



City of Lindsay

It Must Take Substantial Action to Address
Its Financial Problems and Its Inadequate
Management Practices

August 2021

REPORT 2020-804





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August 26, 2021
2020-804

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office presents this audit report regarding the city of Lindsay (Lindsay), which we conducted as part of our high-risk local government agency audit program. Our assessment focused on Lindsay's financial and operational risks, and we found that the city is at high risk because of its financial problems and management practices.

Lindsay has improved the condition of its general fund over the past several fiscal years, and it appears to have recently met recommended reserve levels. However, this apparent turnaround was largely because the city forgave more than \$6 million in loans from restricted funds to its general fund, a violation of Proposition 218, which restricts the use of certain local government funds. This unlawful action has exposed the city to possible litigation from taxpayers and utility ratepayers, and it obscures what we estimate to be a general fund deficit of more than \$3 million as of June 30, 2020, instead of its apparent surplus.

Because of both Lindsay's loan forgiveness and the fact that it has not regularly updated the fees and rates it charges for city services and utilities, it lacks resources in some of its utility funds. The city's water fund recently incurred a nearly \$1 million deficit and is unable to pay for necessary infrastructure projects, forcing Lindsay to seek to increase ratepayers' water rates. Not only has Lindsay forgone revenue by not adjusting the majority of its fees and rates for years, its general fund must now cover some of the city's costs to provide utilities and other services. Finally, the city lacks a long-term financial plan to adequately address its financial problems, which include the need to pay for its aging public safety vehicles and retirement obligations, such as its retiree health care costs.

Among the actions we believe the city should take to address our concerns, we recommend that Lindsay develop a plan to fully repay its utility funds for the loans it unlawfully forgave, implement a plan to update its fees and rates, and formally adopt a long-term financial plan that addresses its liabilities and financial stability.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA
California State Auditor

Selected Abbreviations Used in This Report

CalPERS	California Public Employees' Retirement System
GFOA	Government Finance Officers Association
HCD	California Department of Housing and Community Development
OPEB	other post-employment benefit

HIGH RISK ISSUES

City of Lindsay, Tulare County

Risk Designation: **High Risk**

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Risks the City of Lindsay Faces

The City of Lindsay (Lindsay) faces several significant risks related to its financial and operational management, and it would benefit from better long-term planning. In November 2019, the California State Auditor’s Office (State Auditor) informed the city that Lindsay had been selected for review under the high-risk local government agency audit program. This program authorizes the State Auditor to identify local government agencies that are at high risk for potential waste, fraud, abuse, or mismanagement or that face major challenges associated with their economy, efficiency, or effectiveness.

We first identified that Lindsay might be at high risk based on publicly available audited financial statements and unaudited pension-related information from the California Public Employees’ Retirement System. Table 1 summarizes our risk assessment of the last three fiscal years of Lindsay’s financial indicators. We conducted a review in December 2019 and identified concerns regarding its financial stability, including its continued operating deficits, its use of funds restricted for other purposes to support the general fund, and other operational risks, such as its approach to providing public safety with combined police and fire services. For example, Lindsay used funds from its water utility to pay general city expenses, a violation of state law, and it has not planned for the expensive replacement of very old vehicles that its Public Safety Department is using. After approval from the Joint Legislative Audit Committee, we began our audit of the city in January 2021.

Table 1
Some of Lindsay’s Risk Indicator Levels Have Recently Improved

	FISCAL YEAR		
	2017–18	2018–19	2019–20
General Fund Reserves	High	High	Low*
Debt Burden	High	High	High
Liquidity	High	High	Low*
Revenue Trends	Low	Low	Moderate
Pension Obligations	Moderate	Moderate	Moderate
Pension Funding	Moderate	Moderate	Moderate
Pension Costs	Moderate	Moderate	Moderate
Future Pension Costs	High	High	High
Other Post-Employment Benefit (OPEB) Obligations	Low	Low	Low
OPEB Funding	High	High	High

Source: Analysis of risk indicator levels.

* The improvement in Lindsay’s general fund reserves and liquidity levels that resulted in its “low risk” ratings for fiscal year 2019–20 are misleading because they are primarily the result of unlawful forgiveness of loans from its utility funds to its general fund in violation of Proposition 218, which we describe further in the report.

Lindsay has taken several steps to improve its financial condition; for example, it has reduced expenditures and increased revenues through an increased sales tax and by permitting certain cannabis businesses. However, our audit found that the city has made some questionable decisions that violated state law, and until it addresses these decisions, it will struggle to create a sustainable financial future. For example, as of June 30, 2020, the city had nearly a \$3.2 million surplus in its general fund, the result of turning its \$9.5 million general fund deficit into a surplus over the course of the three previous fiscal years. However, this

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turnaround was largely accomplished by forgiving major loans from its utility funds to its general fund in 2019. The city's decision to forgive these loans violated Proposition 218, which was passed in 1996 and restricts how cities can use funds derived from property-related fees and charges, such as for water and sewer utility services. Because the city used fees paid by utility ratepayers for general government purposes rather than for utility projects and expenses, the city may be liable for a repayment of more than \$6 million. If utility ratepayers decide to sue, are successful, and obtain monetary relief, court orders, or attorneys' fees, the city will face significant financial hardship, and it would have a negative general fund balance of more than \$3 million instead of its current surplus. We also found that Lindsay violated a different provision of Proposition 218 through fund transfers to its Street Improvement Program (streets program). Although Proposition 218 restricts the use of utility funds, a nonutility fund may be reimbursed for costs it incurs on behalf of the utility, so long as the city demonstrates that those amounts reasonably represent the cost of street repairs and maintenance that result from damage, such as leaking, caused by those utilities. However, we found that Lindsay has failed to demonstrate that the nearly \$900,000 it has been annually transferring from its utility funds to the streets program comply with that provision of the law.

As a result of Lindsay's unlawful loan forgiveness, as well as the fact that it has not regularly updated the fees and rates it charges for city services and utilities, it lacks resources in some of its utility funds, which creates risk to its ability to meet its infrastructure needs. For example, when Lindsay forgave nearly \$2 million in loans from its Water Fund to its general fund, it no longer had the capital necessary to pay for certain water infrastructure projects in the city. Recently, because the city's Water Fund has incurred a nearly \$1 million deficit, Lindsay has sought

to increase ratepayers' water rates to fund its utility operations and future infrastructure needs. In general though, Lindsay has not adjusted the majority of its fees and rates for years, likely resulting in missed revenues. These outdated rates may no longer cover the city's costs to provide utilities, such as the cost to maintain its water system, and other services. As a result, the city's general fund must cover these costs, but it has a limited capacity to do so.

Lindsay would benefit from better long-term planning. Although the city has worked to increase revenues, reduce expenses, and decrease its liabilities, it must make additional substantial efforts to address its financial management problems and ensure that it can afford to maintain its services for its residents into the future. Lindsay does not currently have a long-term financial plan, which would provide useful insight into its future financial situation and help the city develop and deploy strategies for long-term sustainability. Instead, Lindsay has relied only on its annual budget process to address its short-term financial problems. The city also lacks plans to address its growing costs for its employees' post-employment health benefits and to replace its aging police and firefighting vehicles. Without a long-term financial plan to ensure that the city is proactive and transparent about addressing and resolving its fiscal challenges, including its Water Fund deficit, Lindsay continues to be at high financial risk.

To help Lindsay address the risk factors we identified, we developed numerous recommendations the city should implement, including the following:

- Address past violations of state law by developing and implementing a plan to fully repay its utility funds and by documenting how the amount of utility funds it transfers to its streets program accurately reflects the allowable costs.

- Develop and implement a plan that includes an update to its fees and rates to ensure that it has the necessary resources in its enterprise funds to pay for needed infrastructure.
- Formally adopt a long-term financial plan that addresses its liabilities, including its post-employment benefit liabilities and all of its infrastructure and capital needs.

Agency's Proposed Corrective Action

Lindsay disagreed with several of our conclusions, including that its unlawful loan forgiveness violated Proposition 218. Nonetheless, it did agree with some of our recommendations and highlighted various efforts that it has taken or plans to take to address its financial condition. However, because Lindsay did not submit a corrective action plan as part of its response, we look forward to receiving the plan by November 2021 to understand the specific actions it has undertaken or plans to take to address the conditions that caused us to designate it as high risk.

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Introduction

The city of Lindsay (Lindsay), located in Tulare County, has approximately 13,000 residents. Lindsay is a *charter city* and therefore has authority over its municipal affairs and may establish certain local ordinances beyond those state law allows for *general law cities*.¹ For fiscal year 2020–21, Lindsay had 45 full-time budgeted positions. City staff provide many services to residents, including public safety, utilities, and recreational activities. Lindsay has combined its police and fire services into a single public safety department, and its practice is to cross-train its police officers in firefighting. The city operates under a council-manager form of government. Thus, the city’s voters elect officials to a five-member city council serving staggered four-year terms, and the council in turn appoints a city manager to execute the council’s actions and to act as the chief executive and administrative officer of the city. The city manager is also responsible for keeping the city council fully informed about Lindsay’s financial condition, including any financial challenges.

Background

Lindsay has undergone changes in important leadership positions, including a complete turnover in its city council members during the last three years. In March 2020, Lindsay hired a new city manager following the January 2020 resignation of the former interim city manager, who had simultaneously

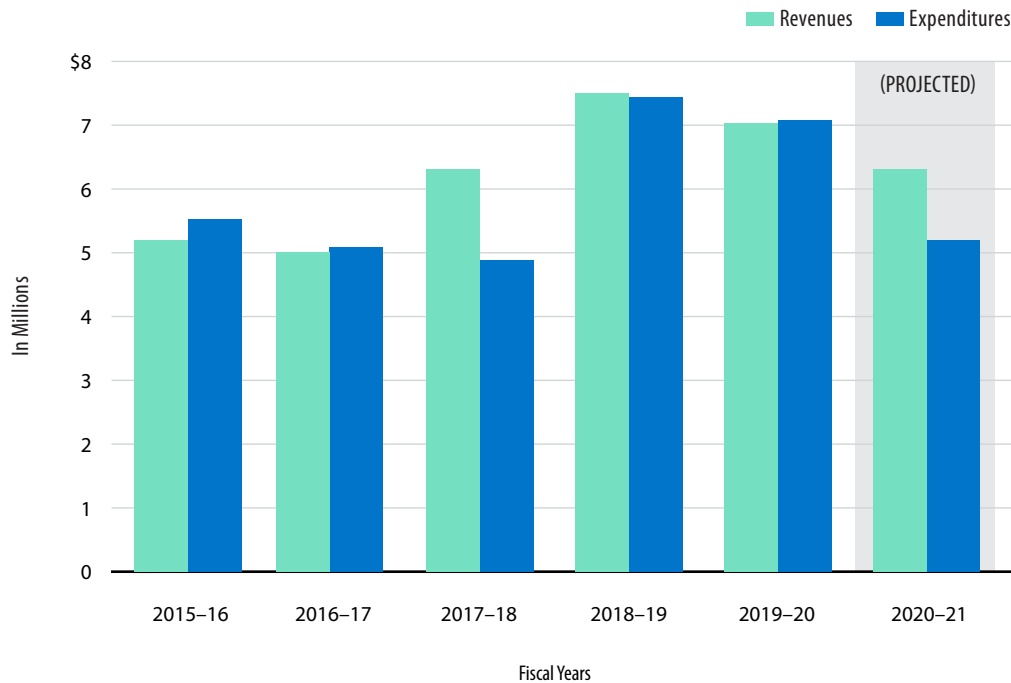
served as the finance director. The city hired a permanent finance director in May 2021, after filling the role on an interim basis with its subsequent city manager and later with a contracted finance director. The city manager and finance department prepare and administer the city’s annual budget, and the city council is responsible for safeguarding the city’s financial health and adopting its budget. In 2018 the city’s voters elected two of the current city council members. In 2020 the three other more experienced members stepped down from their positions. Just before stepping down, the five members of the city council appointed—in lieu of an election—three new members to replace the council members who were stepping down.

