will be for the good of the Project.
- It should be noted that the individuals representing the team will be reviewed in concert with the firm's accomplishments.
- Include full resumes for all key consultant and subconsultant staff in

## Appendix

- g. Appendix A (no page limit)
  - Provide full resumes of main staff & proposed support staff and subconsultants, firm information directed to be provided in appendices above, and relevant Project collateral information may also be included in this section.
  - Other than staff resumes, firm and Project information, appendix information will not be considered in the scoring and ranking of the firms submitting Statements of Qualification.
- h. Appendix B (no page limit)
  - Provide a signed copy of the conflict-of-interest statement.
- i. Appendix C (no page limit)
  - Provide signed copies of Addenda review statements
- j. Appendix D (no page limit)
  - Provide a proposed project schedule
- i. Appendix F (no page limit)
  - Provide a statement of acceptance for the Design Professional Agreement, or note any exceptions to the agreement.
- j. Appendix G (no page limit)
  - Provide a signed copy of the debarment, suspension, and ineligibility certification.

## 4. Fee proposal

Provide your Fee Proposal as a separate attachment – ENVELOPE B. Fees will not be reviewed prior to Shortlisting of Teams. Provide:

- a. Completed Fee proposal
  - Schedule of fees for all disciplines that may participate in the Project broken down by Tasks listed in Scope of Services
  - Total fees broken down as percentage for each stage of the Project; design (pre- construction), construction and post construction.
  - An estimate of direct reimbursable expenses
- b. Delineated Scope of Services and Deliverables in alignment with proposed fees.
  - Clearly identify and provide proposed fee for any recommended additional/ alternated services

## 5. Hourly rate sheet



- a. Provide hourly rate sheets for prime consultants & subconsultants proposing services for this RFP included on the Project team.

**III. SCOPE OF SERVICES**

The following preliminary scope of services is included as the minimum services required by the Awarded Consultant. Firms are encouraged to provide additional details and/or value additions to the proposed scope of services to be included in the RFP.

**A. BASIC SERVICES & ADDITIONAL SERVICES**

The services shall be performed in accordance with all latest applicable codes, standards, and regulations under the direction and control of a Registered/Licensed Design Professional in the State of California, licensed to provide these services.

In addition to the recommended professional Services noted below, please provide the following as an ADDITIONAL SERVICE:

- Grant Research and Grant Writing

The Awarded Consultant will be referred to as the Prime Consultant, and shall include all design, documentation, and construction administration services necessary to provide the City with a complete, successful Project. The following is a list of recommended professional services to be included - proposers are not limited to this list.

Demolition phasing and contract documents	Basis of Design for Security / fire alarm / Fire Sprinkler
Architectural design	Basis of Design for Energy management
Landscaping design	
Stormwater Design	Interior, furniture, fixtures and equipment design and Procurement assistance
Civil Engineering & Survey	
Wet and dry utilities design	Signage & graphics design – monument signs and building signage
Joint Trench Engineering and Design	
Structural Engineering	Life cycle and operations / maintenance program design
Mechanical, Electrical and Plumbing engineering	Cost estimating and scheduling
Lighting design	Low-Voltage (audio-visual, telecommunications, internet technology, etc.) including PA and Speaker Systems.
Pedestrian, Bicycle and Vehicular Circulation and Parking design	

Acoustics, noise, and vibration control	Participation in commissioning and Project closeout
Codes and accessibility compliance	Fundamental Commissioning Agent
Waterproofing Design	Public Presentations
CEQA & NEPA Compliance	Planning Design Review Submittal
	Incorporation of Public Art
	Park and Park Equipment design
	Project Permit Procurement

## B. WORK PLAN

### 1. ADMINISTRATION AND MANAGEMENT

a. The Principal-in-Charge shall establish a Project organization team to manage the services and shall coordinate and administer all services performed by it and its sub-consultants. The Principal-in-Charge shall provide a detailed plan for Project management, communication/ coordination, and quality control to ensure successful and timely completion of the detailed plans and contract documents. Such management activities and controls shall include, but not necessarily be limited to the following:

- Develop Project documentation necessary to manage the design and engineering process
- Establish and update time schedules for the completion of document milestones and coordinate these with City where work is contingent upon City input
- Regularly monitor the time expended and quantities and quality of work performed by PA staff and sub-consultants
- The selected consultant shall, at the request of the City, attend City of Livingston Council and Subcommittee Meetings pertaining to the project through all tasks of this Project until final completion. Please include adequate number of meetings with City staff and with stakeholder's needed to complete the Project.
- Submit a proposed Deliverables list for PM's review and approval at the start of each task
- The selected consultant firm must submit progress reports with each monthly invoice

- b. The Principal-in-Charge shall designate to the City, a primary contact person for the Principal-in-Charge ("Primary Contact") who will be the responsible point of contact for coordination of the Services with the PM throughout the duration of the Project. The Principal-in-Charge shall also designate key staff for each of the design disciplines. If changes must be made to the Primary Contact or any key staff due to unavoidable circumstances, the Principal-in-Charge shall submit the name(s) of the proposed substitute person(s) and related resume and statements of professional qualifications to the PM in writing for approval by the City.
- c. Principal-in-Charge: The Principal-in-Charge will provide to PM a single source of responsibility and control for the Services, including but not limited all services and disciplines listed under Section III-B-1 above and the responsibilities noted in Section vi below. The Principal-in-Charge will provide all materials, management, and professional services necessary or required to complete the Services in a timely manner. As the Services progress, City and PM shall participate in the creative aspects of the Project as well as monitor the program, Services progress, and architectural / engineering disciplines of the Principal-in-Charge. City and/or PM reserve the right periodically to visit the office of the Principal-in-Charge and / or its sub-consultants to review the work in progress, provide creative input, and generally assist in resolving design issues.
- d. City Consultants: City and/or its PM have retained consultants/contractors under separate direct contract. Principal-in-Charge shall cooperate and coordinate its work with all City and/or PM consultants, which may include any of the following:
- Materials / Soils Deputy and/or Special Inspection and Testing
  - Hazardous Materials Testing / Monitoring
  - Geotechnical Engineering, Investigation and Reporting
  - Project / Documents Controls System Providers (if required)
  - Project Website Administration (if required)
- e. Milestone Reviews: PM will conduct periodic and milestone in-progress reviews of the Principal-in-Charge's design and engineering, at the dates and times designated by PM. During the Conceptual Design, Schematic Design, and Design Development Task, City may assign one or more points of contact of its own to each major area and/or discipline of the Project to coordinate input and creative direction from City. Informal periodic review meetings and design workshops may be scheduled by City and/or its PM to facilitate the resolution of design issues.
- Formal reviews and progress submittals will be required, at a minimum, at the completion points for Conceptual Design, Schematic Design, and Design Development tasks of work. Review meetings may be broken into separate Project components such as architecture or site landscape, water features,

lighting, or signage and graphics, etc. Progress submittals and/or all other documents that are required to perform the Task I Services for this Project will be reviewed and returned with comments at periodic scheduled reviews with the Principal-in-Charge and its appropriate key staff and sub-consultants. After receipt and review, City's comments, Project team stakeholders, and/or its PM's comments, will be incorporated into the next scheduled release of the Work.

- In addition to the formal reviews and progress submittals, informal progress design review meetings or conference calls covering one or more disciplines may be held when deemed necessary by the PM during the Conceptual Design, Schematic Design, and Design Development Tasks. Moreover, PM or any of its personnel or consultants may visit the Principal-in-Charge and its sub-consultants' offices to help resolve design issues on an as needed basis.
- With every progress submittal, Principal-in-Charge will meet with PM to complete a page turn review.
- Authorization to proceed to each next task (Conceptual, Schematic, Design Development, Construction Documents) of work will be issued in writing by the PM to the Principal-in-Charge and may be withheld for one or more other disciplines depending on their progress and acceptance thereof at City's sole discretion.

- f. **Principal-in-Charge's Responsibilities:** Principal-in-Charge's responsibilities include providing the management, organization, resources, and talent to achieve the design, budget, coordination, and scheduling goals of this Project. Those responsibilities include, but are not limited to:
- Research
  - Meetings, including submitting meeting minutes after every meeting, indicating what transpired during the meeting and any decisions made in the discussion
  - Direction of the work of Principal-in-Charge's personnel and sub-consultants
  - Document control services for the PA and sub-consultant team
  - Seek input from the City's and PM's Design and Construction Team
  - Coordination with PM and/or City Consultants
  - Coordination with City vendors and/or other Project stakeholders
  - Provide and maintain a listing of team members and their qualifications, including subconsultant team members
- g. **Document Standards:** All conceptual and schematic design work shall be produced in SketchUp, Revit or other appropriate compatible 3D modeling and visualization software. All construction documents shall be prepared in Revit or compatible BIM

software, and / or AutoCAD or compatible electronic drafting software, capable of exporting a .DWG and .PDF compatible file for the City's uses. Any recommendations to City on changes to the standards must be made to PM in writing within two weeks of the execution of the Agreement, and are subject to discretionary acceptance and approval by City and/or PM.

- h. **Codes:** The Principal-in-Charge shall verify code compliance of the design with all applicable rules, regulations, codes, orders and/or laws applicable to and/or affecting the Project in any way including, without limitation, those of the agencies of the City, County, and State, or other jurisdiction having review and approval authority over the final Project work.
- i. **Project Website:** The City intends to deploy information about the Project on its website for collaboration with external stakeholders, to provide progress updates and general information about the Project. The Principa-in-Charge will assist with the development of content and provide graphics for use on the City website.
- j. **Principal-in-Charge Recommendations:** Principal-in-Charge will make recommendations to PM regarding any investigations, surveys, tests, analyses, and reports that are deemed necessary and required by the Principal-in-Charge and its sub-consultants or City's or PM's consultants to properly perform the Services. Such recommendations will be made in writing and in a timely manner to allow implementation without causing delay to the Project.
- k. **Document Submittals to City:** Regular document submittals from Principal-in-Charge will be sent to PM by electronic mail in PDF format, BIM File, CAD File and / or via the most time appropriate delivery service as applicable. The date of transmission will be the triggering date to establish a time of a response, if any. Submittals provided after 2:00 PM on a given day will be considered received the following work day.
- l. **Milestone Submittals to City;** at each required milestone submittal, documents will be sent to PM by electronic mail in PDF format. Principal-in-Charge will meet with City Staff and PM for a Page Turn Session to walk through the submitted drawings / documents. Drawing Submittals will be reviewed by City Staff and PM, comments provided in an organized manner, and returned to PA in an expeditious manner.
- m. **Requests for Information:** Principal-in-Charge shall submit all requests for information to PM as soon as information is required. Requests shall be made by e-mail. The date of transmission will be the triggering date for the time of a response, if any. Verbal requests are also acceptable so long as Principal-in-Charge also submits the requests in an email. The Principal-in-Charge will indicate the appropriate priority of each Request.
- n. **Value Engineering:** Value Engineering is an integral part of the design process and is

accomplished in conjunction with estimating during the preparation of design documents. Principal-in-Charge with the assistance and input of the City shall consider relevant alternatives within the Project design to optimize and balance capital, constructability, ease of operation and maintenance, utility, and life cycle costs, and advise City and PM during all tasks on a continuous and timely basis to make value determination on best and most economical methods, materials, systems, and equipment to be used in the Project.

- o. **Cost Estimation:** Principal-in-Charge shall submit an A/E opinion of probable construction costs, in the requisite level of detail and with an appropriate contingency for the level of design, with each milestone design submittal. Cost estimate updates shall be provided at:
  - SD – 2 ROM Estimates – one per option
  - DD - 100% completion of each task of design.
  - CD - 60% and 90 % completion of each task of design.
  - 100% CD / BID SET - update to 100% estimate / final engineers estimate for bid and construction
- p. **Schedule:** Principal-in-Charge shall submit an opinion of probable Contract Time, in the requisite level of detail and with an appropriate contingency for the level of design, with each design submittal. In addition, Principal-in-charge shall submit regular schedule updates as requested by City or PM as necessitated by changes in the Project schedule, but at least on a monthly basis during the Project design and permitting process.
- q. **A/E Contract Progress Monitoring and Reporting:** The Principal-in-Charge shall submit a monthly progress report with an updated detailed schedule and budget trend / budget balance detailing the current contract, invoicing to date, work in progress since latest invoice, current contract balance and Projected budget balance trend. Any issues that may impact the budget shall be identified in each report. Reports shall be submitted with each invoice.
- r. **Proprietary or Sole Source Specifications:** All technical requirements and material, equipment and component specifications for the Project should be developed without using proprietary or sole source specifications unless presented to and accepted in writing by City and PM.

### **C. . TASK EXPECTATIONS AND DELIVERABLES**

**SERVICE TASKS BREAKDOWN**

Service Tasks: The Scope of Services are broken down into the following tasks. Key Consultant Team members shall participate meetings as noted in Scope of Services section.

**a. Task 1**

- **Task 1A:** Project Kickoff
- **Task 1B:** Program Review & Conceptual Design
- **Task 1C:** Schematic Design & Design Review

**b. Task 2**

- **Task 2A:** Design Development
- **Task 2B:** Construction Documents
- **Task 2C:** Government Review and Permitting

**c. Task 3**

- **Task 3A:** Bid Support
- **Task 3B:** Construction Administration
- **Task 3C:** Close out and Commissioning

**SERVICE TASK SCOPE:****TASK 1 – KICK OFF, CONCEPTUAL DESIGN, SCHEMATIC DESIGN****Task 1A – Project Kick Off**

- The Consultant Team shall review all existing project studies and documentation and relevant documentation and plans that may influence the planning, design and implementation of the project, and verify, and analyze existing program documentation.
- The Consultant team shall assist with the compilation of estimated conceptual budget, work plan and schedule (anticipated milestones), and validate and accept both, in writing.
- The Consultant Team shall visit the Site to familiarize themselves with the site, and surrounding property and land use conditions.

**Task 1B – Conceptual Design**

- The Consultant shall verify and update the provided Conceptual Master Plan and provide architectural opinions for programming, design character, issues of design and related considerations.
- During the Conceptual Design Task, The Principal-in-Charge shall participate in design, budget and schedule reviews of the Conceptual Design documents and related conceptual cost estimate with PM and City.
- The Consultant shall prepare 2 Conceptual Design Option Packages to include:
  - site plan – conceptual landscape, civil and parking layouts



- floor plan
- roof plan
- refined renovation descriptive scope
- rough massing on the site with 3D modeling software
- City to review each option and select preferred option to move into Schematic Design.
- The Consultant shall lead weekly team meetings with PM, City Staff and Subconsultants (as needed)
- The Consultant and associated sub-consultants (as needed) shall attend up one presentation to Council / Stakeholder Group as requested by the PM during the conceptual design task of the Project.
  
