

## ITEM 5.5

### CITY MANAGER'S REPORT SEPTEMBER 13, 2021 CITY COUNCIL REGULAR MEETING

**CITY COUNCIL TO RECEIVE PROJECT STATUS FOR CIP WW 20-17 SURFACE WATER DISCHARGE PROJECT, AND CONSIDER APPROVAL OF RELATED DEVELOPER FUNDING AGREEMENTS, CONSTRUCTION CONTRACTS, PROFESSIONAL CONSULTING SERVICES AGREEMENT, RATIFICATION OF EQUIPMENT AND MATERIAL PURCHASES, RATIFICATION OF OUTFALL PERMIT AGREEMENT, AND RELATED BUDGET AMENDMENT**

**RECOMMENDATION: Adopt Resolution Related to CIP WW 20-17 Surface Water Discharge Project:**

- **Approving Funding Agreements with River Islands Development, LLC, Saybrook CLSP, LLC, and Richland Crossroads, L.P.,**
- **Awarding Construction Contract to Cushman Contracting Corporation for Dechlorination Facilities,**
- **Awarding Construction Contract to Teichert & Son, Inc. dba Teichert Construction for Pipeline and River Outfall Construction,**
- **Approving Professional Consulting Services Agreement with TRC Engineers, Inc. for Professional Engineering Consulting Services and Construction Management,**
- **Ratifying Equipment and Material Purchases,**
- **Ratifying Outfall Permit Agreement with Reclamation District 17, and**
- **Approving Related Budget Amendment**

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#### **SUMMARY:**

Treated wastewater effluent (recycled water) from the Lathrop Consolidated Treatment Facility (CTF) is currently discharged to land via ponds and sprayfields. For several years, Lathrop staff have pursued a National Pollutant Discharge Elimination System permit to discharge highly treated recycled water into the San Joaquin River (Surface Water Discharge Project). The Surface Water Discharge project includes dechlorination facilities at the CTF plus a pipeline from the CTF to the San Joaquin River, and an outfall structure into the river.

The Surface Water Discharge Project (Project) will make available 1,500 acres of developable land that would have been required to create ponds and sprayfields to store and dispose of recycled water on agricultural crops. The cost of these ponds and sprayfields would have totaled \$200 million at the buildout of the City.

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The Project will reduce the cost of sewer disposal for a new home by \$7,740, and reduce the cost for a new fast food restaurant by about \$60,000, making development in Lathrop more desirable.

Staff is requesting that Council take several actions, regarding the Project, CIP WW 20-07, including:

- Approve Funding Agreements with River Islands, Lathrop Land Acquisition, LLC, and Richland Crossroads, L.P. to fund their share of the Project. This will allow these three developers to avoid constructing additional ponds and sprayfields. It will also allow the City to return existing ponds and sprayfields that they dedicated to the City, with the exception of two ponds built by River Islands that are being purchased and retained to allow full operation of the recycled water system in Lathrop.
- Award two construction contracts, one to build dechlorination facilities at the CTF and the second to construct the pipeline from the CTF to the San Joaquin River, and an outfall structure into the river. This request is urgent, as the construction window to build within the San Joaquin River is very limited, and it is critical that the Surface Water Discharge Project be completed as soon as possible to avoid the need to build new ponds and sprayfields for new development.
- Approve a Professional Services Agreement (PSA) with TRC for Construction Management services related to both the CTF modifications, pipeline installation and river outfall structure.
- Ratify City Manager approval of Purchase Order No. 2022-57 with Teichert Construction for the purchase of pipe and equipment in the amount of \$515,607.40 that was acquired to avoid the delivery time delay associated with all material. The purchase is from the low bidder for this Project, and the final Teichert contract will be reduced by the amount of this prior purchase. This advanced purchase by the City gives the City the opportunity to construct the surface water outfall this construction year.
- Ratify the Outfall Permit Agreement with Reclamation District 17. Approval of this Permit Agreement was required by the Central Valley Flood Protection Board before they would place their outfall permit on their calendar for August 27, 2021. If staff waited for Council approval, this would have delayed the permits by at least a month, and would have resulted in missing the construction window for this year.
- Approve a Budget Amendment to add \$8,797,665 to the project budget to account for the funds being received from three developers pursuant to the Funding Agreements proposed tonight.