Lindsay’s general fund makes up nearly half of the city’s overall operating budget. For fiscal year 2020–21, Lindsay adopted a \$15 million operating budget, of which the general fund accounted for about \$6 million. Lindsay’s general fund revenues have fluctuated in the last five fiscal years, as shown in Figure 1. The city’s main source of income for its general fund is tax revenue, accounting for more than \$5 million in fiscal year 2019–20. The city also annually transfers nearly \$900,000 from its utility funds to the general fund’s Street Improvement Program (streets program) to pay for street repair and maintenance. The remainder of the city’s general fund revenue comes from other smaller sources, including revenue from licenses, permits, and fees. Under state law, Lindsay can use general funds for any legitimate governmental purpose, including funding basic city operations.

¹ Unlike a general law city, charter cities have the authority to adopt ordinances and regulations regarding municipal affairs that may be inconsistent with state law that is otherwise applicable to cities.

LOCAL HIGH RISK**Figure 1**

Lindsay's General Fund Revenues and Expenditures Have Fluctuated Over the Last Five Fiscal Years



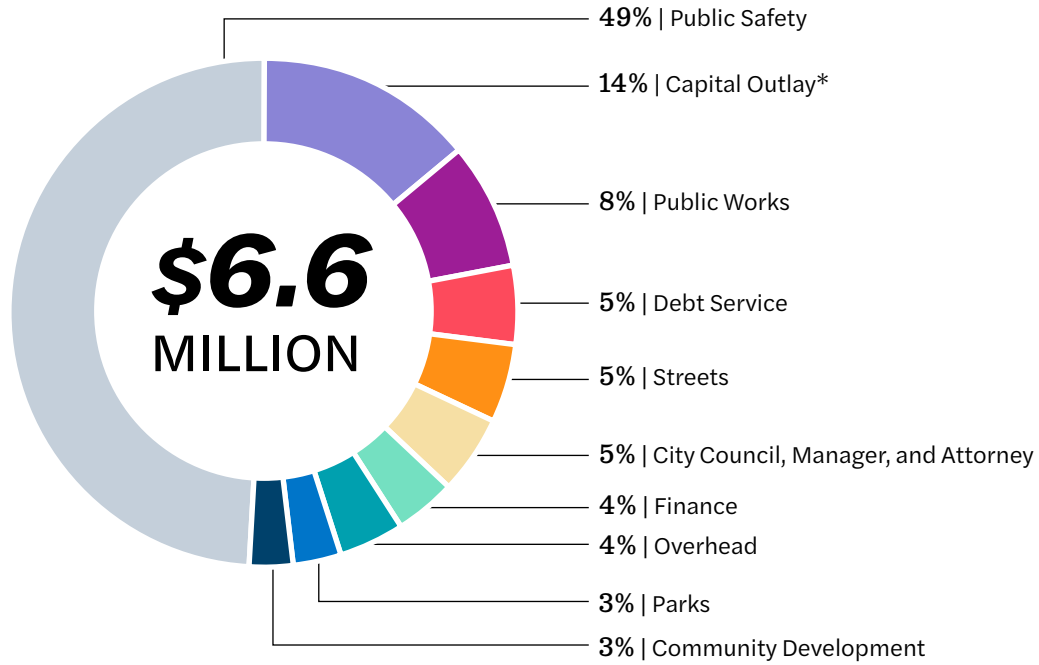
Source: Lindsay's audited financial statements for fiscal years 2015-16 through 2019-20 and its fiscal year 2021-22 budget.

Additionally, the city has revenue in its enterprise funds, which come from fees charged to users for city services, such as water distribution and waste collection. Proposition 218 requires the city to spend revenues derived from property-related fees and charges to benefit the users of those city services. Some enterprise funds that Proposition 218 affects include the Water Fund and the Sewer Fund, which property owners pay into for those services. Lindsay also maintains a Wellness Center Fund that users of its facilities pay to support; because property-related fees and charges are not used to support the fund, Proposition 218 does not apply to the Wellness Center Fund.

As highlighted in Figure 2, the majority of Lindsay's general fund expenditures pay for services such as public safety, public works, streets, and parks. The city also pays nearly \$200,000 annually for bond repayments

for the construction of the McDermont Field House sports complex. In 2008 the city completed construction of the sports complex, which is in a former citrus packing warehouse, intending for it to become a regional draw for sports competitions and to generate revenue for the city. However, the sports complex sustained annual operating losses of nearly \$1 million until the city leased the complex to a third-party operator in December 2017, which we describe further in the report.

Figure 2
Lindsay's Budgeted General Fund Expenditures for Fiscal Year 2021–22, by Category



Source: Lindsay's adopted budget for fiscal year 2021–22.

* The Capital Outlay category covers capital projects such as building improvements at city hall and purchasing police vehicles.

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Lindsay's Actions Raise Doubt About the Financial Stability of Its General Fund

In Improving Its Financial Condition, the City Violated State Law, Exposing It to Litigation

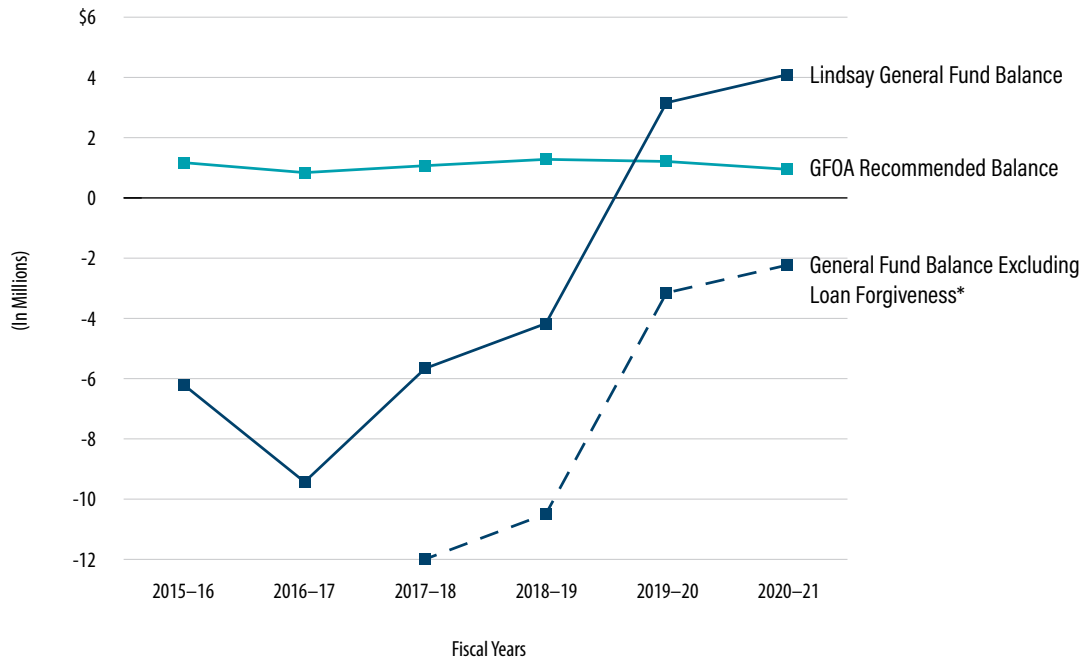
Lindsay artificially improved its financial condition by unlawfully forgiving loans, which created liabilities that undermine its future financial condition. After years of deficits, the city achieved a general fund surplus of nearly \$3.2 million in fiscal year 2019–20, a \$12.6 million improvement from fiscal year 2016–17, when it had a deficit of nearly \$9.5 million. The general fund balance is the accumulated amount of revenues over expenditures. However, much of the improvement in Lindsay's general fund balance was due to a substantial loan forgiveness decision that was unlawful. The city violated state law when it forgave \$6.3 million in loans that it had previously made to its general fund, including about \$2 million each from its Water Fund and Sewer Fund with the remainder coming from other funds, including its Street Improvement Fund. Specifically, state law as amended by Proposition 218, restricts cities from using revenues derived from property-related fees and charges to pay for general government operations. Although state law allows a city to temporarily loan restricted funds to its general fund, here the city's forgiveness effectively converted those restricted funds into general funds, a violation of state law. Half of the city's financial improvement since fiscal year 2016–17 thus was a result of this unlawful action. Without the loan forgiveness, we estimate that Lindsay's general fund would have had a \$3.2 million deficit in fiscal year 2019–20 rather than the surplus it presented in its financial statements.

Although the city's recent general fund balance appears to have met recommended levels, Lindsay's loan forgiveness makes that surplus misleading. The Government Finance Officers Association (GFOA) recommends that cities maintain a general fund balance sufficient to cover at least two months of operating expenses.² The GFOA makes this recommendation so that cities can mitigate current and future financial risks, including unplanned expenditures or revenue shortfalls. However, as Figure 3 shows, from fiscal years 2015–16 through 2018–19, Lindsay's general fund balance was below the GFOA recommendation. The city finally met the minimum level in fiscal year 2019–20 but only by inappropriately forgiving the \$6.3 million in loans.

To sustain its basic operations in the face of budget deficits over many years, Lindsay made transfers totaling \$6.3 million from its restricted funds to its general fund and subsequently formalized those transfers as loans, which was allowable; but then in February 2019, it forgave the loans in violation of state law. Table 2 shows the amount of each restricted fund that the city transferred to its general fund. The city's financial statements show that it made the transfers over several years, at least as far back as fiscal year 2009–10, so that its general fund could maintain the city's basic operations. Before October 2017, the city inappropriately presented these transfers in its annual financial statements as short-term loans that it expected to pay back within one year. However, the city's external auditor

² The GFOA represents public finance officials, and its mission is to advance excellence in public finance, which it does by publishing best practices for governments to follow.

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Figure 3**Lindsay Recently Met the Minimum Recommended General Fund Balance Threshold Because of Its Unlawful Loan Forgiveness**

Source: Lindsay's audited financial statements, adopted budget for fiscal year 2021-22, and GFOA best practices.

Note: The general fund balance noted for fiscal year 2020-21 is a projection, as the city does not expect to complete the financial audit of these numbers until 2022.

* Although Lindsay forgave the loans in February 2019, the city did so as part of finalizing its fiscal year 2017-18 financial statements. For accounting purposes, the forgiveness took place in that fiscal year and therefore first appears in the city's fiscal year 2017-18 financial statements.

had recommended since at least fiscal year 2009-10 that the city stop presenting them as *short-term loans* because its general fund did not have enough funds to repay them on that schedule. State law allows a city to loan money from a restricted fund to the general fund if the action meets three conditions: the restricted fund has a surplus, the loan does not interfere with the purpose of the restricted fund, and the borrowing fund repays the loan as soon as possible. In October 2017, the city council formalized the loans to its general fund, changing them from short-term to long-term with interest and with dates on which it expected to repay the funds. The city did not violate state law by formalizing the loans, and its actions would

have been appropriate if it had eventually repaid the loans and the interest, but it chose not to do so.