- Based on the program, and information related to the Project as discussed, presented, or otherwise communicated by the PM, the Consultant will prepare and provide the following Concept Design Task deliverables:
  - Conceptual Design Package with preferred Site Plan Option
  - Demolition alternatives / recommendations (early separate demolition contractor or demolition combined with final construction documents)

#### **Task 1C – Schematic Design**

- During the Schematic Design Task, the Principal-in-Charge shall participate in design reviews of the Schematic Design documents and related schematic cost estimate with PM prior to review and by Stakeholder Group and approval by the City Council.
- The Consultant PA to provide 2 Schematic Building Designs Options based on approved Conceptual Design.
  - site plan
  - floor plan
  - roof plan
  - exterior elevations with schematic material representation
  - schematic material imagery board
  - detailed 3D model & snapshots
  - ROM Cost Estimate for each option provided

- The Consultant shall lead weekly team meetings with PM, City Staff and Subconsultants (as needed)
- The Consultant and associated sub-consultants (as needed) shall attend up to two presentations to Council / Stakeholder Group as requested by the PM during the schematic design task of the Project.
- The Consultant and associated sub-consultants (as needed) shall attend meetings necessary to coordinate with local authorities having jurisdiction to complete Design Development.
- Based on approved Concept Design documents prepared by the Consultant and Preferred Schematic Elevation Option selected and PM's written authorization to proceed, the Consultant shall provide the following Schematic Design Task deliverables:
  - 100% Schematic Design Package with preferred Design Option, including:
    - Schematic Fire Access Analysis
    - Schematic Building Plans, Sections, Elevations
    - Schematic Code Analysis and Occupancy/Exiting Plan
    - Schematic Civil Site Grading, Utility, Parking and C3 Plans
    - Schematic Landscape Hardscape and Planting Plans
    - Written Design Narrative for Schematic Structural and MPE systems.
  - 4 renderings of selected Schematic Design
  - Updated ROM Cost for Selected Schematic Design
  - Schedule update
  - Planning Design Review Package

## **TASK 2 – DESIGN DEVELOPMENT & CONSTRUCTION DOCUMENTS**

### **Task 2A – Design Development**

- Based on the accepted Schematic Design documents and PM’s written approval to proceed, Consultant shall prepare Design Development documents consisting of drawings and other documents including to fix and describe the function, size and character of the entire Project including selection of materials, type of structure, mechanical and electrical systems, and performance data. In each case, the associated consultant(s) shall attend meetings as required by the PM.
- During the Design Development Task, the Principal-in-Charge shall participate in technical reviews (Page Turn Meetings) of the Design Development documents and Design Development cost estimate with PM prior to review and approval by the City at the 50% and 100% completion stages of Design Development.
- The Consultant shall lead weekly team meetings with PM, City Staff and Subconsultants (as needed)
- PA and associated sub-consultants (as needed) shall attend up one presentation to Council / Stakeholder Group as requested by the PM during the design development task of the Project
- The Consultant and associated sub-consultants (as needed) shall attend meetings necessary to coordinate with local authorities having jurisdiction to complete Design Development.
- Design Development Deliverables include:
  - 100% Site Development Package (if necessary) with Demolition Plans and Demolition Specifications, including hazardous materials removal and disposal requirements and advanced removal of fundraising elements
  - 50% Design Development Package with Drawings from all Disciplines
  - 50% DD Cost Estimate
  - 100% Design Development Package with drawings from all Disciplines
  - FF & E Design Package – including costs per item
  - Specifications – Table of Contents
  - 100% DD Cost Estimate

### **Task 2B – Construction Documents**

- Based on approved Design Development documents, and on PM’s written approval to proceed, the Principal-in-Charge shall manage and oversee all architectural and engineering disciplines, and specialty sub-consultants for the preparation of Construction Bid Documents by advancing all Design Development deliverables, for the Project required to obtain prime contractors’ construction bids, building and regulatory permits, and for use in constructing the Project. Construction Documents shall include, but are not limited to:

- , Building Division submittal, Demolition plans and specifications (either a separate bid package for early demolition task, or integrated with permanent Project bid documents, as determined through the conceptual / schematic tasks
- General and Special Conditions Entitlement Mitigation Measures Exhibits, Relevant Permit Documents, Standard Plans and Specifications, Warranty, Guarantee and Commissioning Specifications,
- Complete Construction Drawings including details, reports, solutions;
- updated opinions of probable cost and time and final technical specifications for all Architectural, Landscape / Irrigation, Structural, Mechanical, Electrical, Plumbing, Fire Protection, Lighting, Signage and Graphics, Civil, Acoustics and Waterproofing.
- Project Manual
  - All technical requirements and material, equipment and component specifications for the Project should be developed without using proprietary or sole source specifications unless presented to and accepted in writing by City and PM.
  - All Specifications to be provided in CSI Master Spec format
  - The Consultant shall process the Construction Documents and Specifications through approving agencies and incorporate all revisions/corrections as necessary to obtain the required approvals from those agencies. The Principal Architect shall participate in technical reviews of the Construction Documents and cost estimates with PM and City at the 60%,90% Construction Document and final 100% CD / Bid Documents stages.
- Principal Architect shall sign/seal Drawings and Specifications as required by Public Works and/or, Planning and Building Departments and other regulatory permitting officials, shall assist in resolving issues that may arise during plan check and amend the documents as may be required by the governing authority, and do all things necessary to obtain the building and other required regulatory permits.
- Construction Document Deliverables include:
  - 60% Construction Document Package
    - 60% Construction Document Drawings from all Disciplines
    - Draft 100% Full Specifications
    - FF & E Design Draft Package Procurement Package
    - 60% CD Cost Estimate
  - 90% Construction Document Package
    - 90 % Construction Document drawings from all Disciplines
    - FF & E Design Package Procurement Package
    - Final 100% Full Specifications
    - 90% CD Cost Estimate

- 100 % Construction Document Package / Bid Set
  - FF & E Design Package Procurement Package
  - Final 100% Full Specifications
  - 100% CD Cost Estimate Update
- After final review and City acceptance of the 100% Construction Documents, the Consultant shall deliver 3 sets of complete construction documents and supporting information package to City and the PM including an ftp site to download all the CD documentation. Supporting documents shall include, but may not be limited to the following:
  - Project manual
  - Engineering Equipment Manuals
  - Engineering calculations
  - A/E Opinions of Cost & Time
- All sketches, drawings, models, illustrations, specifications, CAD and utility modeling program software, and similar type items, developed by the Consultant and/or its sub-consultants during the Project, including originals, become the property of City, and shall be delivered to City upon completion of services.

#### **D. TASK 3 – BID, CONSTRUCTION ADMINISTRATION, CLOSEOUT**

##### **Task 3A – Bid Support and Contracting Period Services**

- The Consultant shall provide services including, but not necessarily limited to, the following:
  - Issue Construction Documents and bid forms to PM
  - Attend an internal bid process planning meeting with City PM and stakeholders, and a pre-bid / job walk meeting with PM and prime contractors bidding the contract
  - Assist the PM in the preparation of addenda to the Construction and Bid Documents related to questions / issues that arise during the bid process
  - Assist the PM and the prime contractors in obtaining approvals, permits, and licenses, and shall make any such changes and revisions to the Construction Documents as are necessary to obtain all approvals, permits or licenses for the Project, and shall assist the PM and the prime contractors in appealing adverse decisions
- Following receipt of contractor bids, the PA shall assist City/PM in:
  - Reviewing prime contractor bids for correctness and completeness
  - Participating in the pre-construction meeting(s)
  - Coordinating and expediting initial prime contractor's start-up submissions such as insurance, bonding, construction, and billing schedules

- Analyzing and evaluating prime contractors' suggested alternatives, substitutions or value engineering proposals submitted by the prime contractors, and give PM written recommendations for changes in the Construction Documents and construction of the Project because of such consideration.
- The Construction Task shall commence with the award of the contract or contracts, or the portions thereof based on the Construction Documents between the City and / or PM and any prime contractors for the Project ("Contracts for Construction"). Anticipated Length of Construction – 14 months. PA shall provide Construction Administration Services of the Contracts for Construction. Construction Administration Services shall include, but will not be limited to, the following:
  - Represent, advise, and consult with the PM and City's Construction Manager (CM) during the administration of the Contract for Construction.
  - Regularly visit the site during the construction task to become familiar with the progress, acceptability, and quality of the work and to determine if the work is proceeding in accordance with the Construction Documents. The Consultant agrees that its Principal Contact will be present and make as many site visits as requested by PM during the construction and closeout tasks of work. The Principal Architect shall provide for observation of the construction work as required by Title 24 California Code of Regulations. The Consultant and its sub-consultants shall review, stamp, and sign in a timely manner all documents requiring approval or for which the Consultant or its sub-consultants are responsible.
  - Attend Owner and Contractor (OAC) weekly Project meetings.
  - Principal Architect shall attend on Site Meetings 2x per month (at a minimum). Subconsultants to attend as needed.
  - All other weekly meetings can be virtual.
  - Independently inform City of the progress, acceptability, and quality of the work completed and guard the City against defects and deficiencies in the work, and determine, in general, if the work, as it progresses, is in conformance with the Construction Documents.
  - Conduct observations throughout construction of the Project to determine the date or dates of Substantial Completion and the date of final completion. Principal Architect shall provide in writing to PM its observations. Prepare Site Observation Reports within three (3) business days after a site visit or sooner if such information to be transmitted is of substantial and immediate importance. Principal Architect shall issue reports to the PM, its CM, and prime contractors with copies to the City related to deficiencies, errors, non-adherence to schedules, disagreements with pricing or time requests on change orders when requested by PM and other items of importance that the PA observes during construction.

- Report to the City and PM known deviations from the Contract Documents and from the most recent construction schedule submitted by the general contractor, PM, or CM.
- The City intends to utilize the Submittal Exchange Program (specific program to be determined by CM) to expedite and control the processing of all documentation on the Project, specifically the processing of RFI's and coordination of Project Submittals. Training will be provided to the Consultant and their subs in the utilization of this program which will also be utilized by the selected General Contractor.
- At all times, the Consultant and all its sub-consultants will promptly and expeditiously, render interpretations of the Construction Documents and review, critique, and comment in writing on all shop drawings, materials, samples, schedules, colors, or other submittals necessary for the proper execution or progress of the work. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the PM, its CM, and prime contractors by the Contract Documents. Principal Architect shall render written responses and opinions on all claims, addenda, proposals, disputes, and all other matters in question between the PM, its CM, prime contractors, consultants, and others relating to the execution or progress of the work or the interpretation of the Construction Documents to maintain the Project schedule and to assist PM in its pursuit of completing PM's negotiations and completion of the Project. The Principal Architect's action shall be taken with such promptness as to cause no delay in the work or in the activities of the City, PM, its CM, or prime contractors.
- Consultant shall assist prime contractors, PM, and / or CM in the assembling, reviewing, and submitting to City of indexed binders (number of copies as required by City) containing originals of all manuals, brochures, and drawings and warranties needed for operation and maintenance of all systems and the work and shall assemble all written guarantees and warranties from the prime contractors, program manager, or construction manager and transmit same to City as required by the Contract Documents.
- Consultant shall prepare documents to specify to what extent maintenance, warranty and operational information is to be turned over to City and its operator of the facilities.
- Consultant shall specify and arrange with the prime contractors, PM, or construction manager for instructional sessions wherein operational and maintenance personnel will be instructed in the use, operation and maintenance of mechanical, electrical, and other equipment, and the maintenance and care of special finishes and other operational items, all of which shall have been specified within the Construction Documents.
- Consultant shall prepare and distribute to all appropriate persons and entities, any correspondence, bulletins, drawings, supplemental specifications, addenda etc. necessary to clarify or supplement Construction Documents throughout the construction task.

- The City intends to utilize the Submittal Exchange Program (specific program to be determined by CM) to expedite and control the processing of all documentation on the Project, specifically the processing of RFI's and coordination of Project Submittals. Training will be provided to the Consultant and their subs in the utilization of this program which will also be utilized by the selected General Contractor.
- At all times, the Consultant and all its sub-consultants will promptly and expeditiously, render interpretations of the Construction Documents and review, critique, and comment in writing on all shop drawings, materials, samples, schedules, colors, or other submittals necessary for the proper execution or progress of the work. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the PM, its CM, and prime contractors by the Contract Documents. Principal Architect shall render written responses and opinions on all claims, addenda, proposals, disputes, and all other matters in question between the PM, its CM, prime contractors, consultants, and others relating to the execution or progress of the work or the interpretation of the Construction Documents to maintain the Project schedule and to assist PM in its pursuit of completing PM's negotiations and completion of the Project. The Principal Architect's action shall be taken with such promptness as to cause no delay in the work or in the activities of the City, PM, its CM, or prime contractors.
- Consultant shall assist prime contractors, PM, and / or CM in the assembling, reviewing, and submitting to City of indexed binders (number of copies as required by City) containing originals of all manuals, brochures, and drawings and warranties needed for operation and maintenance of all systems and the work and shall assemble all written guarantees and warranties from the prime contractors, program manager, or construction manager and transmit same to City as required by the Contract Documents.
- Consultant shall prepare documents to specify to what extent maintenance, warranty and operational information is to be turned over to City and its operator of the facilities.
- Consultant shall specify and arrange with the prime contractors, PM, or construction manager for instructional sessions wherein operational and maintenance personnel will be instructed in the use, operation and maintenance of mechanical, electrical, and other equipment, and the maintenance and care of special finishes and other operational items, all of which shall have been specified within the Construction Documents.
- Consultant shall prepare and distribute to all appropriate persons and entities, any correspondence, bulletins, drawings, supplemental specifications, addenda etc. necessary to clarify or supplement Construction Documents throughout the construction task.
- Consultant shall answer all requests for information, in writing, generated by the PM, its CM or prime contractors within three (3) business days of receipt of such requests for information.



- When requested by PM, provide written recommendations on all matters in question between PM, its CM or prime contractors relating to the execution and progress of the work or the interpretation of the Contract Documents. The Principal Architect shall render to the PM an interpretation, which shall be subject to the approval of the City. The Principal Architect's interpretation shall not be issued to the prime contractors or construction manager until it has been reviewed and approved by the PM. The Principal Architect's interpretation, as approved by the PM, shall be binding only for the prime contractors' or construction manager's obligation to proceed with the work. Consultant shall use its professional efforts to obtain faithful performance of the work by the prime contractors or construction manager. PA shall not be the interpreter of the contract executed by City and program manager but will, when requested by PM, submit its opinion to the PM as to any concerned or disputed item related to construction work in the field.
- When requested by PM, the Consultant shall review for approval prime contractors' or construction manager's submitted Change Order proposals for rendering of opinions as to inclusion or omission from the scope of work covered in the Construction Documents and as to the validity of the estimate of costs.
- Consultant shall review prime contractors' or construction manager's submission of their Record Drawings, Warranties and Operation and Maintenance Manuals for all systems for approval prior to the issuance of a final Certificate of Payment. In their review, PA and its Sub-consultants shall advise PM of any apparent unacceptable items, problems, and discrepancies between the intent of their work and such Record Drawings. Such review shall not relieve the prime contractors or construction manager of responsibilities for the accuracy or completeness of its work or of the information recorded.
- If requested by PM, the Principal Architect shall review and assist the PM with the negotiation, as required, of the prime contractors' or construction manager's Change Order proposals and associated labor and material cost to ensure they are reasonable.
- Consultant shall prepare and submit to the City and PM all selections of color, textures, and finishes for all required items of the Project in ample time for City approval before the time such information is needed by the prime contractors or construction manager.
- The Consultant shall render no extra, compensatory services unless first authorized in writing by the PM.