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Wastewater from the City of Lathrop is treated at two separate facilities, the City of Manteca's Wastewater Quality Control Flow Facility and the Lathrop CTF. Treated wastewater effluent from the Manteca WQCF is primarily disposed of via discharge to the San Joaquin River. The City currently stores recycled water produced by the CTF in ponds located at the CTF site and in other areas of the City and utilizes agricultural lands for disposal of the recycled water as irrigation during the summer months. The City can also use its high-quality recycled water for irrigation for public landscapes. Recycled water pipes were installed in the River Islands, Mossdale and Central Lathrop area. CTF effluent disposal and reuse is regulated by the Central Valley Regional Water Quality Control Board (CVRWQCB).

Pursuit of NPDES Permit

In April 2017, City staff initiated discussions with the Central Valley Water Board staff regarding obtaining a National Pollutant Discharge Elimination System (NPDES) permit for a surface water discharge as a means of disposing of CTF effluent in the future.

Obtaining a surface water discharge permit is a complex process that involves extensive coordination between City staff, developers, specialized consultants, multiple permitting agencies, and, eventually, construction contractors. Staff has worked closely with the CVRWQCB and made substantial progress over the past two years.

On January 14, 2019, Council approved an agreement with Robertson-Bryan, Inc. to prepare reports to support Environmental Review and NPDES Permitting of a CTF Surface Water Discharge for a cost of \$74,939.

On June 10, 2019, Council approved Task Order No. 2 with Ascent Environmental, Inc. to prepare the Phase 1 CEQA Documents for the Surface Water Discharge Project for a cost of \$91,287.

On October 14, 2019, Council approved the creation of CIP WW 20-17 in order to track costs related to the Surface Water Discharge Project, and approved an initial project budget of \$250,000.

On April 13, 2020, Council approved ratification of Professional Services Agreements (PSAs) with Ascent for a cost of \$574,446 and with KPFF Consulting Engineers for a cost of \$322,000 in order to prepare a Draft and Final Environmental Impact Report (EIR) to meet the project CEQA requirements.

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On July 13, 2020, Council approved PSAs with Ascent, RBI, and EKI for a cost of \$407,418 to further advance the project design and permitting efforts with the CVRWQCB.

On December 14, 2020, Council approved PSA’s with Robertson-Bryan Inc., KPFF Consulting Engineers, and PACE for CIP WW 20-17 for a cost of \$466,653 to complete final project design and permitting efforts with the CVRWQCB, the Army Corps of Engineers and the Central Valley Flood Protection Board.

Why is an NPDES Permit important for Lathrop?

Unless Lathrop acquires an NPDES permit, buildout of Lathrop will require ponds to hold recycled water during the winter and disposal fields to dispose of the recycled water in the summer that would cover 1,500 acres of land that could have been developed, at a cost of over \$200 million. This land is needed to be able to fully develop the City. For a sense of scale, 1,500 acres would provide land for 7,500 homes.

The current cost for sewer in Lathrop is expensive, and the reduction in cost for the new Surface Water Discharge Project is huge. Similarly, the cost of sewer for a typical fast food restaurant in Lathrop would be reduced by \$60,000, making development in Lathrop much more affordable for commercial developers.

The savings to future residential development are detailed in Table 1 below:

Table 1 – Future Residential Development Savings (per home)

Component	Current Cost (w/o discharge)	Future Cost (w/ discharge)	Difference
Storage & Disposal	\$8,600	\$0	-\$6,000
River Discharge	\$0	\$761	\$761
Total	\$8,600	\$860	-\$7,740/home

The cost to maintain all the ponds and sprayfields is expensive, and is funded by existing ratepayers. Operation of the Surface Water Discharge will reduce this maintenance cost, allowing the City to reduce rate increases in the future. And finally, the Surface Water Discharge will allow Lathrop to use recycled water as a resource for industrial use, rather than as a burden to dispose of.