Instead, Lindsay forgave the loans because it believed that it did not have better options for resolving its financial difficulties. In its fiscal year 2016-17 financial audit, the city's external auditor concluded that the loans raised significant doubt about the city's ability to meet its financial obligations because it could not repay them in a timely manner. In response, in February 2019 staff asked the city council to formally forgive the \$6.3 million in loans to the general fund, which would resolve the external auditor's finding. Specifically, staff noted in that request that if the city did not forgive the loans, it would

receive a finding from its external auditor on its upcoming financial statements that the city was insolvent. However, the staff report did not identify other options for the city to consider when it forgave the loans, such as adjusting the repayment schedule for the loans or issuing municipal bonds to cover its deficits. The former finance director indicated that the city was aware that forgiving the loans potentially violated state law and that it did consider other options before forgiving the loans, including adjusting repayment schedules and bankruptcy. He indicated that the city ruled out those options and that forgiving the loans was the only option it had at the time to address the city's financial difficulties. However, as we discuss above, forgiving the loans violated state law, and we therefore do not believe it was an appropriate action for the city to take.

By forgiving the loans, the city violated Proposition 218, and doing so has exposed it to possible litigation from taxpayers and utility ratepayers. Specifically, Proposition 218 amended the California Constitution to prohibit local governments from spending revenues from property-related fees and charges on general government operations. Lindsay's restricted funds include its utility funds, which receive revenue from property-related fees charged to utility ratepayers, which we refer to as *utility rates*. By forgiving the loans, the city transferred \$6.3 million from its utility funds to its general fund, including about \$2 million each from the Water Fund and the Sewer Fund, as Table 2 shows. The city uses its general fund to pay for services including police, fire, and city administration. By transferring revenues from property-related fees to pay for these services, the city violated Proposition 218. In fact, the city has known about this violation for several years because its external auditor identified in each of the city's past three financial audits that its actions had violated Proposition 218. The city manager indicated that the city would like to repay the Water Fund and Sewer Fund, but explained that it

has only informally discussed this potential repayment and does not have a formal plan for doing so. However, because the city currently does not have a sufficient general fund balance to repay these loans, it would need to do so over multiple years. Although the city confirmed that no one has made a claim for refund or sued it yet, its ratepayers may choose to do so, which could result in the city being liable for monetary relief, court orders, and attorneys' fees if the ratepayers are successful.

Table 2
Lindsay Transferred \$6.3 Million From Restricted Funds to Its General Fund Over Many Years (In Thousands)

FUND	AMOUNT TRANSFERRED
Street Improvement*	\$1,557
Water	1,907
Sewer	2,108
Refuse	402
Other†	358
Total	\$6,332

Source: Staff report, city council resolution, and audited financial statements.

* Lindsay's Street Improvement Fund contains dollars from the Water, Sewer, and Refuse utility funds. However, the city did not provide a breakdown of the amounts within the Street Improvement Fund that came from each of the utility funds.

† Other funds include a Park Improvement Fund and a Storm Drain Fund.

Lindsay Has Not Ensured That Its Streets Program Complies With State Law

In addition to its unlawful loan forgiveness, Lindsay has also violated Proposition 218 by transferring money from its utility funds to pay for its streets program. As described previously, Proposition 218 restricts cities from using revenues derived from property-related fees and charges, such as utility rates, to pay for general government operations. However, state law does allow local governments to charge

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their utilities for the cost of street repairs and maintenance that result from damage by those utilities. For example, the water utility's water lines run underneath city streets and may cause damage to the streets through leaks and projects to replace or repair the lines. Under Proposition 218, the city must demonstrate that a charge for repairs or replacement reasonably represents these costs.

In 2004 the city published a study of its water, sewer, and refuse rates and increased them, in part, to fund its streets program, which pays for the damage to the streets caused by the city's utility operations. However, Lindsay did not demonstrate that the amount generated by the rate increases represented the actual costs of the damage those utilities caused. For instance, Lindsay could have had the engineer in charge of the study analyze and report the damage that each type of utility had caused to its streets so as to identify what the appropriate amount would be to charge each fund going forward. Instead, the city began transferring a flat 23.6 percent of all its utility rates to its streets program and continues to do so today. These transfers averaged nearly \$900,000 annually during fiscal years 2017–18 through 2019–20.

The finance director indicated that she does not know whether the 23.6 percent is currently appropriate. For example, the current rate does not account for the greater wear that the finance director indicated heavier refuse vehicles are causing to its roads. However, the city acknowledged that it has never performed an analysis to demonstrate how much damage its utilities cause and how much it should be paying to the streets program to cover these damages. Until it performs this analysis, the city will not know whether it is using funds to pay for street projects that it should be spending instead on utility infrastructure. In addition, the city may be using utility ratepayer funds for nonutility purposes, such as paying to improve streets that the city's utilities did not

actually damage, which again state law does not allow. If so, this unsupported transfer would violate Proposition 218 and could expose Lindsay to litigation from its taxpayers and utility ratepayers.

Lindsay Has Found New Sources of Revenue in Recent Years, but These Have Not Adequately Improved Its Financial Condition

To improve its financial stability, Lindsay has employed several approaches to generate additional revenue. For example, the city council placed a proposed local 1 percent increase to its sales tax on the ballot, which it estimated would generate approximately \$900,000 annually and which Lindsay's voters approved in June 2017. The tax is a general sales tax, and the city may use its revenue for any legitimate government purpose, such as public safety, infrastructure, and general services. The tax became effective in October 2017 and has generated \$1.1 million in revenue annually—more than the city initially projected. In fiscal year 2019–20, the sales tax accounted for more than 15 percent of Lindsay's general revenues. Lindsay's external auditor acknowledged in the city's fiscal year 2018–19 financial statements that the sales tax is bringing needed revenue to the city.

The city has also worked to increase revenue by adopting an ordinance in May 2019 permitting certain cannabis businesses, including retailers and cultivators, to operate in the city. State law authorizes local governments to regulate or ban these activities, and the city's ordinance allows it to issue permits and collect fees. The city subsequently collected nearly \$100,000 in revenue from cannabis businesses for fiscal year 2019–20, although that was less than the \$125,000 it had budgeted for the year. However, the city budgeted \$175,000 in revenue earned from cannabis retailers and cultivators for fiscal year 2020–21, and cannabis-related revenues exceeded

those expectations. The city now projects in its budget for fiscal year 2021–22 that it will receive \$300,000 in cannabis-related revenues. The city manager believes that the expansion of the cannabis industry in Lindsay is a key component to increasing the city's revenue.

In addition, Lindsay will receive significant revenue from the federal government for COVID-19 relief that it can use for a variety of purposes. In March 2021, Congress passed the \$2 trillion American Rescue Plan Act of 2021 (American Rescue Plan), which includes funding for state and local governments based on their populations. Federal law allows cities to use these funds to respond to the negative effects of the COVID-19 pandemic, to make up for lost revenues, or to make investments in utility infrastructure. In June 2021, the federal government provided the first batch of funds to California, which is responsible for distributing the funds using a federal allocation formula for cities with populations under 50,000, which includes Lindsay. The American Rescue Plan requires states to distribute the funds using a population-based formula. The Department of Finance has initially identified an allocation of \$3.2 million to Lindsay over two years from that act, and the city should receive \$1.6 million each year in 2021 and 2022.

Lindsay has not yet specifically planned how it will spend all of these funds. According to the city manager, the city intends to use at least part of the funding to perform needed capital work on its water and sewer infrastructure. In its fiscal year 2021–22 capital improvement plan, the city indicated it would use American Rescue Plan funding for some projects, but it did not identify which ones. Until it develops a plan that describes how it will spend these funds on its highest needs, the city risks not using them appropriately. For example, the city has various needs that the American Rescue Plan money could help address, such as to pay for services to help those of its residents

most negatively affected by COVID-19 and updating its water and sewer infrastructure. The city must determine which of its needs it will fund with the American Rescue Plan money.

Similarly, in 2020 the city received other federal funding to help it respond to the COVID-19 pandemic. Specifically, the city received \$160,000 in federal COVID-19 relief from the Coronavirus Aid, Relief, and Economic Security Act, known as the CARES Act, for COVID-19-related expenses. These funds had more restrictive provisions than the American Rescue Plan funds, and the city used them to pay its employees a hazard supplement for providing services that increased their risk of exposure to COVID-19, as provided in the federal guidelines.

The City Reduced Some Liabilities and Expenditures, Which Partially Improved Its Finances, but Other Financial Problems Remain

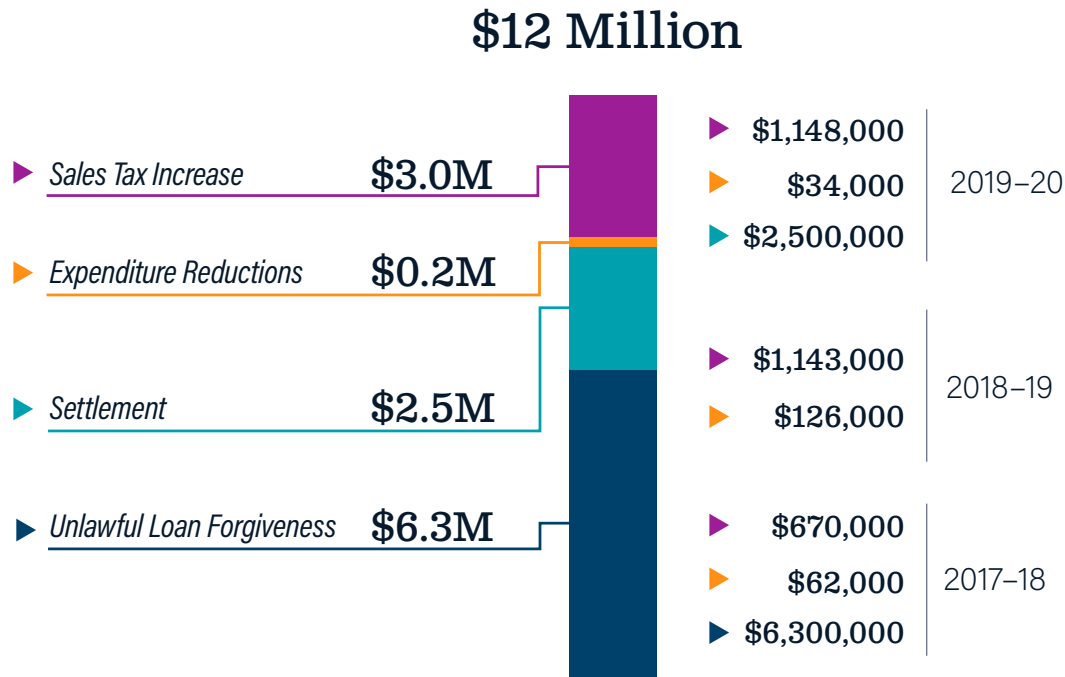
Lindsay also improved its financial position by reducing expenditures and addressing several significant liabilities that were driving its general fund deficit. Between fiscal years 2016–17 and 2019–20, the city moved its unrestricted general fund balance from a nearly \$9.5 million deficit to a nearly \$3.2 million surplus. As Figure 4 shows, this approximately \$12.6 million improvement primarily was the result of Lindsay's unlawful forgiving of loans and increasing its sales tax. In addition, Lindsay reached settlement agreements that reduced the impact of a large long-term liability on the general fund.