**Task 3C – Closeout & Commissioning Services**

- As the construction of the Project progresses and no later than 30 days after the final completion thereof, prepare and furnish to PM a set of reproducible As-Designed Record Drawings in PDF and CADD formats showing construction changes in the work and final locations of MEPS, fire protection sprinkler system (to the extent referenced in the Construction Documents), and life safety (to the extent referenced in the Construction Documents) components, and other considerations, for which City has a requirement, based on general contractor's or construction manager's Record Drawings, marked up prints, drawings and other data furnished by the prime contractors or construction manager to PA.

#### IV. QUALIFICATIONS EVALUATION, SELECTION, NEGOTIATION AND AWARD PROCESS

##### A. Evaluation Criteria

The City of Livingston is requesting proposals from proponents who are both interested and capable of undertaking the Project. City to conduct the work outlined in this RFP. The responses will be assessed according to how well they assure the City of success in relation to the submission requirements. The detail and clarity of the written submission will be considered indicative of the respondent's expertise and competence.

1. Proposals will be reviewed by a Selection Committee and shall be consistently evaluated based upon the following criteria:
  - a. Demonstrated competence - Demonstration of architecture, engineering and qualifications including ability to achieve consensus with diverse Project stakeholders, Project cost and schedule controls, QA/QC, quality and reliability of past Projects, and effective Project communication.
  - b. Experience in performance of comparable engagements - Reference information and performance records on similar value public sector Project undertakings including experience, knowledge, and understanding of local Project needs
  - c. Design Team Experience – Performance of design team together on past successful Projects of similar scope.
  - d. Expertise and availability of key personnel - Firm or Firm Team's organization, balance, depth of human resources, and expertise at the key team positions. Firm or Firm Team's qualifications, expertise, and track record of accomplishments of similar Projects.
  - e. Availability of key personnel anticipated to be dedicated to this Project work.
  - f. Demonstrated Financial stability, E&O, Claims history
  - g. Quality of References – References will be contacted.
  - h. Conformance with the terms of this RFQ/P - Understanding of the Project needs, issues, and approaches in providing the required professional services as described in this RFQ/P
2. The Selection Committee will determine an appropriate number of firms to be shortlisted to participate in oral presentations / interviews. Selection Committee will score each Proposal per score card below:

Criteria /Category	Points
Completeness of Response	Pass/Fail
Project Understanding	20
Project Analysis	15
Experience and Qualifications –Community &Recreation Facilities	25
Scope of Services, Work Plan and Schedule	25
Conflict of Interest Statement	Pass/Fail
References	15
Fee Proposal	NA
<b>Total Points</b>	<b>100</b>

City will use the above criteria for selection of shortlisted firms. By responding to this RFP proponents agree to accept the recommendation of the evaluation team as to the successful proponent and acknowledge and agree that the City shall make the final decision.

**B. Submissions**

It is the proponent responsibility to show their knowledge, understanding and capacity to take the full Scope of Services. Submission shall include the following:

1. Completeness of Response (Pass/Fail)

- a. Responses to this RFP must be complete. Responses that do not include the proposal content requirements identified within this RFP and subsequent addenda and do not address each of the items listed below will be considered incomplete, be rated a Fail in the Evaluation Criteria, and will receive no further consideration. Responses that are rated a Fail and are not considered may be picked up at the delivery location within 14 calendar days of contract award and/or the completion of the competitive process.

2. Project Understanding:

- a. Provide a brief narrative demonstrating the proponent’s understanding of the role of Architecture and Engineering Design Services and how proponent will approach this Project in terms of fulfilling this role.
- a. What are the five key priorities and challenges that the City should consider regarding this Project and how might the proponent’s firm ability to fulfill this role differ from other proponents?

### 3. Project Analysis

- a. Provide review, analysis, and suggestions to current Conceptual Plans.
- b. What elements would you recommend the City consider moving forward? What challenges do you foresee?
- c. What innovative elements would you recommend incorporating and why are they particularly suited for this Project?

### 4. Experience and Qualification – Recreation Facility/Community Center

- a. Provide detail of the individual or firm's experience as it pertains to the design and construction of large capital Projects including building and site development, familiarity with building code and regulatory compliance, and general Project Management, including the preparation of tender documents.
- b. Provide detail and demonstrate experience as Architecture / Engineering Services on a recreation and community center Project(s) of a comparable scope in the past 10 years.
- c. Provide a minimum of 3 Projects completed in the last 10 years of comparable scope. For each Project, provide contact name and information for the Agency/Client.
- d. The individual intended to serve as Project Manager and the principal contact with the City shall be named and a Resume for that individual shall be provided with the proposal documents.

### 5. Scope of Services, Workplan & Schedule

- a. Provide Detailed Scope of Services:
  - Proposed scope of services is appropriate for all tasks of the work.
  - Scope addresses all known Project needs and appears achievable in the timeframes set forth in the Project schedule.
  - See SCOPE OF SERVICES section for additional information
    - Project Deliverables: Deliverables are appropriate to schedule and scope set forth in above requirements.
    - Schedule: Anticipated Design and Construction Schedule
    - Cost Control and Budgeting Methodology
      - Proposer has a system or process for managing cost and budget.
      - Evidence of successful budget management for a similar Project.

### 6. Conflict of Interest Statement (Pass/Fail)

- a. Discloses any financial, business, or other relationship with the City that may have an impact upon the outcome of the contract or the construction Project.
- b. Lists current clients who may have a financial interest in the outcome of this contract or the construction Project that will follow.
- c. Disclose any financial interest or relationship with any construction company that might

submit a bid on the construction Project.

7. Review of City Professional Services Agreement (Appendix F)

- a. Proposer to confirm review City's Standard Professional Services Agreement and indicate that Proposer is willing to accept the contract without any changes.
- b. If the Proposer wishes to request changes, please clearly indicate any requested changes to the contract.

8. References

- a. Provide at least three relevant Public Agency references related to work completed of comparable scope.
- b. Provide two relevant references for the Principal-in-Charge who will be managing this project.
- c. References will be contacted – please ensure your references with advanced notice.

9. Fee Proposal

- a. Fee proposals shall be submitted via electronic form in a separate pdf file at the same date/time that the RFP is submitted Via Electronic Submittal.
- b. A not-to-exceed fee shall be negotiated with the selected consultant. Overall, compensation under this contract is subject to the overall duration of the contract, contract cap, and will be based on lump sums, hourly rates, and the reimbursement of direct expenses. Hourly rate charges are to be valid for the term of the agreement, and any changes in the staff classifications or hourly rate charges require the City's advance written approval.
- c. Provide:
  - a schedule of fees as rate per hour for all members of the proponent team that may participate in the Project, which also includes the estimated hours required to complete the Scope of Services.
  - the total fees broken down as percentage for each stage of the Project; design (pre-construction), construction and post construction.
  - An estimate of direct reimbursable expenses

**C. SELECTION OF PREFERRED PROPONENT AND AWARD OF CONTRACT**

1. ORAL PRESENTATION / INTERVIEWS

- a. A shortlist will be utilized for evaluating presentations / interviews. The City reserves the right to modify the presentation / interview evaluation criteria. Any such modification will

be addressed in the notice of shortlisted firms.

- b. The Selection Committee anticipates that they will determine the top four (4) ranked firms, in order of ranking.
- c. City reserves the right to adjust the number of ranked firms to participate in the interview process.
- d. Format of Oral Presentations / Interviews: Firms will be given up to one hour for presentations including up to thirty minutes of questions and answers.

## 2. NEGOTIATIONS WITH TOP RANKED FIRM

- a. Only the top ranked firms Proposals will be evaluated along with their schedule of services for the Project and stipulated deadlines.
  - A meeting will be scheduled with the PM and City to address any questions or clarifications necessary for the fee proposal. The City, the PM and top ranked consultant will negotiate in good faith until a final fee is deemed acceptable to the parties.
- b. During negotiation, there shall be no disclosure beyond City staff evaluating the matter of any information derived from proposals submitted. The contract award shall be made to the proposer whose proposal offers the best value to the City, taking into consideration the scope of services, firm capabilities, proposed price within budgetary constraints and within industry standards, and the evaluation criteria.
- c. Should negotiations fail to result in a final cost that is acceptable to the parties, this process will repeat for the next highest ranked firm, until all negotiations result in the recommendation to, and award by City Council of a contract for the required services.

## D. FORM OF CONTRACT

- a. The RFP and the accepted proposal documents will form part of the City's Design Professional Services Agreement to be executed between the City and the successful proponent. (Appendix F).

## E. INSURANCE AND INDEMNIFICATIONS REQUIREMENTS

1. The successful proponent shall at its own expense obtain and maintain until the termination of the contract and provide the City with evidence of Insurance as indicated in City's Design Professional Services Agreement (Appendix F).

2. The policies will not be cancelled or permitted to lapse unless the insurer notifies the City in writing thirty (30) days prior to the effective date of cancellation or expiry.
3. The successful proponent by its acceptance of negotiated Contract, agrees to indemnify, defend and hold harmless the City, its officers, employees and agents (“Indemnified Parties”) against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable (“indemnitors”), or arising from Consultant’s reckless or willful misconduct, or arising from Consultant’s or indemnitors’ negligent performance of or failure to perform any term, provision, covenant or condition of this RFP and any negotiated agreement.

## **V. PROTEST PROCEDURES**

### **A. WHO MAY PROTEST**

Only a proposer who has submitted a proposal is eligible to protest a contract awarded through the RFQ/P process. A proposer may not rely on the protest submitted by another proposer but must pursue its own protest.

### **B. TIME FOR PROTEST**

The City will send a notice of the intent to award a contract at least ten (10) business days before an award is made. A proposer desiring to submit a protest for a proposal must do so within five (5) business days of the electronic notification of intent to award. The City Administrator must receive the protest by the close of business on the fifth (5th) business day following posting of notification of intent to award the contract. Proposers are responsible for registering with the City’s electronic bid notification system and maintaining an updated vendor profile. The City is not responsible for Proposers’ failure to obtain notification for any reason, including but not limited to failure to maintain updated email addresses, failure to open/read electronic messages and failure of their own computer/technology equipment.

### **C. FORM OF PROTEST**

The protest must be in writing and signed by the individual who signed the Proposal or, if the Proposer is a corporation, by an officer of the corporation, and addressed to the



City Administrator. Protests may be submitted via US Mail, hand delivery or email, and must include a valid email address, street address and phone number sufficient to ensure that the City's decision concerning the protest will be received. Protests must set forth a complete and detailed statement of the grounds for the protest and include all relevant information to support the grounds stated and must refer to specific portions of the RFQ/P and attachments upon which the protest is based. Once the protest is received by the City Administrator, the City will not accept additional information on the protest unless the City requests it.

**D. CITY RESPONSE TO PROTEST**

The City Manager or designee will respond with a decision regarding the protest within five (5) business days of receipt of protest by email or US Mail to the address provided in the protest. This decision shall be final.

**E. LIMITATION OF REMEDY**

The procedure and time limits set forth herein are mandatory and are the proposer's sole and exclusive remedy in the event of a protest. The proposer's failure to comply with these procedures shall constitute a waiver of any right to further pursue a protest, including filing a Government Code Claim or initiation of legal proceeding.

**VI. WARRANTY / MAINTENANCE AND SERVICE**

For a period of two (2) years after City's acceptance of the final Certificate of Payment with respect to the Project, the Consultant shall respond to City's written notifications of errors, omissions, defects or faults in design or implementation of the work of the prime contractor. The Consultant shall be available for efforts to determine the cause of and to determine the best remedy for such errors, omissions, defects or faults in the design or construction. If such errors, defects, omissions, or faults in design are not found to be due to the fault of the Consultant or any of its subconsultants, the Consultant shall be compensated for its time for such efforts as a reimbursable expense, based on the agreed upon hourly rate, executed at the time of contract.

The Project Design shall be warranted for fitness of purpose for the maximum durations as required by Law.

**VII. GENERAL CONDITIONS**

- The terms and conditions of the proposal offer shall remain firm and open for acceptance by the City for a minimum of ninety (90) calendar days from the

- date of closing.
- Submissions become property of the City of Livingston and will not be returned. Submissions will be held in confidence unless otherwise required by law.
  - The City reserves the right (in its sole discretion) to determine the completeness of all proposals.
  - Submission of a proposal indicates acceptance by the respondent of all the terms and conditions contained in this RFP.
  - The City, may, in its absolute discretion, reject a proposal submitted by the proponent, if the proponent, or any officer or director of the proponent is or has been engaged either directly or indirectly through another corporation in legal action against the City, its elected or appointed officers and employees in relation to any other Contract for work or services or any matter arising from the City exercise of its powers, duties and functions.
  - All inquiries from third parties regarding the Project must be directed to the City. All information provided to the proponent must be held in confidence unless agreed to be disclosed by the City in writing.
  - This Project is subject to the terms and conditions established under Proposition 68 - Funding Parks, Natural Resources, Protection, Climate Adaptation, Water Quality and Supply and Flood Protection.
  - Any report, design, and other material provided by the consultant, his team, or their subconsultants, will become the property of and for the sole purpose of the City.
  - Only personnel listed in the successful proposal shall perform work unless otherwise approved by the City.
  - The proponent and the City expressly acknowledge that they are independent entities and neither an agency, partnership nor employer-employee relationship is intended or created by submission of a proposal or subsequent contract.
  - This RFP and resulting contract shall be governed by and construed in accordance with the laws and courts of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to the contract agreement shall be instituted in the Superior Court of the County of Merced, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the District of California court, in Merced County.
  - The City will also contact the references provided in the RFP responses; contact any vendor to clarify any response; contact any current users of a Proposer's services; solicit information from any available source concerning any aspect of a Proposal; and seek and review any other information deemed pertinent to the evaluation process. The City shall not be obligated to accept

the lowest priced Proposal but shall make an award in the best interests of the City of Livingston.

- Selected vendor(s) will be notified in writing. Any award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing vendors unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the City reserves the right to negotiate a contract with another vendor or withdraw the RFP.
- Any contract resulting from this RFP shall not be effective unless and until approved by the City Council.
  - This RFP does not create a tender process or any contractual or other legal rights or obligations. This RFP is not an invitation for an offer to contract and it is not an offer to contract made by the City of Livingston. By this RFP, the City intends to reserve to itself absolute and unfettered discretion to invite proposals, consider and analyze proposals, select a preferred proponent and attempt to negotiate an agreement as the City considers desirable.
- Without limiting the generality of the foregoing, the City reserves the right to:
  - extend the due date for the proposal.
  - reject or short list any proposal whether complete.
  - reject all Proposals without cause. Proposals will be evaluated in their entirety. The City reserves the right to negotiate specific requirements and costs using the selected Proposal as a basis.
  - require clarification where any proposal is unclear, have meetings with an individual proponent for this purpose, and consider the clarification in the evaluation of that proposal.
  - The City reserves the right to approve any-and-all key personnel individually for work on this contract.
  - waive informalities and minor irregularities in proposals received
  - accept and reject any or all proposals received because of this request without any obligation or any compensation or reimbursement to the proponents.
  - negotiate with any qualified consultant.
  - cancel this RFP in part or in its entirety.
  - interview one or more proponents prior to selecting a preferred proponent; and
  - procure alternate or additional consulting services.
- Proponents are solely responsible for their own expenses in preparing, and

submitting proposals, and for any negotiations or discussions with the City relating to or arising from this RFP. The City will not be liable to any proponent for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the proponent in preparing and submitting a proposal, interviews if held.