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The urgency to build the Project this year is because, if the Project is not built, millions of dollars in new ponds and sprayfields will be needed next year to allow continued development in Lathrop. If the Surface Water Discharge project can be completed next year, these developer costs, which are passed on to the home buyer, can be avoided.

River Discharge Project Costs

There are several components of this project. The estimated costs are listed in Table 2 below, and include the recently received construction bids.

Table 2 – Project Components and Estimated Cost

1. Permitting	\$700,000
2. CEQA	\$650,000
3. CTF Improvements	\$3,620,000
4. Pipeline from CTF to River	\$3,382,000
5. Engineering and Construction Management	\$2,255,040
6. Contingency (10%)	\$1,060,704
7. Reimbursements for existing infrastructure	\$6,515,399
Total Estimate Cost	\$18,183,143

Each component of Table 1 is briefly described below:

1. Permitting: Includes all permits necessary to complete the project from the following agencies: Army Corp or Engineers, San Joaquin Valley Flood Protection Board, RD 17, and the Regional Water Quality Control Board.
2. CEQA: California Environmental Quality Act, environmental impact review.
3. CTF Improvements: Pump improvements and construction of a de-chlorination facility to reduce the chlorine level, which is harmful to fish.
4. Pipeline from CTF to River: 1.5-mile-long pipeline for the transmission of the recycled water from the CTF to the river.
5. Engineering and Construction Management: Program management, engineering, easements, fees, legal assistance and construction management.
6. Contingency (10%): Compensation for unforeseen costs.
7. Reimbursements: Existing infrastructure that is required to support the river discharge including existing pipes, pumps and ponds for storage.

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Reimbursements include the value of existing pipelines that are being contributed to the Project by the City or by River Islands. It also includes the value of existing recycled water storage ponds being retained by the City. As a condition of receiving the NPDES permit, the RWQCB will require Lathrop to maximize our use of recycled water for urban irrigation, including parks and street landscaping. The Project costs therefore include the cost of permanent storage ponds to allow the recycled water system to operate when the city is built-out. Rather than returning the ponds and property back to River Islands, as required by the right of reverter in the dedication deed to the City, the Project includes purchasing these ponds and the property they sit upon. Of the seven existing storage ponds, the two chosen by the City to keep are in locations most useful to the recycled water system. They are also located in areas where the land value is lower. River Islands has agreed to receive the \$6,061,649 in reimbursement for their ponds, pump stations and pipeline as a credit toward future sewer connection costs. They will cash in those credits as building permits are pulled for the River Islands project. This delay by River Islands for cashing their credits over a 20-year period is a large benefit to the City and to all development, because the immediate cost needed to construct the Surface Water Discharge Project is reduced by \$6.1 million.

The City will receive \$454,000 in reimbursement for the value of pipelines acquired by the City that are being contributed to the Project. The City will be reimbursed these costs, and the costs being fronted by the City for design, permitting and construction, as builders outside River Islands and the Saybrook portion of Central Lathrop pull building permits.

Allocation of Costs

There are two components to the cost allocation. First is the cost to get ponds and sprayfields/percolation ponds back. Some ponds and sprayfields were dedicated to the City with a conditional right of reverter. If the developer that dedicated the land pays their share of the alternative solution (Surface Water Discharge Project), the ponds and sprayfields will not be needed, and can be returned to the developer that dedicated them.

We calculated each developer's share based on the gallons that could be stored in the ponds or disposed of on the sprayfield/percolation pond versus the total gallons to be disposed with the Surface Water Discharge Project at build-out.