Lindsay reduced its expenditures in several ways. Between fiscal years 2015–16 and 2019–20, it lowered its annual expenditures for operating the city government by \$600,000, or 45 percent. A total of \$400,000 of this reduction was before fiscal year 2016–17 and, as Figure 4 shows, about \$200,000 was after fiscal year 2016–17. It achieved the \$600,000 in reductions

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Figure 4

Several Factors Contributed to Lindsay's General Fund Balance Turnaround From Fiscal Years 2016–17 Through 2019–20



Source: Lindsay's audited financial statements and city council minutes.

Note: From fiscal years 2016–17 through 2019–20, the city improved its general fund balance by \$12.6 million in total. Figure 4 shows the impact of specific actions the city took to improve the general fund balance and does not account for all of the general fund improvement.

by reducing staff, among other things. Specifically, the city eliminated 36 positions, nearly half of its previous staffing level. Although the city manager believes the city has sufficient staff to provide essential services, he noted that further reductions to city staffing levels would negatively affect its ability to do so. Additionally, it limited staff training costs by approving only its most critical training needs, such as those related to its police officers.

Lindsay also previously operated a sports complex, which it built in 2008 to be a regional attraction and a revenue source for the city. Lindsay paid for its construction from its general fund. However, the sports complex's costs outpaced the revenues that it generated by more than \$1 million each

year in fiscal years 2015–16 and 2016–17, and by nearly \$1 million in fiscal year 2017–18. In response to the city's financial challenges, in December 2017 the city council leased the sports complex to a third party, which became contractually responsible for all expenses associated with operating the complex. In entering into this lease, the city no longer had to incur the sports complex's operating costs, which were nearly \$3 million in fiscal years 2015–16 and 2016–17, including the significant costs for its employees. However, the city continues to pay debt service costs of nearly \$200,000 annually related to a loan it entered into in 2009 to cover the sports complex's operational cash shortfalls.

Lindsay could earn money from this agreement if the sports complex is profitable after the deduction of maintenance costs. Under the terms of the lease, the operator of the complex must pay half of its annual net profit to the city each year. In 2018, its first full year of operations, the third-party operator did earn a small profit, of which it shared \$15,000 with the city. However, the third-party operator has not earned a profit since 2018.

Lindsay also saved money through legal settlements. In September 2020, Lindsay settled with the California Department of Housing and Community Development (HCD) over the city's inappropriate use of state and federal housing grant funds, which reduced its general fund deficit by \$2.5 million. The city had inappropriately used HCD program funds to pay for city-sponsored activities and to cover operating deficits in its general fund. Between 2008 and 2017, Lindsay borrowed HCD program funds to pay for operating deficits in its general fund, sports complex, and Wellness Center (Wellness Center). A result of the settlement agreement is that Lindsay no longer has to reflect a \$2.5 million liability in its general fund, which significantly improved that fund's balance. According to the terms of the settlement agreement, instead of requiring Lindsay to repay the \$2.5 million immediately, HCD required the city to make an initial payment of \$10,000, and 30 annual payments of roughly \$90,000 thereafter.

Lindsay also reached a settlement agreement with the California Department of Transportation (Caltrans) that reduced some of the city's financial obligations but did not change its general fund balance. Specifically, Caltrans found that Lindsay had billed it for services, materials, and labor costs that the city could not support with source documentation and that Lindsay mismanaged construction change orders for multiple projects it completed using state funding in the early 2000s. Caltrans initially demanded

that the city repay approximately \$1 million in fiscal year 2016–17. Following negotiations, in 2019 the city accepted a settlement offer from Caltrans that required repayment of nearly \$350,000, which the city must pay in equal installments over a seven-year term. Although this settlement did not increase the city's general fund balance, it significantly reduced the city's financial obligation to Caltrans and mitigated the potential financial burden of the repayment on the city's general fund.

Recommendations to Address This Risk

- *To address the \$6.3 million it improperly transferred to its general fund, Lindsay should, by February 2022, re-establish the loans to its restricted funds, and develop and implement a plan to fully repay those funds.*
- *To make prudent investments from federal funding to address its highest needs, Lindsay should develop a plan by November 2021 for how it will effectively use all American Rescue Plan funds.*
- *To ensure that its transfers of utility funds to the streets program comply with state law, Lindsay should perform a study to determine the appropriate level of funding from its utility funds for that program by August 2022 and update that study every three to five years.*

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Lindsay Must Increase Its Efforts to Address Deficits in Its Enterprise Funds

Deficits and Inappropriate Loan Forgiveness Led to Negative Balances in the City's Enterprise Funds, Limiting Its Ability to Effectively Operate Its Utilities

Lindsay's annual deficits and loan forgiveness have led to negative balances in its enterprise funds. Table 3 provides information on the balances of three of the city's main enterprise funds from fiscal years 2015–16 through 2019–20. Each of these funds is responsible for receiving and spending revenue for specific utilities, such as water and sewer, or the city's recreational services, which the city provides through the Wellness Center Fund. Two of these funds, the Water Fund and Wellness Center Fund, are currently in hundreds of thousands of dollars of deficit.

The Water Fund's nearly \$1 million deficit was caused by the city's loan forgiveness and by the city spending more than the fund receives in revenue from users. As we describe previously, in 2019 the city violated state law by forgiving a nearly \$2 million loan from the Water Fund to its general fund. Lindsay forgave the loan because it believed that the general fund could not realistically repay the Water

Fund; however, by doing so, the city created a deficit in the Water Fund of \$585,000.³ In addition, the Water Fund has operated at a loss in recent years, with operating deficits of \$143,000 in fiscal year 2018–19 and \$149,000 in fiscal year 2019–20. The cumulative effect of these two problems has led to a nearly \$1 million negative balance in the Water Fund at the end of fiscal year 2019–20, which Table 3 shows.

This deficit in Lindsay's Water Fund is limiting the city's ability to effectively operate its water system. Specifically, the Water Fund has no money for capital improvements or unexpected repairs to keep the system running safely and efficiently. In a 2019 budget presentation, the city indicated that its Water Fund could not adequately fund needed projects, such as replacing a main water line or renovating a water storage tank. Similarly, in Lindsay's fiscal year 2019–20 financial audit, city management stated that the Water Fund has no money available for unplanned maintenance or other necessary capital improvements. The city

³ This deficit appears in the fiscal year 2017–18 financial statements because of the timing and method of the loan forgiveness.

Table 3
Lindsay's Enterprise Funds Experienced Frequent Deficit Balances From Fiscal Years 2015–16 Through 2019–20 (In Thousands)

Fund	2015–16	2016–17	2017–18	2018–19	2019–20
Water	\$1,039	\$1,100	\$(585)	\$(771)	\$(966)
Sewer	(1,094)	1,253	(535)	36	341
Wellness Center	(940)	(879)	(283)	(360)	(319)

Source: Lindsay's audited financial statements.

Note: These amounts include the effect of both operating and nonoperating revenues and expenditures, and therefore the operating deficits discussed in the report do not correspond directly to these amounts.

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manager indicated that the city's general fund would need to pay for any emergency expenses that arise in the water system. The deficit in the Water Fund also leaves the city ill-prepared to manage crises, including the current drought. Governor Newsom declared a drought emergency in May 2021 in portions of the State, including Tulare County, where Lindsay is located. During a drought, households must conserve water, reducing their water usage; however, this conservation would likely reduce the utility revenues that the city receives through water rates. A reduction in revenue from the drought would drive the Water Fund into a deeper deficit.

“The deficit in the Water Fund also leaves the city ill-prepared to manage crises, including the current drought.”

The city's Sewer Fund is also unable to adequately fund projects. Lindsay's Sewer Fund had a positive balance at the end of fiscal year 2019–20, in contrast to its other enterprise funds; however, that positive balance is a result of the city not investing in its infrastructure. Specifically, the city has not had the resources to update its sewer infrastructure as needed, despite the positive balance. For example, although the city plans to replace its main sewer line, renovate its wastewater treatment plant, and replace equipment, it cannot do so with the limited resources in its Sewer Fund. As a result, the city is reviewing its sewer rates and may need to increase them to fund such infrastructure needs.

Although Lindsay has discussed some methods for addressing such deficits and limited resources, it lacks a formal plan to do so. As we describe previously, the city will receive

\$3.2 million in federal American Rescue Plan funds that it may use for utility infrastructure. Lindsay's city manager indicated that the city intends to use those funds for some necessary capital projects, including \$500,000 in water and sewer projects. However, the city has not determined whether this is the highest and best use of those funds. The city manager indicated that the city will develop a plan for spending those funds once the federal government issues final spending guidelines. The city also plans to contract for a utility rate study in the fall of 2021 that will include the Water Fund, Sewer Fund, and Refuse Fund, and potential adjustments to utility rates. However, until it receives the results of that study, the city does not know to what extent rate increases will address the current fund balances, including the Water Fund deficit. As we discuss above, the city improperly transferred nearly \$2 million from the Water Fund to the general fund. The city explained that it intends to repay the Water Fund from the general fund, but it does not have a formal plan to do so and has only informally discussed repayment.

The wellness center manages many of the city's parks and recreation functions, such as rentals at city parks, a recreation center, and a swimming pool. The Wellness Center Fund has had a deficit since at least fiscal year 2015–16, and it ended fiscal year 2019–20 with a \$319,000 deficit. The city uses general funds to cover the annual deficit in this fund. In fiscal year 2019–20, the city transferred \$200,000 from the general fund to the Wellness Center Fund. Similarly, the city projects that it will need to transfer \$500,000 from the general fund in fiscal year 2020–21, in part due to the pandemic. Although the wellness center uses important general fund resources, the center provides health and social benefits to city residents, and the city manager is not concerned with the city's use of general funds for this purpose. The city manager stated that because the fund provides for general parks and recreation expenses, including the swimming pool, the Wellness Center Fund is an extension of the city's general government activities.

In addition, the local hospital district contributes \$230,000 annually to the wellness center, which significantly reduces the center's operating loss. In 2021 the local hospital district increased its contribution by a total of \$375,000 over three years to pay for capital improvements at the wellness center. State law grants hospital districts in California the power to carry out activities that are necessary for the maintenance of good physical and mental health in the communities they serve. The local hospital district's activities in the area include supporting services at the wellness center. In part, because the city has partnered with the local hospital district to obtain resources to cover the operating loss of the Wellness Center Fund, we agree that the activities of the wellness center provide an important service to the residents of Lindsay and we do not have significant concerns about the deficit in this fund.

Lindsay Has Not Ensured That Its Service Fees and Utility Rates Sufficiently Cover Its Costs

Lindsay has not ensured that it collects sufficient revenue to cover the costs of services it provides because it does not periodically review and update its fees and rates. Further, the city may have foregone revenue that could help relieve some of its financial burdens. Under state law, a city can establish fees and rates at levels that allow it to recoup the full cost of services it provides as long as these do not exceed the reasonable costs of providing those services—a concept referred to as *full cost recovery*. The city's fees cover services such as issuing building permits and business licenses, facilitating background checks, and use of the wellness center. Lindsay's rates help pay for services such as water, sewer, and refuse collection.