- Any irregularities or lack of clarity in the RFQ/P should be brought to the attention of the Project Manager as soon as possible so that corrective addenda may be furnished to prospective vendors.
- Alterations, modifications, or variations to a proposal may not be considered unless authorized by the RFQ/P or by addendum or amendment.
- Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.
- Proposals may be withdrawn by written or facsimile notice received prior to the Proposal opening time.
- The price and amount of this proposal must have been arrived at independently and without consultation, communication, agreement, or disclosure with or to any other contractor, or prospective Proposer.
- No attempt may be made at any time to induce any firm or person to refrain from submitting a Proposal or to submit any intentionally high or noncompetitive Proposal. All proposals must be made in good faith and without collusion.
- Prices offered by vendors in their Proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded Proposer agrees to provide the purchased services at the costs, rates and fees as set forth in their proposal in response to this RFQ/P. No other costs, rates or fees shall be payable to the awarded vendor for implementation of their Proposal.
- No attempt may be made at any time to induce any firm or person to refrain from submitting a Proposal or to submit any intentionally high or noncompetitive Proposal. All proposals must be made in good faith and without collusion.
- A Proposal submitted in response to this RFP must identify any subconsultants and outline the contractual relationship between the awarded PA and each subconsultant. An official of each proposed subconsultant must sign and include as part of the proposal submitted in response to this RFQ/P, a statement to the effect that the subconsultant has read and will agree to abide by the awarded Firm's obligations.
- The awarded Proposer will be the sole point of contract responsibility. The City will look solely to the awarded Proposer for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Proposer shall not be relieved for the non-performance of any or all subconsultants.

- The awarded Proposer must maintain, for the duration of its contract, insurance coverages as required by the City. Work on the contract shall not begin until after the awarded Proposer has submitted acceptable evidence of the required insurance coverages.
  - Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFQ/P. Any such relationship that might be perceived or represented as a conflict should be disclosed. The City reserves the right to disqualify any vendor on the grounds of actual or apparent conflict of interest.
  - Each Proposer must include in its RFP a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the vendor or in which the vendor has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the vendor's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.
  - The City will not be liable for Federal, State, or Local excise taxes
  - Execution of Appendix A – Form of Proposal of this RFP shall constitute an agreement to all terms and conditions specified in the RFP, including, without limitation, the Appendix F – Design Professional Service Agreement (contract) form and all terms and conditions therein, except such terms and conditions that the vendor expressly excludes.
  - The City reserves the right to negotiate final contract terms with any vendor selected. The contract between the parties will consist of the RFQ/P together with any modifications thereto, and the awarded vendor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the City during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFQ/P, any modifications and clarifications to the awarded vendor's proposal, and the awarded vendor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.
  - Proposer understands and acknowledges that the representations above are material and important and will be relied on by the City in evaluation of the proposal. Any Proposer misrepresentation shall be treated as fraudulent concealment from the City of the true facts relating to the proposal. All information shall be submitted as a declaration under penalty of perjury.
- Confidentiality

- Proposals shall be kept confidential until a contract is awarded.
  - No announcement concerning the award of a contract because of this RFQ/P may be made without the prior written approval of the City.
  - The City has decided in accordance with Government Code Section 6255 that all Proposals submitted in response to this RFQ/P will not be made public by the City until after the City has executed and adopted, the Contract for Services with the selected Proposer. In the event a proposer wishes to claim portions of its Proposal exempt from disclosure under the Public Records Act, it is incumbent upon the proposer to clearly identify those portions with the word "confidential" printed on the lower right-hand corner of the page, along with a written justification as to why such information should be exempt from disclosure. However, the City will decide based upon applicable laws.
- The City will notify a Proposer of any materials or information that the City does not believe are entitled to exemption from the Public Records Act, and the Proposer shall have five business days from such notice to:
    - Withdraw its proposal
    - Withdraw such information from its Proposal
    - Withdraw such information and replace it with substituted information for which the Proposer does not claim an exemption; or
    - Provide written notice that it does not object to public disclosure of such information.
  - Proprietary or confidential data must be readily separable from the Proposal to facilitate eventual public inspection of the non-confidential portion of the Proposal. Confidential data is normally restricted to confidential financial information. The cost of Services shall not be designated as proprietary or confidential information.

**APPENDICIES**

Appendix A: Form of Proposal

Appendix B: Conflict of Interest Statement

Appendix C: not used

Appendix D: Project Schedule

Appendix E: Definitions

Appendix F: Design Professional Service Agreement

Appendix G: Debarment, Suspension, Ineligibility Certification

**APPENDIX A – FORM OF PROPOSAL**

**REQUEST FOR PROPOSAL -  
ARCHITECTURE AND ENGINEERING DESIGN AND CONSULTANT SERVICES FOR  
THE LIVINGSTON REC PLEX**

This form is to be completed and submitted along with the Proposal

I/We the Undersigned, having examined this Request for Proposals and all associated Addenda, do hereby affirm the acceptance of the requirements of the Request for Proposal.

I/We do certify that the information supplied in this submission to be true and complete in all aspects.

This proposal is submitted by: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Name of Authorized Person (s): \_\_\_\_\_

Position(s) of the Person(s): \_\_\_\_\_

Proponent Authorized Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

*Signature in the designated space, by an authorized officer of the Respondent's company affirms acceptance of the Request for Proposal requirements set forth in this document, the associated costs, where applicable, attributed to the business arrangement between the Respondent and the City of Livingston, and hereby certifies that the information supplied in this submission to be true and complete in all respects.*



**APPENDIX B – CONFLICT OF INTEREST STATEMENT**

**The Proposer must identify and describe in detail each conflict of interest, if applicable.**

Use at least one form for each firm and attach additional documentation as necessary.

I. Describe in detail the nature of the actual or potential conflict(s) (involving Project, personnel, financial advantage, or another item):

- a) Project,
- b) personnel,
- c) financial advantage, or
- d) other item

II. For each actual or potential conflict above, describe in detail the measures proposed to mitigate:

III. Describe in detail the intended effect of the proposed measures on the actual or potential conflict(s) and how the proposed measures will mitigate the actual or potential conflict(s):

Signature \_\_\_\_\_ Date \_\_\_\_\_

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure form with City of Livingston contract personnel.

Name & Title \_\_\_\_\_ Phone \_\_\_\_\_

Solicitation # \_\_\_\_\_ Firm Name \_\_\_\_\_

**APPENDIX C – not used**

## APPENDIX D - PROJECT SCHEDULE

RFP		
	RFP Released	4/29/2024
	Site Walk (Mandatory)	5/8/2024 @11 am
	Questions due	5/10/2024
	Anticipated Addendum issued	5/17/2024
	Bids due	5/28/2024 @ 4:00 pm
	City Review	5/29/2024-6/7/2024
	Shortlist Interviews	Week of 6/24/2024
	City Selection of Design Team	7/8/2024
	Contract Negotiations	7/8/2024-7/26/2024
	Council Approval	July/August 2024
	Project Start	8/2024
	Anticipated Project Completion	7/2027

PROJECT		
	Kickoff	8/2024
	Assessment & Conceptual Design	8/2024-10/2024
	Schematic Design	11/2024-12/2024
	Design Development	1/2025-3/2025
	Contract Documents	4/2025-7/2025
	Government / AHJ Review	8/2025-10/2025
	Permitted	11/2025
	Bid for Contractors	12/2025-1/2026
	Contractor Selected	2/2026
	Council Approval	3/2026
	Construction Start	3/2026
	Construction Complete	6/2027
	Opening Day	7/2027

**APPENDIX E - DEFINITIONS**

For the purposes of this RFQ/P, the following acronyms and definitions will be used:

<b><i>Awarded Vendor</i></b>	The organization/vendor/proposer that is awarded and has an approved contract with the City of Livingston, California for the services identified in this RFQ/P. Also Referred to as the Project Architect.
<b><i>City</i></b>	The City of Livingston and any department or agency identified herein
<b><i>Program/Project Manager (PM)</i></b>	The City's designated Program/Project Manager
<b><i>Dept. of Public Works</i></b>	The City's Department of Public Works.
<b><i>Consultant</i></b>	Organization/individual submitting a response to this RFP.
<b><i>Evaluation Committee</i></b>	An independent committee comprised of representatives of the City established to review proposals submitted in response to the RFP, score the proposals, and select a vendor.
<b><i>May</i></b>	Indicates something that is not mandatory but permissible.
<b><i>Proposer</i></b>	The Firm/Team submitting a Proposal in response to this RFQ/P
<b><i>Project Architect (PA)</i></b>	The Awarded Vendor, the Firm that shall have overall responsibility for the Design of the Project.
<b><i>Proposal</i></b>	A written response to this RFP, including all exhibits, supplementary materials, and attachments thereto, pursuant to the requirements set forth in this RFQ/P
<b><i>RFP</i></b>	Request for Proposal.
<b><i>Services for Work</i></b>	Services for Work to be provided by the Consultant
<b><i>Shall/Must</i></b>	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of a proposal as non-responsive.
<b><i>Should</i></b>	Indicates something that is recommended but not mandatory. If the vendor fails to provide recommended information, the City may, at its sole option, ask the vendor to provide the information or evaluate the proposal without the information.
<b><i>Subcontractor/ Subconsultant</i></b>	Third party employed by the vendor who will provide services identified in this RFQ/P.

**APPENDIX F –  
DESIGN PROFESSIONAL SERVICES AGREEMENT**

See attached Document

**APPENDIX G –  
DEBARMENT, SUSPENSION, INELIGIBILITY CERTIFICATION**

**Debarment, Suspension, Ineligibility Certification**

**(Please read attached *Acceptance of Certification and Instructions for Certification* before completing)**

This certification is required by federal regulations implementing Executive Order

1. The potential recipient of Federal assistance funds certifies, by submission of proposal, that:
  - Neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  - Have not within three (3) year period preceding this bid/agreement/proposal had a civil judgment rendered against them for commission of fraud or been convicted of a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - Are not presently or previously indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the above paragraph of this certification; and
  - Have not within a three (3) year period preceding this bid/agreement/proposal had one or more public (Federal, State, or local) transactions terminated for cause of default.
  
2. Where the potential prospective recipient of Federal assistance funds is unable to certify to any of the statement in this certification, such prospective participant shall attach an explanation to the applicable bid/agreement/proposal.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
Business/Contractor/ Agency

\_\_\_\_\_  
Date

### **Acceptance of Certification**

1. This bid/agreement/proposal or like document has the potential to be a recipient of Federal funds. To follow Code of Federal Regulations, the City requires this completed form. By signing and submitting this document, the prospective bidder/proposer is providing the certification and acknowledgement as follows:
2. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
3. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
4. The potential recipient of Federal assistance funds agrees by submitting this bid/agreement/proposal or like document that, should the proposed covered transaction be entered, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

### **Instructions for completing the form, Attachment –Debarment Certification**

1. The City of Livingston sometimes receives Federal funding on certain purchases/Projects. To ensure that the City follows Federal regulations we require this form to be completed.
2. If your business follows the conditions in the form, please have the appropriate person complete and sign this form and return with your bid/proposal/agreement.
3. If at any time, your business or persons associated with your business become debarred or suspend, we require that you inform us of this change in status.
4. If there are any exceptions to the certification, please include an attachment. Exceptions will not necessarily result in denial of award but will be considered in determining bidder responsibility. For any exception, indicate to whom it applies, initiating agency and dates of action.
5. Note: Providing false information may result in criminal prosecution or administrative sanctions.

If you have any questions on how to complete this form, please contact the  
The City of Livingston Public Works Department at xxx

**APPENDIX H –  
CONCEPTUAL PLAN FIGURES**

See attached Document



## APPENDIX F

### PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF LIVINGSTON AND \_\_\_\_\_

**THIS PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) is by and between \_\_\_\_\_ (“CONSULTANT”), and the **CITY of LIVINGSTON**, a California municipal corporation (“CITY”), on this \_\_\_ day of \_\_\_\_\_, 2022 (the “Effective Date”). CITY and CONSULTANT may be collectively referred to herein as the “Parties” or individually as “Party.” There are no other parties to this Agreement.

#### RECITALS

**WHEREAS**, CITY seeks to hire an independent contractor to perform professional services to assist CITY with \_\_\_\_\_; and

**WHEREAS**, CONSULTANT has made a Quote to CITY to provide such professional services. A description of the services CONSULTANT proposes to provide is included in the Scope of Services in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Services”); and

**WHEREAS**, CITY desires to retain CONSULTANT to perform the Services, subject to the terms and conditions set forth in this Agreement; and

**WHEREAS**, the Parties have outlined the rates and method of payment to CONSULTANT for its performance of the Services under this Agreement (“Compensation Schedule”), which shall be included in the Scope of Services in Exhibit A.

**NOW, THEREFORE**, in consideration of the promises and covenants set forth below, CONSULTANT and the CITY agree as follows:

(1) **Recitals.** The recitals set forth above (“Recitals”) are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Section 1 through 28 of this Agreement, Sections 1 through 28 shall prevail.

(2) **Term.** The term of this Agreement shall be \_\_\_ years and will commence on the Effective Date and terminate on the \_\_\_ day of \_\_\_\_\_, 20\_\_ (“Term”) unless the Parties mutually agree in writing to terminate the Agreement earlier or extend the Term pursuant to this Agreement.

(3) **Extension of Agreement.** CITY may elect to extend this Agreement for \_\_\_ ( ) additional \_\_\_ ( )-year terms, on the same terms and conditions, upon issuing an “Election to Extend Agreement” letter executed by the CITY Manager to CONSULTANT thirty (30) calendar days prior to the expiration of this Agreement.

(4) **Work.**

**(4.1) Services.** Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide the Services described in Exhibit A. Any request for Services not included in Exhibit A will be considered a request for additional or modified Services (“Modification” or “Modifications”). CONSULTANT shall not receive additional compensation for any Modification of the Services unless the Parties agree otherwise in a writing executed by both Parties.

**(4.2) CITY Requested Modification of Services.** CITY may, by written order, authorize Modifications to the Services described in Exhibit A. If such Modifications cause an increase in the cost or time required for performance of CONSULTANT’s Services, the Parties shall enter into a written amendment to this Agreement to adjust the Services and the Compensation Schedule, if necessary. The Services or Compensation Schedule shall not be revised unless CITY and CONSULTANT mutually agree to a written amendment to this Agreement reflecting such revisions, additional compensation, or such other terms or conditions mutually agreed upon by the Parties.

**(4.3) CONSULTANT Requested Modification of Services.** CONSULTANT shall not be compensated for work outside the Services described in Exhibit A, unless, prior to the commencement of the Services:

- (i) CONSULTANT provides CITY with written notice that specific work requested by CITY or required to complete CONSULTANT’s obligations under this Agreement is outside the agreed upon Services. Such notice shall: (1) be supported by substantial evidence that the work is outside the Services; (2) set forth CONSULTANT’s proposed course of action for completing the work and a specific request for CITY to approve the Modification to the Services; and (3) set forth CONSULTANT’s proposed revisions, if any, to the Compensation Schedule; and
- (ii) CITY agrees that the work requires a Modification; and
- (iii) CITY approves all adjustments, if any, to the Compensation Schedule; and
- (iv) The Parties execute a written amendment to this Agreement describing any Modification, together with any adjustment in the Compensation Schedule for CONSULTANT’s work. Compensation for any additional Services shall not exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) per hour.