The second component is the cost to serve future development proposed by developers. In the past, developers needed to provide recycled water storage and disposal to serve their development. This required developers to purchase land, construct storage ponds and sprayfields, and have them dedicated to the City.

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Now, the Surface Water Discharge Project will provide all disposal needed at build-out. New development will therefore pay their share of the cost of this Project, rather than providing their own disposal.

Table 3 shows the calculation of cost allocation to River Islands, Saybrook, Richland and the City.

Table 3 – Cost Allocation

Contributor	Sewer Capacity (gpd)	Contribution Percentage	Reimbursements for Existing Infrastructure	Contribution
River Islands	2,843,719	65.2	\$6,061,649	\$5,804,121
Saybrook	427,255	9.8	-	\$1,782,774
Richland	330,000	7.6	-	\$1,376,966
City	756,800	17.3	\$453,750	\$2,703,883
Totals	4,357,724	100%	\$6,515,399	\$11,667,744

The City, with funding from sewer connection fees, contracted for the design and permitting of the Project. The consultant cost for this preliminary work (approximately \$2,049,448 to date) is part of the total funding obligation of all stakeholders participating in the Project. This reduces the City’s additional funding needed to \$654,435 (\$2,703,883 - \$2,049,448).

**Requested Council Actions:**

1. Approve Funding Agreements with River Islands, Lathrop Land Acquisition, LLC, and Richland Crossroads, L.P. to fund their share of the Project

The Agreement with River Islands (Attachment B) requires a total contribution of \$11,865,770. After deducting the reimbursements for the ponds and pipelines the City will keep, and the credit for studies that River Islands already funded for the City, their remaining cash contribution is \$5,637,895. Once the Project is complete and operational, River Islands will receive 265 acres of developable land that they had pledged for sprayfields (Funding Agreement Exhibit A), and their future sewer costs will be substantially reduced. The ponds built by River Islands that are being retained by the City to allow full operation of the recycled water system in Lathrop will not be returned, and are being purchased by the City as part of the Project. The City will also return several million dollars pledged toward future ponds and sprayfields.

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The Agreement with Lathrop Land Acquisition (Attachment C) requires a contribution of \$1,782,774. Once the Project is complete and operational, Lathrop Land Acquisition will receive 94 acres of developable land that they had pledged to the City for ponds and sprayfields (Funding Agreement Exhibit A). The City will also return several million dollars pledged toward future ponds and sprayfields.

The Agreement with Richland Crossroads, L.P. (Attachment D) requires a contribution of \$1,376,996. Once the Project is complete and operational, Richland Crossroads, L.P. will receive 23 acres of developable land that they had pledged to the City for percolation ponds (Funding Agreement Exhibit A).

The three Agreements require a final accounting to compare estimated costs to actual costs once the Project is complete. If unforeseen underground problems or last minute permit conditions trigger additional costs, the participating developers will be invoices their share of the extra costs. If final costs are less than the estimates, excess funds will be returned to the developers in proportion to their payments.

**2. Award Two Construction Contracts**

Staff is requesting Council award two separate construction contracts, one for Dechlorination Facilities at the CTF (Table 4), and one for construction of a pipeline from the CTF to the San Joaquin River and construction of the River Discharge Outfall at the River (Table 5).

The plans and specifications were advertised for bid solicitation in accordance with PCC 220034 and LMC Chapter 3.30. The bid results are summarized below:

**Table 4: Summary of Dechlorination Facility Bid Results**

Contractor	Base Bid	Bid Alt #1	Total Bid
Cushman Contracting Corporation	\$3,620,000	\$1,620,000	\$5,240,000
Clark Bros. Inc.	\$3,798,700	\$2,124,000	\$5,922,700

Staff reviewed and evaluated the bids, and determined that the lowest responsive and responsible bidder is Cushman Contracting Corporation. Staff requests City Council adopt resolution awarding a construction contract to Cushman Contracting Corporation (Attachment E) for the amount of \$3,620,000, and not award the Bid Alternate #1 to Backfill Crossroads Basin C. Staff also requests City Council authorize a 10% construction contingency of \$362,000, and authorize staff to spend the contingency as necessary to achieve the goals of the project for a total cost not to exceed \$3,982,200.