We reviewed seven of more than 240 fees and rates in order to identify when the city last updated them, the city's cost of providing the related services, and whether the fees or rates cover the city's costs. Our selection included a residential water rate, two sewer rates, two

swimming pool fees, a planning fee, and a public safety fee. Although the city's municipal code requires it to annually evaluate whether the fees and rates it charges recover the full cost to provide the associated services, Lindsay has failed to do so. Specifically, we found that the city last updated four of the seven fees and rates we selected in 2004, more than 15 years ago. Lindsay could not identify when it last updated two of the fees and rates that we reviewed, and it updated one in 2019. As shown in Table 4, Lindsay has not regularly reviewed and updated its fees and rates as required.

“The city last updated four of the seven fees and rates we selected in 2004, more than 15 years ago.”

The city attributes its failure to update its fees regularly to the turnover in its finance department and to limited staffing. As we describe previously, the city reduced its workforce by several dozen positions over the last several years. Further, the finance director position, which is responsible for many of the steps involved in updating fees and rates, has been filled by several directors since January 2017. Although the city reported having adequate staff to provide essential services, it did not consider these administrative activities as essential. We note, however, that since we began our audit, the city has updated its fees for building permits and related activities as well as some of its public safety fees without increasing its related staffing levels. In response to our questions about its lack of updating fees and rates, the city manager stated that he intends for the city to review all of its fees and rates over the next year or two but does not have a schedule for doing so.

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Table 4
Lindsay Does Not Follow Its Own Requirements for Regularly Reviewing Fees and Rates

LINDSAY MUNICIPAL CODE REQUIREMENT	LINDSAY'S PROCESS COMPLIES?
Set fees and rates to support the full cost of operations, including indirect costs.	X
City manager must annually:	
Review all fees and rates.	X
Provide city council with the costs of all city services.*	X
Recommend fee and rate adjustments to city council.	X
City council must:	
Annually meet to review proposed changes to fees and rates.	X
Set fees and rates as part of the annual budget process.	X

Source: Lindsay Municipal Code, and analysis of seven of the city's fees and rates.

* Although the city manager does not provide this information for each city service, the annual budget that the city manager creates does include the overall costs for all city services.

The city's municipal code requires Lindsay's city council to set fees and rates at amounts that cover the full cost of operations, including indirect and capital costs whenever possible. For example, its municipal code requires the city to include the overhead costs associated with staff provision of services, such as building and equipment maintenance and operations; communications expenses; and computer, printing, vehicle, and insurance expenses, when it sets fees and rates. However, we found that the city did not always follow this requirement. For example, Lindsay set its newly revised fingerprinting fee at a level that only recovers the salary costs for the public safety officer conducting the fingerprinting and does not include indirect costs, such as office space or supplies. Thus, the city is undercharging for this service and not recovering its full costs, as its municipal code requires.

In total, the city's fees and rates generate almost \$5 million annually in revenue, or approximately one-third of Lindsay's overall revenues. As Table 5 shows, the city does not know whether annual revenue from six of the seven fees and rates that we reviewed, including one of its monthly water rates and two of its sewer rates, covers its costs to provide those services. Because Lindsay has not regularly evaluated its service costs, it risks both undercharging and overcharging for those services. For example, we estimate that the city has been losing approximately \$5,800 a year in fingerprinting revenue, a potential loss of up to \$93,000 since the city last updated the fee in 2004. Lindsay also could be overcharging for a service, for example if it streamlined a process so that it requires less staff time to conduct, but we did not identify any examples of overcharging.

Table 5
Lindsay Has Not Evaluated Whether Its Fees and Rates Cover Related Costs

TYPE OF FEE OR RATE	FEE OR RATE WE REVIEWED	DATE LAST REVISED	COST OF SERVICE KNOWN?
Planning fee*	Home occupation permit	2019	✓
Public safety fee*	Fingerprinting	2004	X
Sewer rate	Hotels, motels, and hospitals	2004	X
Sewer rate	Residential and commercial	2004	X
Water rate	1" water meter	2004	X
Wellness center fee*	Swimming pool rental for 0–25 guests	Unknown†	X
Wellness center fee*	Spring/summer swimming pool membership	Unknown†	X

Source: Fee and rate documentation, and interviews with city staff.

* The city reviewed these fees in 2021 after we brought the outdated fees to its attention.

† The city was unable to identify when this fee was last revised.

Because of its limited accounting records, Lindsay was also unable to identify the precise amount of revenue it collects from some of its fees and rates. For example, the city could not identify its revenue from individual wellness center fees, such as the swimming pool membership it charges for spring and summer. According to the recreation director, the city records that revenue in a larger category of swimming pool fees that includes public swim fees and lap swim day passes, all of which the city deposits into a single fund. As a result, the city cannot determine whether its swimming pool membership fees appropriately cover the costs to operate its swimming pool during those times when it is open only to members. Because the city has not done so itself, we estimated the cost Lindsay incurred to operate its swimming pool for members during fiscal year 2019–20 and found that it was more than \$186,000. However, the city collected only about \$8,500 in total swimming pool fees during that time.

This difference obviously contributes to the deficit in the Wellness Center Fund that the general fund must cover.

Lindsay is at risk of subsidizing its services because it is undercharging, or it risks a lawsuit from taxpayers if it is overcharging for its services. By not regularly assessing its costs and adjusting the fees and rates to cover them, Lindsay is continuing to miss an opportunity to minimize burdens on its finances. Specifically, if it undercharges for services, the city must subsidize those services with its limited general funds. However, if it overcharges, the city exposes itself to taxpayer lawsuits for imposing a tax in violation of state law. Specifically, state law defines a charge for a service that exceeds the reasonable price of providing the service as a tax, which is then subject to the State’s requirements for imposing taxes, including a requirement that the city submit and obtain voter approval in order to implement the tax.

LOCAL HIGH RISK***Recommendations to Address This Risk***

- *To ensure that it maintains adequate balances in its enterprise funds for significant purchases or capital expenditures, Lindsay should develop and implement a plan by June 2022 to build and maintain these balances.*
- *To ensure that the rates and fees it charges are appropriate to cover the cost of the related services, by August 2022 Lindsay should do the following:*
 - » *Determine its cost to provide each of the services for which it charges a fee or rate and, as necessary, improve its accounting records to identify these costs. For any fees or rates that do not cover the costs of their related services, consider increasing those fees or rates, including a phased approach for large increases. For any fees or rates that are above the cost to provide the related service, consider reducing those fees or rates.*
 - » *Improve its accounting records so as to identify how much revenue it receives from each fee or rate.*

Lindsay Must Improve Its Management Practices to Effectively Plan for Its Financial and Operational Needs

The City's Lack of a Long-Term Financial Plan Is Hindering Its Efforts to Achieve Financial Sustainability

Although Lindsay has taken some steps to improve its financial position in the short term, it has no clear plan for its long-term financial decision making. The GFOA recommends that all governments regularly engage in long-term financial planning as part of their overall strategic planning efforts. According to

the GFOA, a long-term financial plan should include several key elements, such as revenue and expenditure forecasts, strategies for achieving and maintaining financial stability, and a process for periodically reviewing and updating the plan. Figure 5 shows how Lindsay could use the GFOA's best practices to respond to the audit findings in our report. We include a discussion of the city's financial obligations related to retiree costs in the following section of the report.

Figure 5
Implementing GFOA Best Practices for a Successful Financial Plan Would Help Lindsay Address Our Recommendations



Source: GFOA best practices and this report's recommendations.

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However, Lindsay does not have a written long-term financial plan, and the long-term planning it has conducted omitted its general fund. When we asked the city manager about Lindsay's current financial plan, he stated that the only financial planning documents the city has created are its annual budgets and the capital improvement plan it presented alongside its fiscal year 2021–22 budget document. However, the city's budget does not include long-term projections for its most important fund, the general fund, which directly affects the city's ability to provide essential services to its residents. Therefore, the budget document does not provide the long-range perspective of a plan that looks five to 10 years into the future, the time horizon that GFOA recommends for such plans. Further, in the capital improvement plan that it presented with its fiscal year 2021–22 budget, Lindsay included five years of anticipated capital improvement projects for its various funds, including the Water Fund, Sewer Fund, and Wellness Center Fund. However, the capital improvement plan includes several projects that cite the city's general fund as a funding source, but without a long-term plan for its general fund, the city cannot ensure that these projects are feasible. Finally, the city's budget does not develop and then use substantive strategies to achieve long-term financial sustainability, such as the goals and actions included in Figure 5. For example, to ensure that it can meet its long-term obligations, Lindsay could develop and implement a detailed plan for prefunding its pension and other post-employment benefit (OPEB) liabilities. Because of its limited long-term financial planning, Lindsay lacks a clear picture of how best to address its financial and operational needs.

The city manager and director of finance stated that developing a long-term financial plan is a goal for the city, but they explained that the city had not done so previously due to financial instability and significant turnover of top finance department staff. However, given that the city has improved its financial

position and has hired a permanent director of finance, it is imperative that Lindsay begin to develop a long-term financial plan. Without a strategic framework to guide the city's budgetary decision making, Lindsay will likely continue to struggle to address its long-term needs and to achieve financial stability. For example, if Lindsay were to implement the GFOA best practices that we present in Figure 5 through a full financial plan, the city could prioritize the many financial challenges and risks that we have identified, such as its general fund balance and deficits in its enterprise funds.

Lindsay Needs to Address Its Rising Employee Retirement Costs

Lindsay has not prefunded its OPEB liabilities as best practices recommend, and the city's future pension costs are contributing to its high-risk status. The GFOA recommends that cities fully contribute to their pension plan each year and prefund OPEB liabilities, which are the expected future costs for employees who no longer work for the city, such as health benefits for retired workers, to ensure the sustainability of these benefits. However, at present Lindsay covers only the annual cost of the benefits for its current retirees and does not prefund OPEB costs for health benefits, including for future retirees and for future years for current retirees. This lack of prefunding has caused the city's OPEB liabilities to increase by 36 percent from fiscal years 2017–18 through 2019–20.

Lindsay's OPEB benefits are limited to a health plan that covers future benefits for 33 current city employees and current benefits for five retirees as of fiscal year 2019–20. The city contributes all of the funding to the plan. The retired city employees did not contribute to the plan, nor do current city employees contribute. As Table 6 shows, between fiscal years 2017–18 and 2019–20, Lindsay's required annual contribution—the minimum amount it

must pay—grew by more than \$10,000 and its liabilities grew by more than \$500,000. In fiscal year 2019–20, the city’s total OPEB liabilities were nearly \$2 million and it paid only about \$41,000, just enough to cover the actual health care benefits for the city’s retirees. The city did not prefund future benefits at all.

Table 6
Lindsay’s OPEB Annual Contributions and Unfunded Liability Have Increased Over the Last Three Fiscal Years

FISCAL YEAR	OPEB CONTRIBUTION	OPEB LIABILITY
2017–18	\$31,000	\$1,441,000
2018–19	38,000	1,608,000
2019–20	41,000	1,958,000

Source: Lindsay’s audited financial statements.