**(5) Compensation.**

**(5.1) Amount, Time, and Manner of Payment for CONSULTANT Services.** CITY shall pay CONSULTANT according to the rates and timing set forth in the Compensation Schedule. CITY's total compensation to CONSULTANT shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_) per [year/month] ("Maximum Payment"), unless the Parties mutually agree in writing otherwise.

**(5.2) Invoices.** CONSULTANT shall provide CITY with monthly invoices sufficiently evidencing CONSULTANT's expenses and completion of the Services. All invoices furnished to CITY by CONSULTANT shall be in a form approved by CITY. The payments specified shall be the only payments made to CONSULTANT for performance of the Services, including compensation for any Modification. CONSULTANT shall submit all billings for Services to CITY within forty-five (45) days of the performance of such Services. In the event that an amount of an invoice is in dispute, CITY shall inform CONSULTANT of the amount and basis for the dispute within thirty (30) days of the date of the invoice and may withhold the amount which is in dispute until the dispute has been resolved. Any amounts timely disputed by CITY shall not be subject to late penalties or interest. The granting of any progress payment by CITY, or the receipt thereof by CONSULTANT, or any inspection, review, approval or oral statement by any representative of CITY, or state certification, shall not, in any way, waive, limit, or replace any certification or approval procedures normally required or lessen the liability of CONSULTANT to re-perform or replace unsatisfactory Service, including, but not limited to, cases where the unsatisfactory character of such Service may not have been apparent or detected at the time of such payment, inspection, review, or approval.

**(6) CITY Assistance to CONSULTANT.** CONSULTANT shall, at its sole cost and expense, furnish all facilities, equipment, materials, information, personnel and administrative assistance which may be required to perform its obligations under this Agreement. Notwithstanding the foregoing, CITY shall cooperate with CONSULTANT and shall not actively interfere with CONSULTANT's performance of Services under this Agreement.

**(7) Independent Contractor Status** It is expressly understood and agreed by both parties that CONSULTANT, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of CITY. As an independent contractor, CONSULTANT is responsible for controlling the means and methods to complete the scope of work described in Exhibit A to CITY's satisfaction. CONSULTANT expressly warrants not to represent, at any time or in any manner, that CONSULTANT is an employee of the CITY. CONSULTANT shall be liable for its acts and omissions, and those of its employees, contractors, subcontractors, representatives, volunteers, and its agents. Nothing contained herein shall be construed as creating an employment, agency, or partnership relationship between CITY and CONSULTANT.

**(8) CONSULTANT Not Agent.** Except as CITY may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement to bind CITY to any obligation whatsoever.

**(9) Time and Personnel Devoted to Services**

CONSULTANT shall devote such time and personnel to the performance of this Agreement, as is necessary to perform the Services in compliance with this Agreement. CONSULTANT shall assign only qualified, competent personnel to perform services pursuant to this Agreement, under the supervision and direct employment of CONSULTANT. CONSULTANT will conform with CITY's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at CITY's request, shall be supervised by CONSULTANT. CONSULTANT is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is expressly approved by CITY in writing.

**(10) Assignment and Subcontracting** It is recognized by the parties hereto that a substantial inducement to CITY for entering into this Agreement was, and is, the professional reputation and competence of CONSULTANT. Neither this Agreement nor any interest therein may be assigned by CONSULTANT without the prior written approval of CITY'S authorized representative.

CONSULTANT shall not subcontract any portion of the performance contemplated and provided for herein, other than the subcontractors noted in the Quote, without prior written approval of the CITY'S authorized representative.

**(11) Representations of CONSULTANT.** CITY relies upon the following representations by CONSULTANT in entering into this Agreement:

**(11.1) Qualifications.** CONSULTANT represents that it is qualified to perform the Services provided in Exhibit A and that it possesses the necessary licenses, permits required to perform the Services or will obtain such licenses or permits prior to the time such licenses or permits are required. CONSULTANT shall also ensure that all subcontractors are similarly licensed and qualified. CONSULTANT and all subcontractors shall also obtain a business license from CITY before they commence performance of the Services. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at CONSULTANT's sole cost and expense, keep in effect or obtain at all times during the Term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice CONSULTANT's profession at the time the Services are rendered.

**(11.2) CONSULTANT Performance.** CONSULTANT represents and warrants that all Services under this Agreement shall be performed in a professional manner and shall conform to the customs and standards of practice observed on similar, successfully completed projects by specialists in the Services to be provided. CONSULTANT shall adhere to accepted professional standards as set forth by relevant professional associations and shall perform all Services required under this Agreement in a manner consistent with generally accepted professional customs, procedures and standards for such Services. All work or products completed by CONSULTANT shall be completed using the best practices available for the profession and shall be free from any defects. CONSULTANT agrees that, if a Service is not so performed, in addition to all of its obligations under this Agreement and at law, CONSULTANT shall re-perform or replace unsatisfactory Service at no additional expense to CITY.

**(11.3) No Waiver of Claims.** The granting of any progress payment by CITY, or the receipt thereof by CONSULTANT, or any inspection, review, approval or oral statement by any representative of CITY, or state certification, shall not, in any way, waive, limit, or replace any certification or approval procedures normally required or lessen the liability of CONSULTANT to re-perform or replace unsatisfactory Service, including but not limited to cases where the unsatisfactory character of such Service may not have been apparent or detected at the time of such payment, inspection, review or approval.

**(11.4) CITY's Remedies are Cumulative.** Nothing in this Section shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which CITY or CONSULTANT may have under this Agreement or any applicable law. All rights and remedies of CITY, whether under this Agreement or applicable law, shall be cumulative.

**(11.5) No Conflict of Interest.** CONSULTANT represents that no conflict of interest will be created under state or federal law by entering into or in carrying out this Agreement.

**(12) Conformity with Law and Safety.** CONSULTANT shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of Services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, the California Building Code, the American with Disabilities Act, any copyright, patent or trademark law and all other applicable federal, state, municipal and local safety regulations, appropriate trade association safety standards, and appropriate equipment manufacturer instructions. All Services performed by CONSULTANT must be in accordance with these laws, ordinances, codes and regulations. CONSULTANT's failure to comply with any laws, ordinances, codes or regulations applicable to the performance of the Services hereunder shall constitute a breach of contract. In cases where standards conflict, the standard providing the highest degree of protection shall prevail.

If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Agreement, CONSULTANT shall immediately notify the CITY's risk manager by telephone. If any accident occurs in connection with this Agreement, CONSULTANT shall promptly submit a written report to CITY, in such form as the CITY may require. This report shall include the following information: (a) name and address of the injured or deceased person(s); (b) name and address of CONSULTANT's subcontractor, if any; (c) name and address of CONSULTANT's liability insurance carrier; and (d) a detailed description of the accident, including whether any of CITY's equipment, tools or materials were involved.

If a release of a hazardous material, substance, or waste occurs in connection with the performance of this Agreement, CONSULTANT shall immediately notify CITY. CONSULTANT shall not store hazardous materials or hazardous waste within the CITY limits without a proper permit from CITY.

(13) **Contact by CONSULTANT with Project Owners or Applicants.** Unless otherwise set forth in the Services, neither CONSULTANT nor CONSULTANT's subcontractors shall directly contact the owner of the property involved in any project or any party who is the applicant for any project ("Interested Party"), or an employee or contractor of an Interested Party, on any matter relating to any project without the prior consent of the City Manager. In no event shall CONSULTANT take any instructions or directions from an Interested Party, on any matter pertaining to the CONSULTANT's Services to be performed for CITY under this Agreement.

(14) **Ownership of Work Product** Any and all work, copy, photographs, videotapes, audiotapes, systems designs, software, reports, designs, specifications, drawings, diagrams, surveys, source codes, consultant or technical information or data, photographs, notes, letters, emails or any original works of authorship created by CONSULTANT or its subcontractors, or subcontractors in connection with Services performed under this Agreement ("Products"), shall be, upon payment to CONSULTANT, the property of CITY including any and all Products deemed works for hire or copyrights under title 17 of the United States Code. In the event it is ever determined that any Product created by CONSULTANT or its subcontractors, or subcontractors under this Agreement, are not works for hire under U.S. law, CONSULTANT hereby assigns all copyrights to such Products to CITY. With the prior written approval of CITY's point of contact for the Project, CONSULTANT may retain and use copies of such Products for reference and as documentation of its experience and capabilities.

All Products shall, upon payment to CONSULTANT, become the property of CITY, irrespective of where located or stored, and CONSULTANT agrees to deliver all such documents and information to CITY, without charge and in whatever form it exists, on the completion of the CONSULTANT's services hereunder and upon payment to CONSULTANT. CONSULTANT shall have no ownership interest in such Products, except to the extent of any pre-existing intellectual property of CONSULTANT, or its consultants, that may be part of such Products. CONSULTANT and its consultants shall grant CITY a nonexclusive license to use such pre-existing intellectual property for the purposes contemplated under this Agreement.

All work product of CONSULTANT under this Agreement, including written information which CITY will cause to be distributed for either internal or public circulation, including both preliminary and final drafts, shall be delivered to CITY in both printed and electronic form.

When this Agreement is terminated, CONSULTANT agrees to return to CITY all documents, drawings, photographs and other written or graphic material, however produced, that it received from CITY, its contractors or agents, in connection with the performance of its Services under this Agreement. All materials shall be returned in the same condition as received.

(15) **Confidentiality.** CONSULTANT understands and agrees that, in the performance of Services under this Agreement or in the contemplation thereof, CONSULTANT may have access to private or confidential information that may be owned or controlled by CITY and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to CITY ("Confidential Information").

CONSULTANT shall not, either during or after the Term, disclose to any third party any Confidential Information without the prior written consent of CITY. If CITY gives

CONSULTANT written authorization to make any such disclosure, CONSULTANT shall do so only within the limits and to the extent of that authorization. CONSULTANT may be directed or advised by the CITY Attorney on various matters relating to the performance of the Services on the Project or on other matters pertaining to the Project, and in such event, CONSULTANT agrees that it will treat all communications between itself, its employees, and its subcontractors as being communications which are within the attorney-client privilege.

**(16) Non-Discrimination.** In its performance of the Services, CONSULTANT shall adhere to CITY's EEO Policy which states, "The City is committed to ensuring that all qualified individuals have a full and fair opportunity to compete in all phase of the hiring process and promotion, and to enjoy the benefits of employment with the City. All employees and applicants shall receive equal consideration and treatment in employment without regard to race, color, religion, gender, sexual orientation, national origin, age, disability, genetic information, marital status, amnesty, or status as a covered veteran in accordance with applicable federal or state statutes, the City's ordinances, resolutions, rules or regulations."

In addition, all agreements with sub-contractors will include language as required by the Office of Federal Contract Compliance Programs (OFCCP) that requires sub-contractors to maintain equal employment opportunity policies and, as necessary, affirmative action policies.

**(17) Insurance.** At all times during the Term of this Agreement, CONSULTANT, at its own cost and expense, shall maintain, and provide proof thereof, the insurance specified in this Section 17 with insurers with a current A M Best's rating of no less than A VII. CONSULTANT shall not allow any subcontractor to commence work on any subcontract until all insurance required of the CONSULTANT has also been obtained for the subcontractor. Verification of this insurance shall be submitted and made part of this Agreement prior to execution.

**(17.1) Workers' Compensation.** CONSULTANT shall, at CONSULTANT'S sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by CONSULTANT. Said Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than one million dollars (\$1,000,000) per occurrence. In the alternative, CONSULTANT may rely on a self-insurance program to meet these requirements provided that the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or the CONSULTANT, if a program of self-insurance is provided, shall waive all rights of subrogation against the CITY for loss arising from work performed under this Agreement.

**(17.2) Commercial General and Automobile Liability Insurance.** CONSULTANT, at CONSULTANT'S own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this Agreement in an amount not less than two million dollars (\$2,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from

activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) and Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 (any auto).

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- (i) CITY, its officers, employees, agents, and volunteers are to be covered as insured with respect to each of the following: liability arising out of activities performed by or on behalf of CONSULTANT, including the insider's general supervision of CONSULTANT; products and completed operations of CONSULTANT; premises owned, occupied or used by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents, or volunteers.
- (ii) The insurance shall cover on an occurrence or an accident basis, and not on a claim made basis.
- (iii) An endorsement must state that coverage is primary insurance and that no other insurance affected by the CITY will be called upon to contribute to a loss under the coverage.
- (iv) Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
- (v) Notice of cancellation or non-renewal must be received by CITY at least thirty days prior to such change.

**(17.3) CONSULTANT Liability.** CONSULTANT, at CONSULTANT'S own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than Two Million Dollars (\$2,000,000) per claim made and per policy aggregate covering the licensed professionals' errors and omissions, as follows:

- (i) Any deductible or self-insured retention shall not exceed \$150,000 per claim.
- (ii) Notice of cancellation, material change, or non-renewal must be received by the CITY at least thirty days prior to such change shall be included in the coverage or added as an endorsement to the policy.



- (iii) The policy must contain a cross liability or severability of interest clause.
- (iv) The following provisions shall apply if the professional liability coverages are written on a claims made form:
  1. The retroactive date of the policy must be shown and must be before the date of the Agreement.
  2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
  3. If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this Agreement, CONSULTANT must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work.

The CITY shall have the right to exercise at the CONSULTANT'S cost, any extended reporting provisions of the policy should the CONSULTANT cancel or not renew the coverage.

A copy of the claim reporting requirements must be submitted to the CITY prior to the commencement of any work under this Agreement.

**(17.4) Deductibles and Self-Insured Retentions.** CONSULTANT shall disclose the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. During the period covered by this Agreement, upon express written authorization of the CITY's authorized representative, CONSULTANT may increase such deductibles or self-insured retentions with respect to CITY, its officers, employees, agents, and volunteers. The CITY's authorized representative may condition approval of an increase in deductible or self-insured retention levels upon a requirement that CONSULTANT procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

**(17.5) Notice of Reduction in Coverage.** In the event that any coverage required under subsections (a), (b), or (c) of this section of the Agreement is reduced, limited, or materially affected in any other manner, CONSULTANT shall provide written notice to CITY at CONSULTANT'S earliest possible opportunity and in no case later than five days after CONSULTANT is notified of the change in coverage.

**(17.6)** In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:

- (i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- (ii) Order CONSULTANT to stop work under this Agreement or withhold any payment which becomes due to CONSULTANT hereunder, or both stop work and withhold any payment, until CONSULTANT demonstrates compliance with the requirements hereof; or
- (iii) Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT'S breach.