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Table 5: Summary of Outfall Pipeline Bid Results

Contractor	Bid
Teichert	\$3,382,000
T & S Construction	\$3,938,905

Staff reviewed and evaluated the bids, and determined that the lowest responsive and responsible bidder is Teichert. Staff requests City Council adopt resolution awarding a construction contract to Teichert (Attachment F) for the amount of \$2,866,392.60 (low bid of \$3,382,000 - \$515,607.40 for pre-purchased pipe and equipment). Staff also requests City Council authorize a 10% construction contingency of \$338,200, and authorize staff to spend the contingency as necessary to achieve the goals of the project for a total cost not to exceed \$3,204,592.60. This request is urgent, as the construction window to build within the San Joaquin River is very limited, and it is critical the Surface Water Discharge Project be completed as soon as possible to avoid the need to build new ponds and sprayfields in 2022 for new development.

3. Approve Professional Service Agreement with TRC for Construction Management Services (Attachment G)

Construction Management services are needed to oversee the modifications to the CTF, pipeline and river outfall structure construction. The services are needed due to the complexity of the construction and the strict construction schedule dictated by the permitting requirements. Staff requests City Council adopt resolution approving a professional services agreement with TRC for the amount of \$228,220. Staff also requests City Council authorize a 10% contingency of \$22,800, and authorize staff to spend the contingency as necessary to achieve the goals of the project for a total cost not to exceed \$251,020.

4. Ratify Equipment and Material Purchase Order No. 2022-57 (Attachment H)

Ratify City Manager approval of Purchase Order No. 2022-57 with Teichert Construction in the amount of \$515,607.40 for the purchase of pipe and equipment that was acquired to avoid the delivery time delay associated with all material. The purchase is from the low bidder for this Project, and the final Teichert contract will be reduced by the amount of this prior purchase. This advanced purchase by the City gives the City the opportunity to construct the surface water outfall this construction year.

5. Ratify the Outfall Permit Agreement with Reclamation District 17 (Attachment I)

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Reclamation District 17 is responsible to maintain the levees, and so approval of this Permit Agreement was required by the Central Valley Flood Protection Board before they would place their outfall permit on their calendar for August 27, 2021. If staff waited for Council approval, this would have delayed the permits by at least a month, and would have resulting in missing the construction window this year.

6. Approve a Budget Amendment to add \$8,797,665 to the project budget

This budget amendment will account for the funds being received from three developers per the Funding Agreements being approved tonight.

**REASON FOR RECOMMENDATION:**

The Surface Water Discharge Project (Project) will make available 1,500 acres of developable land that would have been required to create ponds and sprayfields to store and dispose of recycled water on agricultural crop. The Project will reduce the cost of sewer disposal for a new home by \$7,740, and reduce the cost for a new fast food restaurant by about \$60,000, making development in Lathrop more desirable.

Staff is requesting that Council award two construction contracts, one to build dechlorination facilities at the CTF and the second to construct the pipeline from the CTF to the San Joaquin River, and an outfall structure into the river to avoid the need to build more ponds and sprayfields for new development. Staff is also requesting that Council approve Funding Agreements with River Islands, Lathrop Land Acquisition, LLC, and Richland Crossroads, L.P. to fund their share of the Project. This will allow these three developers to avoid constructing additional ponds and sprayfields. It will also allow the City to return existing ponds and sprayfields that they dedicated to the City, with the exception of the ponds built by River Islands that are being retained to allow full operation of the recycled water system in Lathrop.