Lindsay has not prefunded its OPEB liabilities because of its poor fiscal condition, and it has no formal plans to do so. Specifically, as we discuss previously, the city had a deficit in its general fund until fiscal year 2019–20. The city manager stated that prefunding OPEB is a secondary priority to addressing other financial issues, such as the deficits in its enterprise funds. However, the manager did state that the city might begin prefunding OPEB liabilities in future fiscal years if it has extra revenue in its general fund. If the city does not begin prefunding its OPEB liabilities or have employees begin to contribute to its funding, it will quite likely have to make higher contributions from its general fund in future years, displacing other spending priorities such as public safety.

Although the city does require its employees to contribute to their pension benefits, Lindsay also has some future pension costs that are high risk. We identify four different indicators of pension risk in our local government high-risk dashboard, as

described in the text box. Three of Lindsay’s pension risk indicators—pension obligations, pension funding, and pension costs—are at moderate risk, as Table 1 shows, but the city’s future pension costs are high risk. We classify cities as having high-risk pension costs when their projected future costs exceed a threshold of 10 percent of their current revenues. We calculated the future pension costs for Lindsay using unaudited information provided by the California Public Employees’ Retirement System (CalPERS) and compared those numbers to the city’s audited financial statements. By using fiscal year 2026–27 pension contribution estimates from CalPERS to analyze future pension costs, we project that Lindsay’s required contributions to its pension plan will reach the 10 percent threshold that year.⁴ This means that five years from now, Lindsay’s pension costs could begin to place a financial burden on the city if the city does not take substantial action.

State Auditor’s Local Government High-Risk Dashboard Pension Indicators

Obligations: The amount a city owes to employees for their retirement benefits. A large unfunded obligation means higher pension contributions over time, straining the ability to provide other services.

Funding: The assets a city has set aside to pay for employee pension benefits. Insufficient pension assets also require higher contributions in the future.

Current Costs: The current financial burden of pension costs. High pension costs can cause cities to curtail critical services.

Future Costs: The future financial burden of pension costs, which pose the same risk of curtailing critical services.

Source: California State Auditor’s Local Government High-Risk Dashboard.

⁴ Our methodology for this calculation is explained in greater detail at the following link: https://www.auditor.ca.gov/local_high_risk/process_methodology

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The city must ensure that it is able to pay for its pension plan in future years. CalPERS annually determines Lindsay's required contribution, which covers the cost of pension benefits earned by its current employees that year and an additional amount for beginning to address unfunded liabilities. Lindsay makes the required payment each year, but it had unfunded liabilities of \$9.3 million as of June 2020. If the city paid more than the required contribution, it would reduce its unfunded liabilities and therefore its future annual contributions. This action could help the city to avoid the financial stress of reaching the 10 percent threshold in its pension contributions and could reduce the burden on the city to pay for those pension costs instead of other priorities.

Lindsay Has Not Adequately Planned for Its Public Safety Training and Equipment Needs

Lindsay does not appear to be committed to its current integrated public safety approach and must evaluate whether its combined police and fire department is still an appropriate model for providing services to its community. According to a local newspaper, since the late 1970s and in response to its financial difficulties at the time, Lindsay has employed a public safety model that integrates police and firefighting services into a single public safety department. A 2016 report by Michigan State University noted that Lindsay is one of approximately 130 cities nationwide and only a handful in California that have such combined departments. Lindsay's public safety director explained that the city generally hires police officers who have completed training that has been approved by the Commission on Peace Officer Standards and Training and then provides them with training in firefighting.⁵ However, Lindsay

has not ensured that either of the two public safety officers it hired in the past three years, out of 13 total public safety officers, have received training from a fire academy. As a result, when these officers respond to a fire emergency, a public safety lieutenant explained, the city typically limits their role to support functions rather than firefighting. To the extent that the city needs additional resources to adequately respond to fires or emergencies, such as in case of a structural fire or if an additional paramedic is required, it relies on the county to assist through a mutual aid agreement, one that does not require reimbursement by the city.

“Lindsay has not ensured that two recently hired public safety officers have received training from a fire academy.”

Lindsay's director of public safety has not prioritized training the newly hired police officers in firefighting because that would require them to stop their police work and attend a fire academy. According to the director, he wants to move away from the integrated public safety model toward a separate police department and a semi-volunteer fire department. He believes the current integrated model is not sustainable because the two disciplines of police and fire have different mindsets and it is difficult for public safety officers to maintain their continuing training in both professions. According to the director, the current city council is in favor of this change. However, the city manager has yet to formally propose to the city council that it separate the police and fire services into two departments. Until the city council approves such an

⁵ State law established the Commission on Peace Officer Standards and Training to set minimum selection and training standards for California law enforcement officers.

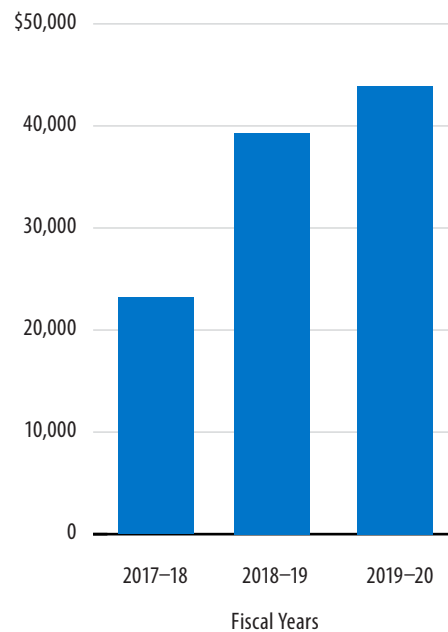
organizational change, the Public Safety Department must continue to ensure that all of its public safety officers are duly trained to respond to both police and fire emergencies. By not ensuring such training, Lindsay risks the safety of its residents and must rely more heavily on its mutual aid agreement with the county for fire response services.

Although we did not identify any problems with the Public Safety Department's response times, the age of both its police and fire vehicles could affect the safety of Lindsay's residents should those vehicles break down while responding to an emergency. The National Fire Protection Association recommends that fire departments only use properly maintained fire trucks older than 15 years as backup equipment for newer fire trucks and retire fire trucks that are older than 25 years. However, Lindsay uses a 21-year-old fire truck as a primary fire response vehicle. Lindsay's police vehicles are also old, averaging 13 years—significantly older than those of other cities that we reviewed, whose average vehicle ages ranged from 4.5 to 8 years old.⁶ We found that the city has recently taken steps to address the age of its public safety vehicles. In 2021 the city published a capital improvement plan that included replacement of five of its 16 police vehicles over the next three fiscal years at a cost of about \$1 million. However, we expected Lindsay to identify a schedule that details when it must retire or replace all of its public safety vehicles as well as the expected costs to replace those vehicles.

Lindsay also faces increasing maintenance costs for its public safety vehicles. As Figure 6 shows, the city's cost to maintain its public safety vehicles nearly doubled in two years, from \$23,000 in fiscal year 2017–18 to \$44,000 in fiscal year 2019–20. According to a public safety lieutenant, it intends to absorb these maintenance costs in its existing budget.

As a result, the department will continue to face escalating maintenance costs, which will hinder the city's overall efforts to improve its financial position.

Figure 6
Lindsay's Police Vehicle Maintenance Costs Are Rising



Source: Lindsay Public Safety Department police vehicle maintenance records.

Recommendations to Address This Risk

- *Lindsay should adopt a policy for long-range financial planning by February 2022 that, at a minimum, identifies the forecast period for the plan, the funds it will include, efforts the city will make to increase revenues and decrease expenditures, and the frequency with which the finance director and the city manager will review the plan and propose any updates to the city council.*

⁶ We compared Lindsay with two of its geographic and economically similar neighboring cities, Exeter and Farmersville, and one city with a combined public safety department, Sunnyvale.

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- *City management should develop, and the city council should formally adopt, a long-term financial plan by August 2022 that aligns with best practices published by the GFOA.*
- *Lindsay should include in that financial plan a discussion of how it will reduce its pension and OPEB liabilities. As part of that plan, the city should consider requiring current employees to begin contributing to the future cost of their retirement health care benefits.*
- *To ensure that Lindsay's public safety model still meets the city's needs, Lindsay should do the following:*
 - » *Evaluate the effectiveness of using a combined police and fire department by August 2022 and make any necessary changes.*
 - » *Ensure that all public safety officers receive any necessary training within six months of employment beginning August 2022, including any public safety officers who are expected to respond to fires or emergencies.*
- *To ensure that its fire vehicles meet industry standards and its police vehicles are replaced in a timely manner, by November 2021 Lindsay should develop a sufficiently detailed public safety capital improvement plan that provides for the replacement of those vehicles.*

We conducted this audit under the authority vested in the California State Auditor by Government Code section 8543 et seq. and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives specified in the Scope and Methodology section of the report. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA
California State Auditor

August 26, 2021

Appendix A

Scope and Methodology

In February 2020, the Joint Legislative Audit Committee (Audit Committee) approved a proposal by the State Auditor to perform an audit of Lindsay under the local high-risk program. We conducted an initial assessment of Lindsay in December 2019 in which we reviewed the city's financial and operating conditions to determine whether it demonstrated characteristics of high risk pertaining to the following six risk factors specified in state regulations:

- The local government agency's financial condition has the potential to impair its ability to efficiently deliver services or to meet its financial or legal obligations.
- The local government agency's ability to maintain or restore its financial stability is impaired.
- The local government agency's financial reporting does not follow generally accepted government accounting principles.
- Prior audits reported findings related to financial or performance issues, and the local government agency has not taken adequate corrective action.
- The local government agency uses an ineffective system to monitor and track state and local funds it receives and spends.
- An aspect of the local government agency's operation or management is ineffective or inefficient; presents the risk for waste, fraud, or abuse; or does not provide the intended level of public service.

Based on our initial assessment, we identified concerns about Lindsay's financial condition and financial stability as well as aspects of its operations that were potentially ineffective or inefficient. The following table lists the objectives that the Audit Committee approved and the methods we used to address them.