**(18) Indemnification - CONSULTANT'S Responsibility** To the fullest extent permitted by law (including, but not limited to, California Civil Code sections 2782 and 2782.8), CONSULTANT shall indemnify, defend, and hold CITY, its officers, employees, agents, and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, or loss of life of any person, employee, consultant, or its subcontractors, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused by the willful misconduct or negligent acts or omissions of CONSULTANT, its employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising out of the negligence or willful misconduct of the CITY, its officers, employees, agents, or volunteers. It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

With respect to third party claims against CONSULTANT, CONSULTANT waives any and all rights of any type of express or implied indemnity against CITY and CITY'S Agents. As applied to claims based on CONSULTANT'S liability and notwithstanding the above or anything else in this Agreement, CONSULTANT has no obligation to pay for any defense related costs prior to a final determination of its liability. Following any such determination of its liability, CONSULTANT shall be responsible to pay any amount of such costs equal to the finally determined percentage of liability based upon the comparative fault of CONSULTANT.

**(19) Liability of CITY.** Notwithstanding any other provision of this Agreement, in no event shall CITY be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or

revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

(20) **Licenses** If a license of any kind, which term is intended to include evidence of registration, is required of CONSULTANT, its employees, agents, or subcontractors by federal or state law, CONSULTANT warrants that such license has been obtained, is valid and in good standing, and CONSULTANT shall keep it in effect at all times during the term of this Agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

(21) **Payment of Taxes and Other Expenses.** Payment of any taxes, including California sales and use taxes, levied upon this Agreement, the transaction, or the Services or goods delivered pursuant hereto, shall be the obligation of CONSULTANT.

(22) **Business Licenses**

CONSULTANT shall obtain and maintain a CITY Business License until all Agreement services are rendered and accepted by the CITY.

(23) **Termination** Either CITY or CONSULTANT may cancel this Agreement upon 30 days written notification to the other party. In the event of termination, the CONSULTANT shall be entitled to compensation for services performed to the effective date of termination; provided, however, that the CITY may condition payment of such compensation upon CONSULTANT'S delivery to the CITY of any or all documents, photographs, computer software, video and audio tapes, and other materials provided to CONSULTANT or prepared by or for CONSULTANT or the CITY in connection with this Agreement.

(24) **Cancellation for Breach by Either Party.** Should either Party fail to substantially perform its obligations in accordance with the provisions of this Agreement, the other Party shall thereupon have the right to cancel the Agreement by giving written notice and specifying the effective date of such cancellation. If CITY cancels this Agreement for breach and it is subsequently determined that CONSULTANT did not fail to substantially perform its obligations in accordance with this Agreement, then cancellation for breach by CITY shall be deemed, and treated, as termination for convenience.

Neither Party waives the right to recover damages against the other for breach of this Agreement including any amount necessary to compensate CITY for all detriment proximately caused by CONSULTANT's failure to perform its obligations hereunder or which in the ordinary course of things would be likely to result therefrom. CITY reserves the right to offset such damages against any payments owed to CONSULTANT.

CITY shall not in any manner be liable for CONSULTANT's actual or projected lost profits had CONSULTANT completed the Services required by this Agreement.

(25) **Arbitration of Disputes.** All claims, disputes and other matters in question between CITY and CONSULTANT arising out of, or relating to this Agreement or the breach thereof, including claims of CONSULTANT for extra compensation for Services related to the Project shall be decided by arbitration before a single arbitrator in accordance with the provisions of Sections 1281 to 1284.2 of the California Code of Civil Procedure (the "Arbitration Laws")

unless the Parties mutually agree otherwise. The provisions of Section 1283.05 of the Arbitration Laws apply to any arbitration proceeding except as otherwise provided in this Agreement. The arbitrator shall have authority to decide all issues between the Parties including, but not limited to, claims for extras, delay and liquidated damages, if any, provided for in this Agreement, matters involving defects in the work product of CONSULTANT, rights to payment, and whether the necessary procedures for arbitration have been followed. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

Notice of the demand for arbitration shall be filed in writing with the other Party. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitation.

The Parties shall jointly appoint an arbitrator within fifteen (15) calendar days of the date of giving of the notice of the demand for arbitration. If the Parties are unable to jointly agree upon the appointment of an arbitrator within said fifteen (15) calendar day period, and do not agree in writing to extend said period for a fixed period, then either Party may seek to have the arbitrator appointed by the Superior Court of Solano County in accordance with the Arbitration Laws.

If any proceeding is brought to contest the right to arbitrate and it is determined that such right exists, the losing Party shall pay all costs and attorneys' fees incurred by the prevailing party.

In addition to the other rules of law which may be applicable to any arbitration hereunder, the following shall apply:

- (i) Promptly upon the filing of the arbitration each Party shall be required to set forth in writing and to serve upon each other Party a detailed statement of its contentions of fact and law.
- (ii) All parties to the arbitration shall be entitled to the discovery procedures as provided in Section 1283.05 of the California Code of Civil Procedure.
- (iii) The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein.
- (iv) These additional rules shall be implemented and applied by the arbitrator.

The costs of arbitration shall be borne by the Parties as determined by the arbitrator, but each Party shall bear its own attorney's fees associated with the dispute with the other Party and to the arbitration.

**(26) Funding.** CONSULTANT agrees and understands that renewal of this agreement in subsequent years is contingent upon action by the City Council consistent with the appropriations limits of Article XIII (B) of the California Constitution and that the Council may determine not to fund this agreement in subsequent years.

(27) **Notices.** Any notice or communication required hereunder between CITY and CONSULTANT must be in writing, and may be given either personally, by electronic mail transmission (“email”) (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 or communication shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by email, 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 email server. Notices transmitted by email 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 (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) 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:                      City of Livingston  
   Attn: City Manager  
   1416 C Street  
   Livingston, CA 95334  
   [vportillo@livingstoncity.com](mailto:vportillo@livingstoncity.com)  
   209-394-8044 Ext. 113

Copy to:

To CONSULTANT: COMPANY, Inc.  
   ADDRESS  
   Attn:  
   Email: (XXXX)  
   Phone Number:

(28) **Miscellaneous.**

(28.1) **Consent.** Whenever in this Agreement the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.

(28.2) **Controlling Law.** The parties agree that this Agreement shall be governed and construed by and in accordance with the Laws of the State of California.

**(28.3) Force Majeure.** Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Agreement, which directly results from an Act of God or an act of a superior governmental authority. Such events include but are not limited to riots, wars, sabotage, civil disturbances, insurrections, explosions, epidemics, pandemics, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts and other labor disturbances, or other catastrophic events, which are beyond the reasonable control of CONSULTANT. Force Majeure does not include: (a) CONSULTANT's financial inability to perform; (b) CONSULTANT's failure to obtain any necessary permits or licenses from other governmental agencies; or (c) CONSULTANT'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 CONSULTANT.

**(28.4) Headings.** The paragraph headings are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.

**(28.5) Integration.** This Agreement and any amendments hereto between the parties constitute the entire Agreement between the parties concerning the Project and Work, and there are no other prior oral or written agreements between the parties that are not incorporated in this Agreement.

**(28.6) Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the provisions of this Agreement not so affected shall remain in full force and effect.

**(28.7) Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.

**(28.8) Time of the Essence.** Time is of the essence of this Agreement and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday or any Day observed as a legal holiday by CITY, the time for performance shall be extended to the following Business Day.

**(28.9) Venue.** In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Merced.

**(28.10) Recovery of Costs.** The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.

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

**(28.12) Mandatory and Permissive.** “Shall” and “will” and “agrees” are mandatory. “May” and “can” are permissive.

**(28.13) Signatures.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

*[Signatures on Following Page]*

Approved as to Form:

Company  
XXXXX

\_\_\_\_\_  
XXXXX Date

CITY

By:

CITY of LIVINGSTON,  
a California municipal corporation

\_\_\_\_\_  
Vanessa Portillo Date  
City Manager

CONSULTANT:

**CONSULTANT NAME**

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
(Print Name and Title)

Taxpayer I.D. No. \_\_\_\_\_

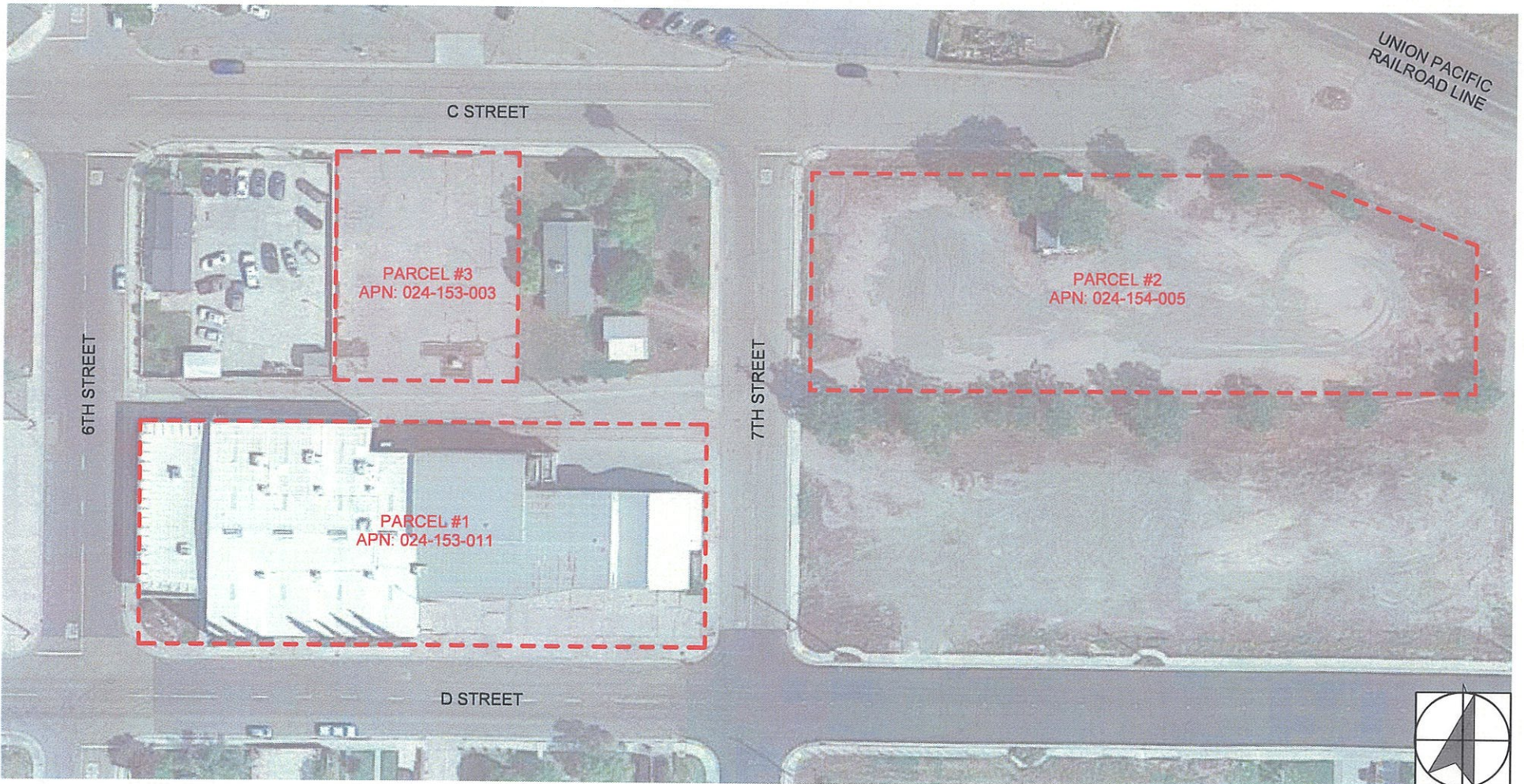
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

TELEPHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

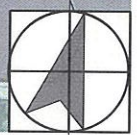
E-MAIL: \_\_\_\_\_





# EXISTING SITE (FIGURE 1)

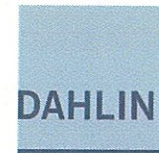
LIVINGSTON REC-PLEX



PROJECT  
NORTH

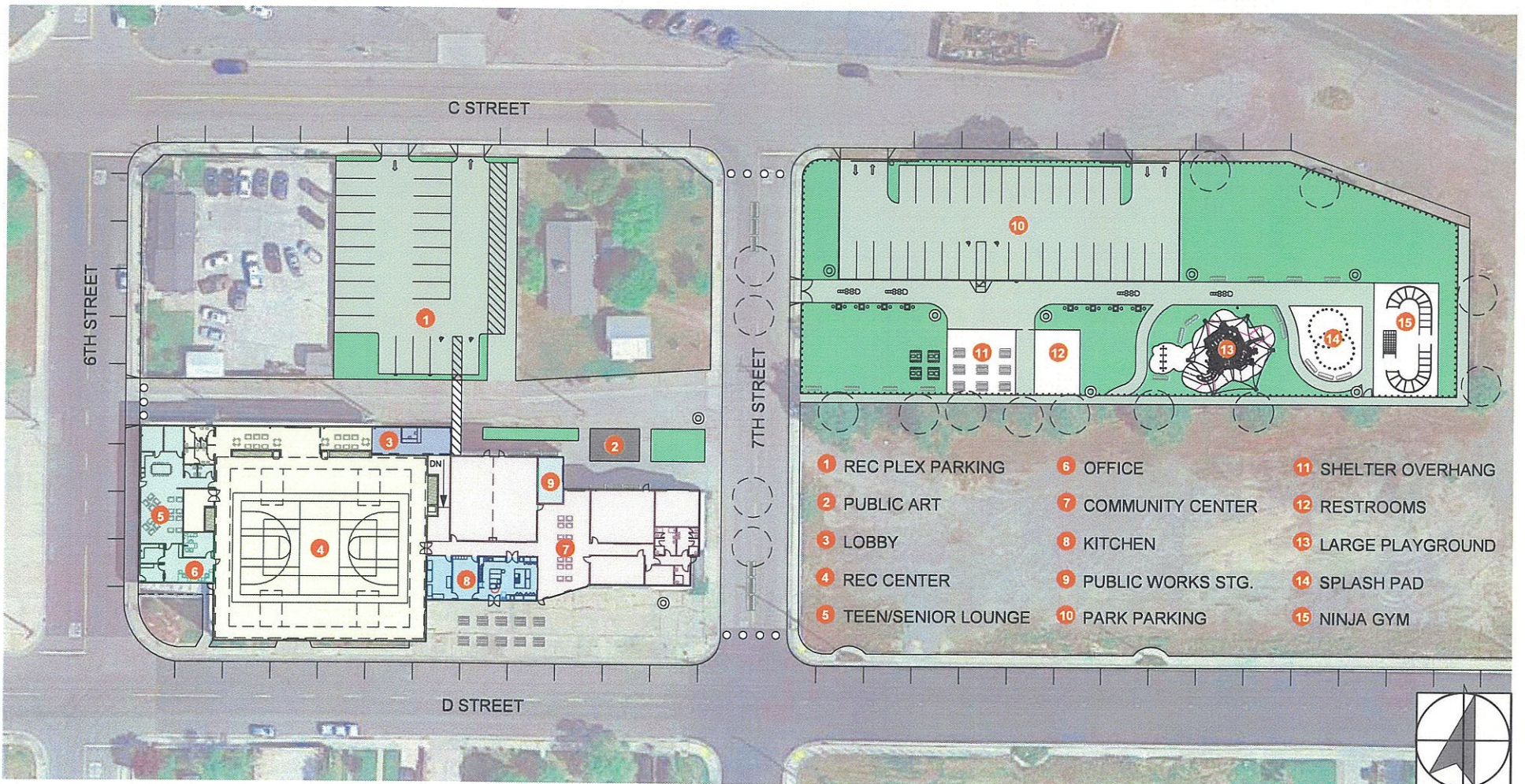


SCALE: 1" = 50'