**FISCAL IMPACT:**

The fiscal impact includes:

- The Recycled Water River Discharge Funding Agreement between City of Lathrop and River Islands Development LLC will provide \$5,637,895 in funding toward the Surface Water Discharge Project CIP WW 20-17
  - Exhibit A, Capacity Allocated, Project Costs, Credits and Reimbursements, Developer Costs, and Lands Returned to Developers
- The Recycled Water River Discharge Funding Agreement between City of Lathrop and Lathrop Land Acquisition LLC will provide \$1,782,774 in funding toward the Surface Water Discharge Project CIP WW 20-17
  - Exhibit A, Capacity Allocated, Project Costs, Credits and Reimbursements, Developer Costs, and Lands Returned to Developers

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- The Recycled Water River Discharge Funding Agreement between City of Lathrop and Richland Crossroads, L.P. will provide \$1,376,996 in funding toward the Surface Water Discharge Project CIP WW 20-17
  - Exhibit A, Capacity Allocated, Project Costs, Credits and Reimbursements, Developer Costs, and Lands Returned to Developers
- The proposed construction contract with Cushman Contracting Corporation is for \$3,620,000. A 10% construction contingency is requested in the amount of \$362,000 for a total cost not to exceed \$3,982,200.
- The proposed construction contract with Teichert is for \$2,866,392.60 (low bid of \$3,382,000 - \$515,607.40 for pre-purchased pipe and equipment). A 10% construction contingency is requested in the amount of \$338,200 for a total cost not to exceed \$3,204,592.60.
- The proposed Professional Service Agreement with TRC for Construction Management is for \$228,220. A 10% contingency is requested in the amount of \$22,800, for a total cost not to exceed \$251,020.
- Ratification of Purchase Order No. 2022-57 with Teichert Construction is in the amount of \$515,607.40.
- Ratification of the Outfall Permit Agreement with Reclamation District 17 will include a cost to Lathrop of approximately \$30,000 for geotechnical inspection services and to reimburse Reclamation District 17 for any costs incurred.
- The requested Budget Amendment will add \$8,797,665 to the project budget to account for the funds being received from three developers per the Funding Agreements being approved tonight.

Funds approved in the Surface Water Discharge Project CIP WW 20-17 in fiscal year 2020/2021 total \$3,750,937. These funds were intended to complete design and permitting and are insufficient to construct this project. City Council approved design and permitting contracts have already been awarded and design is complete. In this way, the Surface Water Discharge Project could move forward while Funding Agreements were being prepared.

To date, City has spent \$2,565,095.40 (\$2,049,488 for contracts + \$515,607.40 for materials). The remaining City responsibility of \$138,787.60 (\$2,703,883 - \$2,565,095.40) is within the approved budget, and so no budget amendment is required to cover the City costs.

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**WATER DISCHARGE**

Staff is recommending a budget amendment in the amount not to exceed \$8,797,665 (River Islands \$5,637,895 plus Lathrop Land Acquisition, LLC \$1,782,774 plus Richland Crossroads, L.P. (\$1,376,996) to transfer funds received from River Islands Development, Lathrop Land Acquisition, LLC and Richland Crossroads, L.P. to CIP WW 20-17.

Increase Revenue		
2710-8000-372-0100		\$8,797,665
Increase Transfer Out		
2710-9900-990-9010		\$8,797,665
Increase Transfer In		
6090-9900-393-0000	WW 20-17	\$8,797,665
Increase Appropriation		
6090-8000-420-83-00	WW 20-17	\$8,797,665

**ATTACHMENTS:**


- A. Resolution
  - Approving Funding Agreements with River Islands, Lathrop Land Acquisition, LLC and Richland Crossroads, L.P.
  - Awarding a Construction Contract to Cushman Contracting Corporation for Dechlorination Facilities
  - Awarding a Construction Contract to Teichert & Son, Inc. dba Teichert Construction for Pipeline and River Outfall Construction
  - Approving a Professional Service Agreement with TRC for Construction Management
  - Ratifying the Equipment/Materials Purchased
  - Ratifying the Outfall Permit Agreement with Reclamation District 17
  - Approving a Related Budget Amendment, All Associated with Surface Water Discharge Project CIP WW 20-17
  