LOCAL HIGH RISK**Audit Objectives and the Methods Used to Address Them**

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, ordinances, rules, and regulations significant to the audit objectives.</p>	<p>Reviewed relevant state laws and regulations, municipal codes, and other background materials applicable to the city.</p>
<p>2 Evaluate Lindsay's current financial condition and ability to meet its short-term and long-term financial obligations while continuing to provide services to its residents.</p>	<ul style="list-style-type: none"> • Evaluated the city's financial statements to determine its financial condition, including its general fund balances, revenues and expenditures, and other major fund balances. • Assessed the city's financial condition and its ability to meet its obligations by reviewing audited financial statements. • Reviewed outstanding pension and OPEB liabilities and annual contributions.
<p>3 Identify the causes of Lindsay's financial challenges, and determine whether the city has developed an adequate plan for addressing those challenges, including the following:</p> <p>a. Assess the appropriateness of any interfund loans, transfers, and advances over the last three fiscal years; determine whether Lindsay complied with applicable laws and followed best practices in making such transactions; and evaluate the city's ability to repay its interfund loans, transfers, and advances in a timely manner.</p> <p>b. Assess the city's efforts to improve its financial condition by increasing revenues and reducing expenses.</p>	<ul style="list-style-type: none"> • Identified and documented the major events and actions that caused Lindsay's financial challenges, including loans, transfers, and advances over the last three fiscal years, and the city's efforts to address those challenges. • Reviewed the city's forgiveness of loans from its utility funds to its general fund to assess whether it violated Proposition 218 and the city's response to address the violation. • Interviewed city council members and the former finance director to assess the city's forgiveness of loans from its utility funds to its general fund. • Reviewed the city's streets program to determine whether the city's approach to funding the program violated Proposition 218. • Evaluated the sales tax proposal approved by city voters and compared the city's revenue projections to actual amounts collected. • Consulted with the city manager to identify the city's attempts to pursue and promote economic development opportunities. In particular, we evaluated the city's efforts to increase revenue by allowing and licensing cannabis businesses, to resolve outstanding financial liabilities to state agencies, and to reduce expenditures.
<p>4 Determine whether Lindsay's budgeting processes comply with best practices. In addition, evaluate the city's procedures and underlying assumptions for projecting future revenues and expenditures, and determine whether they result in balanced budgets and accurate financial forecasts.</p>	<ul style="list-style-type: none"> • Reviewed GFOA budgeting best practices and identified key practices that the city should follow. • Reviewed whether the city's budget practices are timely and in line with the key GFOA budgeting best practices we identified. • Examined Lindsay's budgets for the past three fiscal years and assessed the reasonableness and accuracy of the projections it used by comparing budgeted and actual revenues and expenditures.
<p>5 Assess Lindsay's process for setting, increasing, or decreasing fees or rates to ensure that it complies with applicable laws, rules, ordinances, regulations, and best practices. For a selection of these fees and rates, determine if they cover the city's costs of providing services.</p>	<ul style="list-style-type: none"> • Interviewed staff to obtain an understanding of the city's policies, processes, and practices for setting fees and rates. • Identified all the fees and rates Lindsay charges. Selected seven fees and rates and reviewed the city's cost of providing each service. Determined when the city last updated each fee or rate and assessed whether the fee or rate covers the city's costs of providing the relevant services. • For three of the fees and rates, we tested whether their last increases complied with applicable city laws and policies.
<p>6 Determine whether the city council provides adequate oversight of city operations and the governance necessary to ensure that Lindsay meets its fiduciary duties to its residents.</p>	<ul style="list-style-type: none"> • Identified and documented best practices related to training new city council members. • Interviewed staff and reviewed documentation related to training that the city has provided to council members since 2018 and compared this training to the best practices we identified. We did not identify any problems with the city's process for training council members. • Documented city council oversight and decision making related to the city's financial affairs from 2018 through 2020 and determined that it has increased that oversight.

AUDIT OBJECTIVE	METHOD
<p>7 Evaluate Lindsay's efforts to address the deficiencies noted by its external auditor during the most recent audit of the city's financial statements.</p>	<ul style="list-style-type: none"> Identified major findings from the external auditor's last four annual audit reports. Assessed whether Lindsay's efforts for tracking and responding to the findings have been sufficient. We found that Lindsay has sufficiently tracked and responded to audit findings, other than those related to its violation of Proposition 218.
<p>8 To the extent possible, determine the impact of Lindsay's integrated public safety model and resources on its ability to protect its citizens.</p>	<ul style="list-style-type: none"> Reviewed information about integrated public safety models and their use in California. Identified recruitment and training standards and best practices for police officers and firefighters. Identified how Lindsay recruits and trains its public safety officers and assessed the adequacy of these efforts. We found that its recruitment process was adequate. Compared Lindsay's public safety response times, staffing levels, and capital assets to those of three comparable cities and industry averages to determine whether they are sufficient to protect the public's safety. Lindsay has slightly more firefighters and slightly fewer police personnel than the average for other small California cities. We attempted to compare Lindsay's combined public safety model with those of other cities in California; however, their models or demographics were not similar enough to Lindsay's to make a valid comparison.
<p>9 Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> Reviewed best practices for recruitment of key city leaders and compared them to Lindsay's practices and, in general, found that Lindsay employed those best practices. Assessed strategic and succession planning efforts. Although the city does not have a formalized strategic plan, we found that the city does undertake some strategic planning as part of its budget development process. However, we identified concerns with the city's financial planning efforts, which we discuss in the report. We found that although the city lacks a succession plan, it has adequately filled its key leadership positions, including its city manager and finance director positions.

Source: Audit workpapers.

Assessment of Data Reliability

The U.S. Government Accountability Office, whose standards we are statutorily required to follow, requires us to assess the sufficiency and appropriateness of computer-processed information that we use to materially support our findings, conclusions, or recommendations. In performing this audit, we relied on electronic data obtained from the Tulare County ADSi CADForce database (9-1-1 database). We performed dataset verification procedures and testing of key data elements and found that about 15 percent of the data were not logical, indicating data entry errors and calls in which dispatchers canceled officers' responses. We otherwise did not identify any issues with the data. We did not perform accuracy and completeness testing of these data because the system is

entirely electronic and there are no paper source documents against which to check the data. Consequently, we found the 9-1-1 database data to be of undetermined reliability for the purposes of calculating the exact response times for Lindsay's Public Safety Department. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendations.

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Appendix B

The State Auditor's Local High-Risk Program

Government Code section 8546.10 authorizes the State Auditor to establish a local high-risk program to identify local government agencies that are at high risk for potential waste, fraud, abuse, or mismanagement or that have major challenges associated with their economy, efficiency, or effectiveness. Regulations that define high risk and describe the workings of the local high-risk program became effective on July 1, 2015. Both the statute and regulations require that the State Auditor seek approval from the Audit Committee to conduct audits of high-risk local entities.

To identify cities that may be at high risk for fiscal distress, we analyzed audited financial statements and unaudited pension-related information for more than 470 California cities. This review included using various financial indicators to assess the fiscal health of cities and rate them based on their risk of experiencing fiscal distress. These indicators enabled us to assess each city's ability to pay its bills in both the short and long term. Specifically, the indicators measure each city's financial reserves, debt burden, cash position or liquidity, revenue trends, and ability to pay for employee retirement benefits. In most instances, the financial indicators rely on information for fiscal years 2016–17 through 2018–19.⁷

Based on our analysis from 2019, we identified several cities, including Lindsay, that met the criteria for being at high risk. After establishing our list of cities facing fiscal

challenges, we conducted initial assessments to further evaluate the risks those cities faced. We performed independent, data-driven analyses to determine which cities to send audit teams into to get local officials' perspective regarding our areas of concern. Our initial assessment concluded that Lindsay's circumstances warranted an audit. In February 2020, we sought and obtained approval from the Audit Committee to conduct an audit of Lindsay.

If a local agency is designated as high risk as a result of an audit, it must submit a corrective action plan. If it is unable to provide its corrective action plan in time for inclusion in the audit report, it must provide the plan no later than 60 days after the report's publication. It must then provide written updates every six months after the audit report is issued regarding its progress in implementing the corrective action plan. This corrective action plan must outline the specific actions the local agency will perform to address the conditions causing us to designate it as high risk and the proposed timing for undertaking those actions. We will remove the high-risk designation when we conclude that the agency has taken satisfactory corrective action.

⁷ As we describe in Appendix A, we conducted our initial assessment of Lindsay in December 2019. In November 2020, we updated our financial indicators to include information through fiscal year 2018–19.

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City of Lindsay

P.O. Box 369 — Lindsay, California 93247 — 251 Honolulu Street

August 10, 2021

Elaine M. Howle, CPA*
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Auditor Howle:

The City of Lindsay believes the facts contained in State Auditor's Report 2020-804 demonstrate the City's positive steps in recent years toward reaching financial stability, as evidenced by several instances where the areas of improvement recommended by the State Auditor are in line with the ongoing efforts of City staff. However, there remain competing pressures between short and long-term fiscal strategies for the future. Lindsay faces major challenges associated with our economy. Agriculture is still the primary industry of our region and the Lindsay community is largely one of farm laborers. The median annual household income is well below the State average at \$31,000 and 36% of our residents live in poverty. In June 2021, the unemployment rate was 18.2%. Naturally, the steps the City takes to rebuild its financial health will have to take this context into consideration. And while the City intends to commit itself in good faith to fulfilling the State Auditor's recommendations, it does foresee a potential for delays due to a lack of resources, lack of revenues, limited staff, and the unpredictability of COVID-19 impacts.

I. Loan Forgiveness

In 2017, the City was operating in a state of insolvency. Consequently, there were a number of short-term solutions taken to stop the bleeding; chief among these decisions was the City's forgiveness of major loans from its utility funds to its general fund. It bears mentioning that key City staff related to the improper forgiveness of these loans, such as the City Manager and Finance Director, are no longer employed by the City of Lindsay.

LINDSAY...
THE FRIENDLY CITY



HEART OF CENTRAL
CALIFORNIA ORANGE AREA

* California State Auditor's comments begin on page 43.

LOCAL HIGH RISK

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In managing the fall-out, current staff has prioritized the strengthening of policies and procedures to ensure proper safekeeping measures are in place for all sources of funding. For example, in November 2020, staff recommended updates to the City's Procurement Policy which City Council reviewed and adopted. As of the date of this report, staff is working on updating two more policies, for grant management and financial reserves, respectively, to strengthen safekeeping procedures.

The City intends to review and analyze conditions and mechanisms that affect the current and future financial performance of the City. This study will be a direct follow-up to the State Auditor's report and will review financial strengths, weaknesses, opportunities, and threats analysis (SWOT), as well as a repayment plan. Any reasonable repayment plan would need to delicately balance the obligations of the schedule and general fund solvency. Another important consideration is the concern that a repayment schedule would push the City into a structural operating deficit that continues long enough to burn through reserves and is not resolved by revenue increases or spending cuts quickly enough for the City to avoid running out of cash as it attempts to meet necessary and fixed expenses such as debt service and payroll. Such was the case with Vallejo, Stockton, Detroit, and San Bernardino. The City could be pushed over the edge by a relatively small one-time expense or drop in revenues, as it may have little or no cushion available to absorb even a modest setback.

Thus, the City finds itself essentially stuck between a rock and a hard place. On the one hand, the City can leave the obligation on the books, resulting in a long-term debt and the prospect of the City finding itself in a position of insolvency. As the state acknowledges, there is no legal issue with interfund loans if the loans are structured as long-term loans. Therefore, the City may re-establish its long-term payment plan of the loans back to the appropriate enterprise fund. Doing so would essentially eliminate any legal liability. On the other hand, given the decades long repayment schedule, it remains unlikely the funds would actually be repaid without additional cuts in service or personnel.



Finally, despite the legal conclusions stated in the audit, in order to have liability, a legal challenge must be successful. Even if a Proposition 218 challenge is initiated, the statute of limitations for such a challenge to assessments covered by Proposition 218 has been reached. The State's position is that the transfers indicate that funds were converted from enterprise assessments to general fund expenditures. Such a transfer therefore allegedly indicates that residents were overcharged for services. Code of Civil Procedure § 860 is regarded as the exclusive procedure for challenging the validity of an assessment.¹ A 60-day statute of limitations would apply per Code Civ. Proc. § 863 unless the assessment statute being utilized specifies another time period. Therefore, the time for any legal exposure is long past. ①

II. Streets Improvement Program (SIP)

The City Engineer selected to prepare the 2004 utility service impact study on City streets, James Winton, was a reputable Registered Civil Engineer with more than 40 years of experience in local government. The final 2004 Engineer's Report was based on a 10-year comprehensive plan to maintain all City Streets and outlined proposed increases of 5.9% per year per utility fund for four years, for a total necessary increase of 23.6% street improvement contribution per fund at the end of 2009 and carried until 2019. The legal standard for transfers such as the SIP gives the City the benefit of the doubt based on the engineer's report. The State's conclusion as to whether the SIP is legal cannot be based solely on whether the Finance Director today, can articulate whether the program is appropriate. Apportioning a special benefit has never required mathematical precision; so long as the apportionment is reasonable and is justified by the engineer's report, it should be upheld. If the assessment is no longer valid, it will be up to the current staff to provide an additional engineer's report and make any adjustments. Re-examining fees does not result in the State's conclusion that the SIP transfers were unlawful from the beginning, or at any time since. To this point, the City acknowledges that a new study should be ②

¹ See *Not About Water Com. v. Board of Supervisors* (2002) 95 Cal.App.4th 982, 986 and 992-93.



performed to evaluate the impact of utilities on City streets to ensure the accuracy of this rate from 2019 through to the current date.