**JOB NO.** 1751.001  
**DATE** 03/22/24

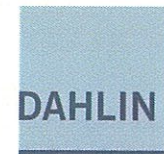
**A1**



PROJECT  
NORTH

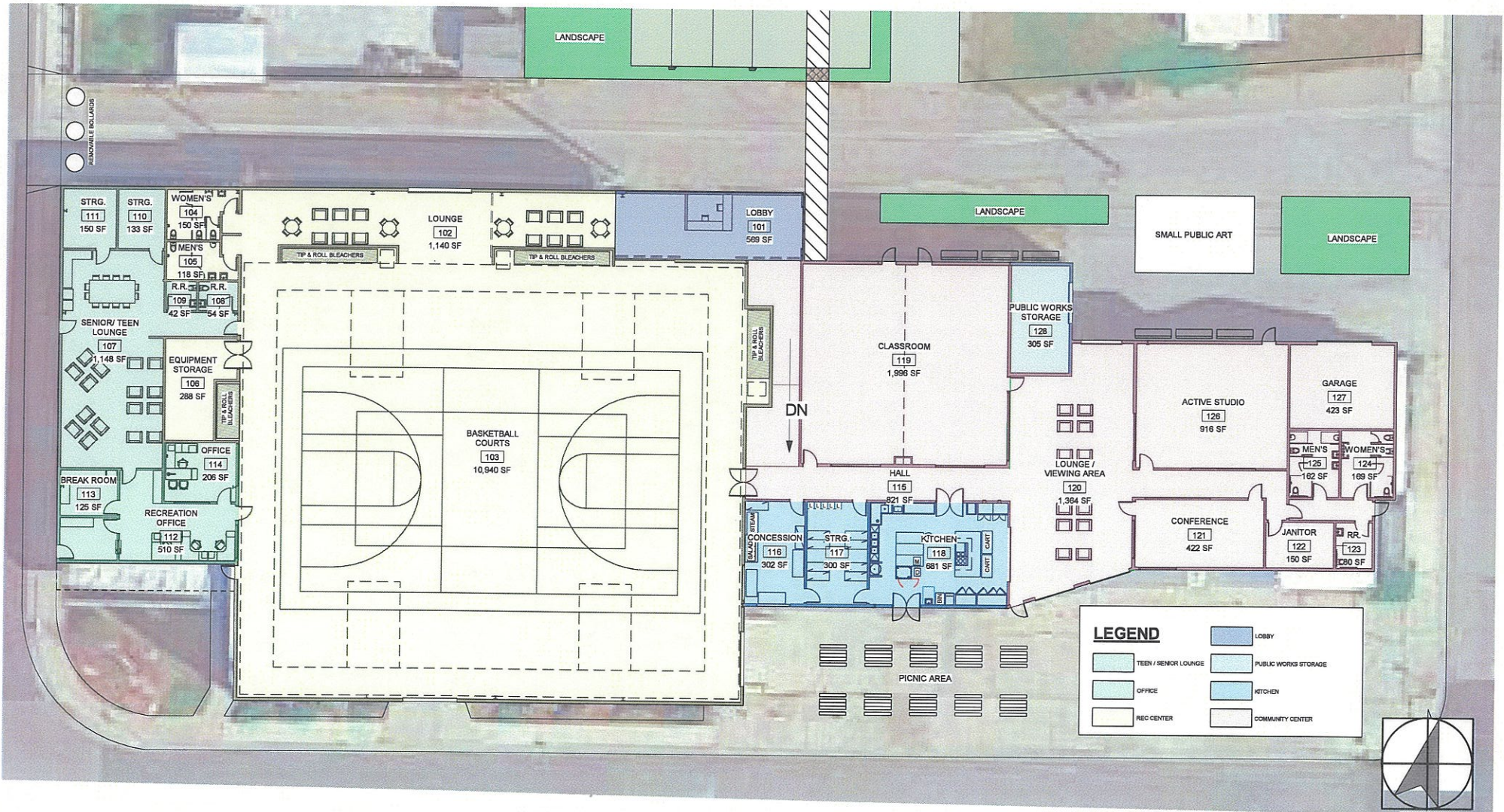
## CONCEPTUAL SITE PLAN (FIGURE 2)

LIVINGSTON REC-PLEX



25 50 100	
SCALE: 1" = 50'	
JOB NO.	1751.001
DATE	03/22/24

A2



# CONCEPTUAL FACILITY PLAN (FIGURE 3a)

LIVINGSTON REC-PLEX

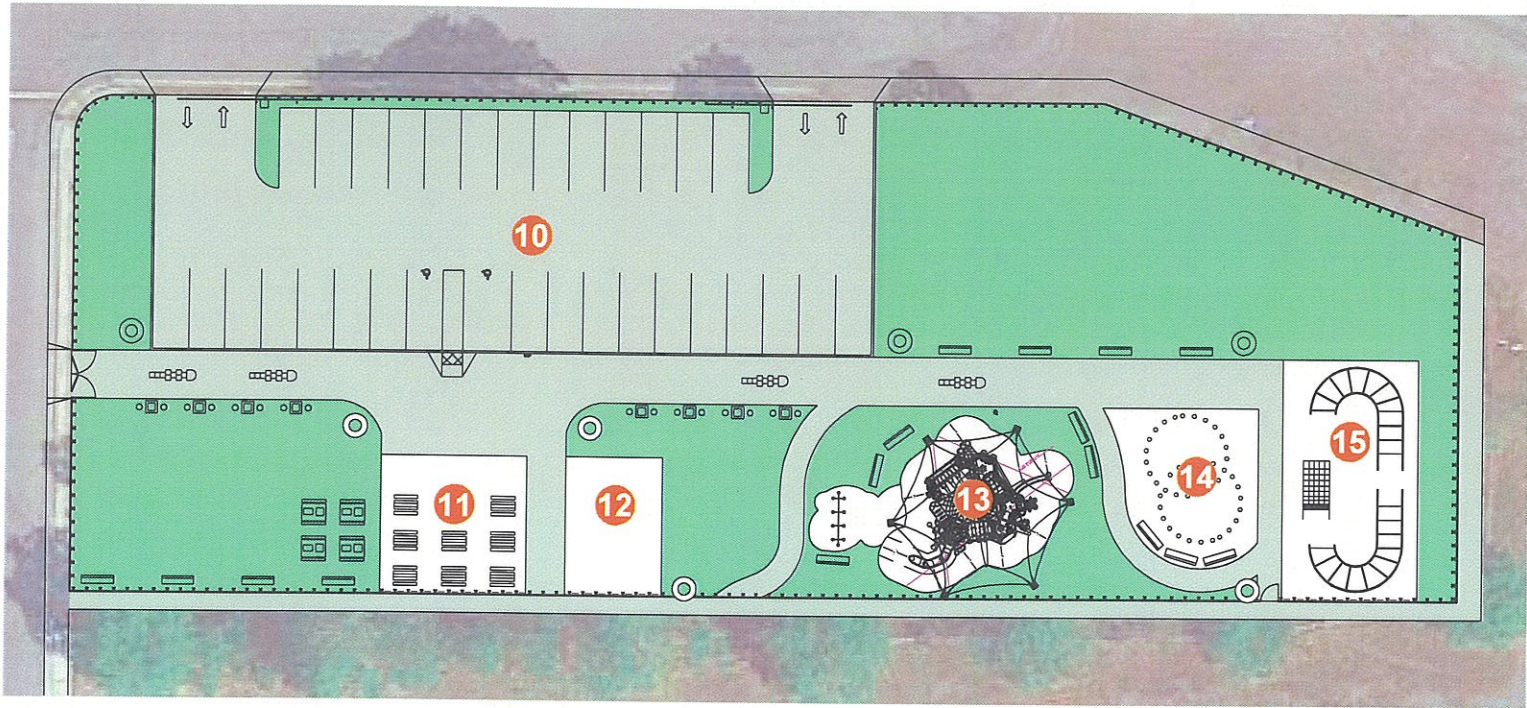
**DAHLIN**

SCALE: 1"=0' = 20'

JOB NO. 1751.001

DATE 03/22/24

**A3a**



# CONCEPTUAL PARK PLAN (FIGURE 3B)

LIVINGSTON REC-PLEX



PROJECT  
NORTH



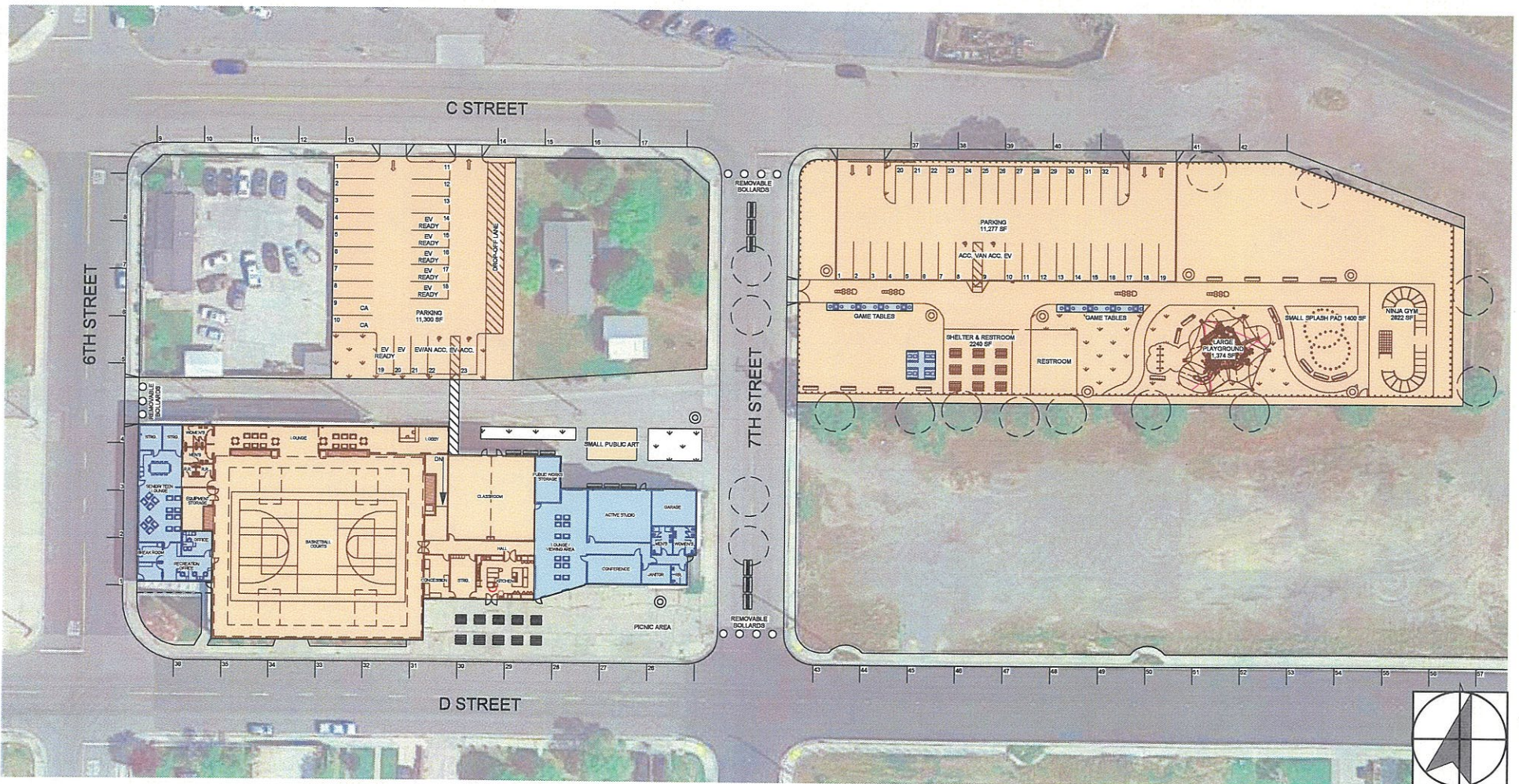
SCALE: 1'-0" = 30'

**DAHLIN**

**JOB NO.** 1751.001

**DATE** 03/22/24

**A3b**

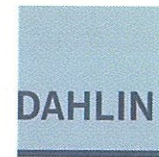


# PHASING PLAN (FIGURE 4a)

LIVINGSTON REC-PLEX



PROJECT NORTH



10 20 40	
SCALE: 1"=0' = 20'	
JOB NO.	1751.001
DATE	03/22/24

A4a



# STAFF REPORT

**AGENDA ITEM:** Resolution authorizing City Attorney and Human Resources Coordinator to Request for Proposals (RFP) for the selection of a firm to lead the recruitment process of a new permanent City Manager

**MEETING DATE:** May 7, 2024

**PREPARED BY:** Arcelia Cruz, Human Resources Coordinator

**REVIEWED BY:** Roy Santos, City Attorney

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**RECOMMENDATION:**

Approve Resolution 2024-\_\_ authorizing City Attorney and Human Resources Coordinator to publish the Request for Proposal for the selection of a firm or individual to lead the recruitment process of a new permanent City Manager.

**BACKGROUND:**

At the March 19, 2024, council meeting, the City Council directed the City Attorney and Human Resources Coordinator to begin the Request for Proposal for the selection of a firm to lead the recruitment process of a new permanent City Manager.

The purpose of this Request for Proposal is to request proposers to present their qualifications, capabilities, and approach to provide recruitment services to the City for the position of City Manager.

**FISCAL IMPACT:**

By putting out the Request for Proposals, City will be able to determine the costs associated with these services and budget accordingly.

**ATTACHMENTS:**

1. Resolution
2. Request for Proposals (RFP) Executive Recruitment for City Manager

**RESOLUTION NO. 2024-**

**A RESOLUTION OF THE CITY OF LIVINGSTON AUTHORIZING THE CITY ATTORNEY AND HUMAN RESOURCES COORDINATOR TO REQUEST FOR PROPOSALS (RFP) FOR THE SELECTION OF A FIRM TO LEAD THE RECUITMENT PROCESS OF A NEW PERMANENT CITY MANAGER**

**WHEREAS**, At the March 19, 2024, Council Meeting, the City Council directed the City Attorney and Human Resources Coordinator to begin the Request for Proposal (RFP) for the selection of a firm to lead the recruitment process of a new permanent City Manager

**WHEREAS**, the purpose of the Request for Proposal (RFP) is to request proposer to present their qualifications, capabilities, and approach to provide recruitment services to the City for the position of the City Manager

**WHEREAS**, by putting out the Request for Proposals, City will be able to determine the costs associated with these services and budget accordingly.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby approves Resolution 2024-\_\_\_\_, authorizing the City Attorney and Human Resources Coordinator to publish the RFP for the selection of a firm or individual to lead the recruitment process of a new permanent City Manager.