- ③ The current state of the law is that under article XIIIID of the California Constitution, the City is entitled to rely upon the record created during the required hearing process. Challengers are required to present evidence contrary to the engineer's report during the hearing in order to permit the agency to make proper decisions based upon all of the evidence. The City can meet its burden under article XIIIID, section 4(f) by introducing a properly prepared engineer's report and the record of the assessment proceedings. It is precisely for reasons such as the current situation that the law is created in this fashion; neither the state auditors, nor the current staff can provide the history, conversations, or rationale to know whether the SIP, as of today, continues to be valid. But the law recognizes this as it would be nearly impossible to make such a determination for a decision that was made over a decade ago. The law only requires the City meet its burden under article XIIIID, section 4(f) by introducing a properly prepared engineer's report and the record of the assessment proceedings, which it did at the time. Therefore, the City met its obligations under the law.

III. Inappropriate Legal Conclusions

- ④ The Audit Report makes several legal conclusions that the forgiveness of transfers was illegal. The Audit Report is not a court of law and does not have authority to determine whether an action by the City was illegal. In fact, the forgiveness of a loan from an enterprise fund is not on its face illegal. The City of Riverside is an example, and in *Webb v. City of Riverside*² the Court held that a Proposition 218 violation does not occur if the transfers do not result in the taxpayers paying more than the reasonable cost of service, or if the transfers come from non-rate revenue. A court of law has not determined that the applicable transfers resulted in taxpayers being charged more than the reasonable cost of

² *Webb v. City of Riverside* (2018) 23 Cal.App.5th 244



service, or that the transfers came from rate revenue, therefore, the Audit Report, cannot, and should not, come to the legal conclusion that the transfers were illegal.

The Audit Report has the same problem in regard to its legal conclusions about the City's Street Improvement Program (SIP). A court of law has not determined that the City's charge for the SIP exceeds the reasonable cost of service, resulting in a Proposition 218 violation. Therefore, the Audit Report should not state as an unqualified fact that the SIP is illegal.

④

IV. Service Fees and Utility Rates

For the past decade, there has been a significant hesitancy to enact changes to the City's service charges despite staff recommendations and internal work product. For example, in 2015, a water rate and feasibility study was completed but the final item was not presented to City Council. Only in very recent years has the public and City Council been assured that the charges for services are fair and accurate and that there are proper safekeeping measures in place for funds received. From 2019-2021, staff has reviewed refuse rates, public safety fees, planning, building and development fees, and wellness center fees and City Council has approved recommended changes. Staff is actively engaged in fulfilling the State Auditor's recommendation to adhere to the Lindsay Municipal Code and include overhead costs in future cost analyses.

V. Enterprise Funds

The State Auditor is correct in its assertion that the City's water enterprise fund has operated at a growing loss in recent years and that current water rates are limiting the City's ability to effectively operate Lindsay's water system. It is with these facts in mind that staff recommended changes to the City's existing billing and collection procedures for sewer, refuse, and utility delinquencies. In July 2021, the Lindsay City Council approved the levy and collection of charges related to these services on the Tulare County property tax rolls for the fiscal year 2021-2022. This action directly addresses the financial instability of

⑤



our utility enterprise funds and demonstrates the City's intention to bolster its utility enterprise funds, notwithstanding the final recommendations of the State Auditor. Similarly, the potential for an increase in fees for recreation activities hosted at the Wellness Center has been discussed and up until now deferred by the City until this option can be thoroughly analyzed to avoid pricing out the majority of Lindsay residents. The Wellness Center was built specifically with the wellness of our community in mind. Maintaining our Wellness Center accessible has likely led to many long-term benefits for Lindsay, including building social cohesion and deterring harmful or unlawful behavior. Such benefits are much more difficult to quantify but are not considered to be any less important than the bottom line.

VI. Long-Term Financial Planning

⑥

The City has taken a number of positive steps towards more robust long-term financial planning. In November 2020, the City reviewed and updated its Investment Policy, and in July 2021 the City procured memberships in the Government Finance Officers Association (GFOA) to aid in the creation of a long-term financial plan. Also in July 2021, the Finance Director presented the City Manager with the first draft of the City of Lindsay's Reserve Policy. The proposed policy is a significant improvement from the current policy as it provides exact details for allocating annual surpluses and makes plans for fund deficits. Elements of the draft policy include provisions for general fund operating reserves, local emergency reserves, unfunded liability reserves, and capital reserves. A final copy as recommended by staff will be presented to City Council in the coming months for review and adoption.

VII. Employee Retirement Costs

Employees of the City of Lindsay are the lowest paid municipal employees in Tulare County, which contributes to keeping the City's retirement costs down. In 2020, the City examined various CalPERS options for pension obligation planning but ultimately determined the program offerings to be out of line with the City's structural financial



improvement. Staff continues to actively explore other programs and services to address the growing unfunded liability of retirement benefits. In 2014, the City of Lindsay increased the minimum performance period for eligibility of other post-retirement benefits from 15 years of continuous service to 20 years to continue medical health benefits until retired employees reach eligibility for Medicare. This means that the City contributes a maximum of 75% of a retired employees health retirement plan and the retiree is responsible for the remaining 25% of costs until that retiree is eligible for Medicare. The City plans to review and execute new memorandums of understanding with employees in the 2022 calendar year.

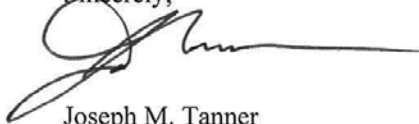
VIII. Public Safety Department

The City is appreciative of the critical fire needs currently faced by the Public Safety Department but finds its options limited by insufficient staffing and capital resources. Lindsay is not the first or only rural community to face such a dilemma. The start-up costs for a separate, stand-alone Fire Department to cover hiring, equipment, housing, and amenities are estimated to cost upwards of \$1 million, with an annual operating budget of \$3-4 million thereafter, making this approach frankly untenable for the City of Lindsay. The City is actively hiring for a Fire Lieutenant position with the goal of providing in-house training to Public Safety personnel and to better meet the fire training needs for officers involved in fire and emergency response.

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The State Auditor's report provides a useful calibration point as the City looks to the future. The City intends to further address the concerns of the State Auditor's Office in its forthcoming corrective action plan.

Sincerely,



Joseph M. Tanner
City Manager



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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE CITY OF LINDSAY

To provide clarity and perspective, we are commenting on Lindsay's response to our audit. The numbers below correspond to the numbers we have placed in the margin of Lindsay's response.

The city mischaracterizes our finding. As we explain on page 9, Proposition 218 prohibits a city from using revenues derived from property-related fees, such as fees for water service, for general government operations. We did not consider, as the city's response suggests, whether the city's residents were overcharged for services. Therefore, we stand by our finding that Lindsay's transfers and subsequent loan forgiveness violated this provision of Proposition 218. Further, Lindsay's response incorrectly cites state law relating to the statute of limitations that governs legal actions regarding the validity of property assessments when, in fact, the city derived these revenues from fees—paid by ratepayers such as for water and sewer utility services. We found no specific statute of limitations; therefore, the default three-year statute of limitations would apply to an action seeking judgment on the improper use of revenue derived from property-related fees.

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Lindsay misrepresents the city's obligations and the reasonableness of its engineer's report related to the streets program. As we explain on pages 11 and 12, although Proposition 218 prohibits a city from using property-related services for general government services, a city may charge its utility funds for the costs it incurs against the general fund, such as for the costs of street repair and maintenance. However, a city must be able to demonstrate that those transfers reasonably represented those costs. As we describe on page 12, the 2004 engineer's report that supports those transfers—which averaged nearly \$900,000 annually—did not demonstrate that the amount generated by the rate increases represented the actual costs of the damage the city's utilities caused. Instead, we noted on the same page, that the city should analyze and report the damage that each type of utility has caused to its streets to identify what the appropriate amount would be to charge each fund going forward. Finally, Proposition 218 provides that in any challenge to the validity of a property-related fee or charge, the burden is on the local agency—in this case, the city of Lindsay—to demonstrate compliance. Thus, we stand by our finding.

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LOCAL HIGH RISK

- ③ Again, Lindsay mischaracterizes our finding and refers to provisions of Proposition 218 relating to property assessments, which do not apply here. Our report focused on property-related fees, not assessments, which are distinct and governed by different provisions of Proposition 218. As we state on pages 11 and 12, those provisions of Proposition 218 allow the city to charge its utilities for the cost of street repairs and maintenance that result from damage by those utilities so long as the city demonstrates that a charge for repairs or replacement reasonably represents those costs. Thus, we stand by our recommendation on page 15 that Lindsay should perform a study to determine the appropriate level of funding from its utility funds for the streets program and update that study every three to five years.
- ④ We agree with Lindsay that this report “is not a court of law” and that, as of yet, a court of law has not imposed legal liability on the city for violating state law. However, audit standards require us to review the legal criteria governing the city’s actions, to gather and consider sufficient and appropriate evidence, to identify any bad effects, and to report our findings with recommendations where appropriate. Here we have done so, including reporting on the risk that its noncompliance poses to the city if challenged in court. We offer our conclusions solely for helping the city avoid an adverse judicial ruling and related financial award. Similarly, we note on page 11 that the city’s external auditor also reached the conclusion that the city’s actions violated Proposition 218. Thus, we stand by our findings and recommendations.
- ⑤ During the course of our audit, the city did not share with us information regarding its approval of the levy and collection of charges related to its utilities. We look forward to reviewing this information when it provides an update on its progress toward implementing our recommendation on page 22 that it develop and implement a plan to build and maintain adequate balances in its enterprise funds.
- ⑥ The city misrepresents its efforts to improve its financial policies as steps towards long-term financial planning. Although a long-term financial plan could include a component for updating financial policies, the city’s efforts to update its financial policies are not part of a larger, long-term financial plan. Instead, the city has proceeded through its financial challenges in a piecemeal approach, such as by updating these policies, without having a larger framework in place to comprehensively address these challenges. Thus, we stand by our recommendation.

The city's response incorrectly implies that we recommended it create a separate, stand-alone fire department. We explain on page 26 the director of public safety's perspective that the current integrated model is not sustainable, and that the city manager has yet to formally propose to the city council that it separate the police and fire services into two departments. On the same page, we note that until the city council approves such an organizational change, the Public Safety Department must continue to ensure that all of its public safety officers are duly trained to respond to both police and fire emergencies. Thus, we stand by our recommendation on page 28 that the city evaluate the effectiveness of using a combined police and fire department and ensure all of its public safety officers have training to respond to fires or emergencies.

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