I hereby certify that the foregoing Resolution 2024-\_\_\_\_ is full, true and correct copy of a resolution duly passed and passed and adopted by the City Council of the City of Livingston at a regular meeting duly held on the 7<sup>th</sup> day of May 2024, by the vote recorded as follows:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Jose A. Moran, Mayor  
of the City of Livingston

ATTEST:

---

Monica Cisneros, Deputy City Clerk  
of the City of Livingston

**APPROVED AS TO LEGAL FORM**

---

Roy C. Santos, City Attorney



## CITY OF LIVINGSTON

### REQUEST FOR PROPOSALS

#### EXECUTIVE RECRUITMENT FOR CITY MANAGER

ISSUED \_\_\_\_\_, 2024

The City of Livingston is soliciting proposals from qualified individuals and consulting firms for recruitment of a City Manager. The purpose of this Request for Proposal (RFP) is to request proposers to present their qualifications, capabilities, and approach to provide recruitment services to the City for the position of City Manager.

#### 1. BACKGROUND

The City of Livingston (the "City") (population 14,000), is a small, family oriented community in Merced County. Located along State Highway 99 in the California Central Valley, Livingston is centrally located from major population centers like San Jose, Sacramento, and Fresno while being close to recreational attractions such as Yosemite National Park.

The City was incorporated in 1922 as a general law city under a Council-City Manager form of government. The Council is composed of five members, being the Mayor and four council members.

The City is experiencing significant growth from urban and commercial development. Through all the projects embarked, the City's main focus is to provide its residents quality services while retaining their family focused values.



## 2. SCOPE OF WORK

The scope of services includes:

- Meet with City Council to obtain information regarding the expectations, challenges, requirements and responsibilities of the position.
- Meet with key City employees to obtain information about the City, including demographics, budget, and organizational structure.
- Meet with stakeholder groups or committees as directed by the City Council to facilitate the development of an appropriate candidate profile and list of priorities for the new City Manager.
- Update job description for City Manager position.
- Develop a position profile and advertising brochure.
- Develop an aggressive direct networking campaign for top talent.
- Place advertisements in select appropriate professional publications and on Internet bulletin Councils.
- Answer questions from candidates and collect application materials.
- Thoroughly screen applicants, including thorough face to face or videoconferences of viable candidates. Screening is to include background, criminal and credit checks, references, and media checks to ensure the finalists have backgrounds of highest integrity.
- Create a list of quality finalists.
- Meet with the City Council to review list.
- Assist in scheduling interviews of list of recommended candidates. Advise the City Council on interview strategies, appropriate questions and evaluation tools. Attend the interview sessions for semi-finalist candidates, as may be requested by City Council.
- Assist the City Council in selection of finalist(s) from those interviewed.
- Maintain all correspondence and record keeping throughout the process.
- Compile search documentation and prepare a final written summary of all work performed and outreach taken related to developing, conducting and completing the search.

The consultant or the City may propose additional tasks as deemed necessary to complete the assignment. Any additional work shall be compensated as agreed upon in the consultant's contract with the City.

### **3. PROPOSALS**

#### **3.1 Due Date and Format for Submission.**

Proposals must be submitted to the City by 4:00 P.M., \_\_\_\_\_, 2024. Faxed and emailed proposals will not be accepted. Proposals must be submitted in a sealed envelope clearly marked and labeled: **“PROPOSAL FOR EXECUTIVE RECRUITMENT SERVICES.”**

Six (6) copies and (1) unbound original, signed by an officer who is authorized to execute legally binding agreements shall be mailed or delivered to:

City of Livingston  
Attn: Monica Cisneros, Deputy City Clerk  
1416 C Street  
Livingston, CA 95334

#### **3.2 Cover Letter.**

A cover letter on Firm letterhead addressing the proposal should be submitted and be signed by an officer of the firm authorized to bind the Firm to all comments made in the proposal, and shall include the name, address, and phone number of the person(s) to contact who will be authorized to represent the Firm.

#### **3.3 Minimum Experience Qualifications Summary.**

Sufficient evidence as to the proponent's qualifications to perform the work is necessary. This may include former in-house experience and/or experience as a consultant. This information shall disclose and include pertinent facts and shall include at least a description of past performance on recruitments of similar type, scope, and size; project team members who worked on each project and their roles and percentage commitment of time on the project and any other pertinent information to demonstrate experience on similar assignments. In addition, please provide a statement regarding the proponent's ability to complete the work in a timely and professional manner.

#### **3.4 References.**

Provide a list of five references within last three years with current contact person, email address, and phone number who may be contacted regarding firm performance.

### **3.5 Cost Proposal.**

A cost proposal listing your standard professional hourly rates, a cost estimate for the scope of work outlined above, time for completion, and an estimate for reimbursable expenses (including method for charging). Please note the final scope of work and compensation will be negotiated with the selected proponent.

### **3.6 Proposed Method of Performance.**

Please provide information on how your firm intends to provide its services to the City if awarded the contract. Services provided must meet the minimum guidelines provided in the Scope of Services of this RFP. The following topics must be addressed:

- Your approach and methodology for developing a usable candidate profile that best reflects the needs of the City.
- Your advertising and marketing approach, to include at least three (3) sample advertising brochures from other recruitment projects your firm has conducted. If the sample brochures do not easily fit in this section of the submittal, they may be included at the end of your packet as an exhibit.
- Projected timeline for completion of the project.
- Methods, frequency, and extent to which customer satisfaction is measured and reported.

### **3.7 Other.**

Disclose any potential conflict of interest with this assignment.

## **4. DELIVERABLES**

- Digital and hard copy versions of all recruitment material must be delivered to [mcisneros@livingstonca.gov](mailto:mcisneros@livingstonca.gov) at the start of any advertising or marketing campaign to be included on the City's website.
- Consultant is expected to provide at least five (5) candidates who meet the candidate profile and position requirements for interviews. If the outcome does not produce at least two (2) final candidates for Council's consideration, the Council will have the option to instruct Consultant to continue the marketing and advertising campaign to solicit additional qualified candidates.

## **5. ACCEPTANCE OR REJECTION OF PROPOSALS**

### **5.1 Reservation of Rights.**

The City reserves the right to select the successful proposal and negotiate an agreement as to the scope of services, the schedule for performance and duration of the services with proponents whose proposals is/are most responsive to the needs of the City. Further, the City reserves the right to reject any and all proposals, or alternate proposals, or waive any informality or irregularity in the proposal as it is in the City's best interest. Additionally, the City may, for any reason, decide not to award an agreement(s) as a result of this RFP. Non-acceptance of any proposal shall not imply that the proposal was deficient. Rather, non-acceptance of any proposal will mean that another proposal was deemed to be more advantageous to the City or that the City decided not to award an agreement as a result of this RFP.

### **5.2 Proposal Development Costs.**

The cost of preparing and submitting a proposal is the sole responsibility of the proponent and shall not be chargeable in any manner to the City.

## **6. GENERAL TERMS AND CONDITIONS**

### **6.1 Licensing Requirements.**

Any professional certifications or licenses that may be required will be the sole cost and responsibility of the successful proponent.

### **6.2 Insurance Requirements.**

Proponent, at proponent's sole cost and expense and for the full term of the resultant agreement or any extension, shall obtain and maintain at least all of the insurance required by the City for consultants.

## **7. SELECTION PROCESS**

### **7.1 Selection Criteria.**

Proposals will be evaluated on, but not limited to, the following criteria:

1. General Competence and comparable experience.
2. Experience on similar recruitments.
3. Approach to the scope of work and understanding of the assignment.
4. Satisfactory record of performance on similar recruitments.

5. Ability to commence services immediately.
6. Conformance with the proposal guidelines and format outlined in this RFP.
7. Cost.

**7.2 Tentative Selection Schedule – Subject to Change.**

Issue Request for Proposals	May 8, 2024
Submission Deadline	May 31, 2024
Selection by City Council	June 4, 2024

**8. Questions and Inquiries**

Any and all questions regarding this RFP must be submitted by email to: Monica Cisneros, Deputy City Clerk at: [mcisneros@livingstonca.gov](mailto:mcisneros@livingstonca.gov). Substantive questions and responses will be posted on the City's website.

# STAFF REPORT

**AGENDA ITEM:** Consideration of an Ordinance of the City Council of the City of Livingston Repealing and Replacing a Portion of Chapter 4 of Title 7 of the Livingston Municipal Code Pertaining to Fireworks.

**MEETING DATE:** May 7, 2024

**PREPARED BY:** Roy Santos, City Attorney

**REVIEWED BY:** Christopher Lopez, Interim City Manager

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## **RECOMMENDATION:**

Waive the First Reading of the Ordinance by Title Only, Open the Public Hearing, Close the Public Hearing and Approve the Ordinance as Presented.

## **BACKGROUND AND DISCUSSION:**

Over the last several years, the City of Livingston has experienced a proliferation in the use of illegal fireworks. The Livingston Police Department experiences a high volume of incoming calls related to illegal aerial fireworks throughout the year and particularly in the days leading up to the Fourth of July holiday. An average of 19,000 fires were reported across the country on the Fourth of July in recent years and many were attributed to fireworks. Fires have the potential to cause personal injury, as well as damage to homes, vehicles, and other property. In 2021, Cal Fire reported that there were 916 firework related fires in the State, which caused \$3,293,844 in property loss, \$1,319,804 in content loss, 2 firefighters injured, and 472 acres burned. The City of Livingston is surrounded by vegetation and many older structures that are constructed of wood materials, which are at high risk of catching fire.

In 2023, the Mayor and City Council amended the Municipal Code to enact stricter penalties for the use of illegal fireworks.

The major components of the existing ordinance are as follows:

1. Any person who possesses, uses, stores, sells, or displays dangerous illegal fireworks, guilty of an infraction.
2. For the first violation, the individual is subject to a fine of one hundred thirty dollars (\$130.00).
3. For the second violation in a twelve-month period, the individual is subject to a fine of seven hundred dollars (\$700.00).
4. For the third and each subsequent violation in a twelve-month period, the individual is subject to a fine of one thousand three hundred dollars (\$1,300.00).
5. Additionally, for commercial properties improved with a building at the time of the violation, two thousand, five hundred dollars (\$2,500.00) for each subsequent violation within a two-year period.

In 2024, the Mayor and Council directed the City Attorney's Office to again amend the Code to provide for stricter penalties. The proposed ordinance highlights are included below:

1. The administrative citation penalty for all violations of this Chapter, within a rolling twelve-month period shall be as follows:
  - (a) One thousand dollars (\$1,000.00) per violation. Each violation of this Chapter shall be as separate violation. In addition, each discharge of a firework in violation of this Chapter shall be a separate violation; and as a result, subject to administrative penalties in the amount of one thousand dollars (\$1,000.00) per discharge of a firework in violation of this Chapter.
2. A violation of this Chapter shall be criminally charged as a misdemeanor. In addition to any other remedy allowed by law, anyone who violates this Chapter is subject to all remedies available pursuant to the Livingston Municipal Code. Violations of this Chapter are declared to be a public nuisance. Anyone who violates this chapter shall be liable for all the costs incurred by the City, including but not limited to attorney's fees and administrative processing and/or enforcement, relating to the violation. Any fines pursuant to this chapter, if delinquent, may be recoverable by property lien or special assessment.

**FISCAL IMPACT:**

The proposed ordinance may increase City policing costs for enforcement. Enforcement of the proposed ordinance may offset some of any costs that arise.

**OPTIONS:**

1. Waive first reading, read by title only, and introduce the proposed Ordinance;
2. Waive first reading, read by title only, and introduce the proposed Ordinance with direction to staff for changes; or
3. Reject the proposed Ordinance entirely.

**ATTACHMENTS:**

1. Proposed Ordinance

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVINGSTON  
REPEALING AND REPLACING A PORTION OF CHAPTER 4 OF TITLE 7 OF THE  
LIVINGSTON MUNICIPAL CODE PERTAINING TO FIREWORKS**

**WHEREAS**, the City of Livingston (“the City”) has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the City, California Constitution Article XI, section 7; and

**WHEREAS**, the City wishes to repeal and replace regulations governing fireworks penalties at this time; and

**WHEREAS**, absent clear regulation there is a potential threat to the public peace, health, and safety, and, unless the City takes action to regulate it, the secondary impacts; and

**WHEREAS**, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, and in preserving the peace and quiet of the neighborhoods within the City by regulating fireworks; and

**WHEREAS**, nothing in this Ordinance shall be construed to: (1) allow any person to engage in conduct that endangers others or causes a public nuisance; or (2) allow any activity which is illegal under state or federal law.

**NOW THEREFORE**, the City Council of the City of Livingston does hereby ordain as follows:

**SECTION 1.** The above recitals are incorporated are hereby by reference.

**SECTION 2.** The Ordinance is exempt from the California Environmental Quality Act (“CEQA”) because it can be seen with certainty that there is no possibility that it will have a significant effect on the environment. (CEQA Guidelines § 15061(b)(3).) It is also exempt because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of unregulated cannabis cultivation. (CEQA Guidelines §§ 15307 and 15308.)

**SECTION 3.** Chapter 4, of Title 7, of the Livingston Municipal Code is repealed and replaced and shall read as follows:

**Chapter 4**

**FIREWORKS**

**Section 7-4-16 Administrative Penalties.**

~~7. A violation of this section shall be charged as an infraction punishable by a fine not exceeding \$2,500, pursuant to Livingston Municipal Code Title 1, Chapter 4, subsection (E). In addition to any other remedy allowed by law, any host who violates this section is subject to all~~



~~remedies available pursuant to the Livingston Municipal Code. Violations of this Chapter are declared to be a public nuisance. Any host who violates this section is liable for all the response costs relating to the violation. Any fines pursuant to this section, if delinquent, may be recoverable by property lien or special assessment.~~

- (D) The administrative citation penalty for all violations of this Chapter, within a rolling twelve-month period shall be as follows:
- (1) One thousand dollars (\$1,000.00) per violation. Each violation of this Chapter shall be as separate violation. In addition, each discharge of a firework in violation of this Chapter shall be a separate violation; and as a result, subject to administrative penalties in the amount of one thousand dollars (\$1,000.00) per discharge of a firework in violation of this Chapter.
- (E) A violation of this Chapter shall be criminally charged as a misdemeanor. In addition to any other remedy allowed by law, anyone who violates this Chapter is subject to all remedies available pursuant to the Livingston Municipal Code. Violations of this Chapter are declared to be a public nuisance. Anyone who violates this chapter shall be liable for all the costs incurred by the City, including but not limited to attorney's fees and administrative processing and/or enforcement, relating to the violation. Any fines pursuant to this chapter, if delinquent, may be recoverable by property lien or special assessment.

#### **SECTION 4: EFFECTIVE DATE.**

This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

**I HEREBY CERTIFY** that the foregoing Ordinance was introduced by the City Council after waiving reading, except by Title, at a regular meeting thereof held on the 7<sup>th</sup> day of May 2024, and adopted the Ordinance after the second reading at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_ 2024, by the following roll call vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

**ATTEST**

\_\_\_\_\_  
**Monica Cisneros, Deputy City Clerk**

**CITY OF LIVINGSTON**

By: \_\_\_\_\_  
**Jose Moran, Mayor**

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
**Roy C. Santos, City Attorney**

I, \_\_\_\_\_, Deputy City Clerk of the City of Livingston, California,  
DO HEREBY CERTIFY that the foregoing is a true and accurate copy of the Ordinance passed  
and adopted by the City Council of the City of Livingston on the date and by the vote indicated  
herein.