- B. Recycled Water River Discharge Funding Agreement between City of Lathrop and River Islands Development LLC, associated with CIP-WW 20-17
  
- C. Recycled Water River Discharge Funding Agreement between City of Lathrop and Lathrop Land Acquisition LLC, associated with CIP WW 20-17
  
- D. Recycled Water River Discharge Funding Agreement between City of Lathrop and Richland Crossroads, L.P., associated with CIP WW 20-17

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WATER DISCHARGE**

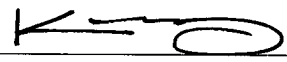
- E. Construction Contract with Cushman Contracting Corporation for Dechlorination Facilities, Surface Water Discharge Project CIP WW 20-17
- F. Construction Contract with Teichert for Outfall Pipeline, Surface Water Discharge Project CIP WW 20-17
- G. Professional Service Agreement with TRC for Construction Management
- H. Purchase Order No. 2022-57 with Teichert Construction in the amount of \$515,607.40 for pipe and material to construct the Project
- I. Permit Agreement with Reclamation District No 17

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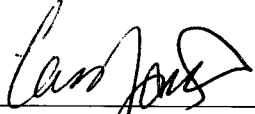
APPROVALS

  
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Glenn Gebhardt  
City Engineer

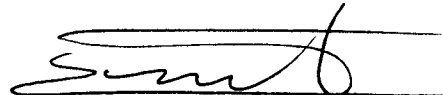
9.8.21  
Date

  
\_\_\_\_\_  
Michael King  
Public Works Director

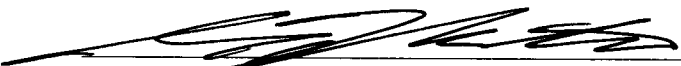
9.8.2021  
Date

  
\_\_\_\_\_  
Cari James  
Finance & Administrative Services Director

9/8/2021  
Date

  
\_\_\_\_\_  
Salvador Navarrete  
City Attorney

9-8-2021  
Date

  
\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

9.8.21  
Date

**RESOLUTION NO. 21-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP RELATED TO CIP WW 20-17 SURFACE WATER DISCHARGE PROJECT APPROVING FUNDING AGREEMENTS WITH RIVER ISLANDS DEVELOPMENT, LLC, SAYBROOK CLSP, LLC, AND RICHLAND CROSSROADS, L.P., AWARDED CONSTRUCTION CONTRACT TO CUSHMAN CONTRACTING CORPORATION FOR DECHLORINATION FACILITIES, AWARDED CONSTRUCTION CONTRACT TO TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION FOR PIPELINE AND RIVER OUTFALL CONSTRUCTION, APPROVING PROFESSIONAL CONSULTING SERVICES AGREEMENT WITH TRC ENGINEERS, INC. FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES AND CONSTRUCTION MANAGEMENT, RATIFYING EQUIPMENT AND MATERIAL PURCHASES, RATIFYING OUTFALL PERMIT AGREEMENT WITH RECLAMATION DISTRICT 17, AND APPROVING RELATED BUDGET AMENDMENT**

**WHEREAS**, the City of Lathrop Combined Treatment Facility (CTF) produces highly treated wastewater (recycled water), which is currently disposed of by land application to either spray fields or percolation ponds. At buildout of the City, the area of land required for the disposal of recycled water will be 1,500 acres at a cost of over \$200 million; and

**WHEREAS**, most other cities choose and are permitted to discharge their recycled water into the river or other body of water at a significantly lower cost and minimal land use. The discharge is permitted through a National Pollutant Discharge Elimination System (NPDES) permit, which the City is currently pursuing; and

**WHEREAS**, to fund the construction that will support the transition from land application to river discharge and clearly define the fair share proportions, the City needs to enter into a Funding Agreement with River Islands Development, LLC (RID) and Lathrop Land Acquisition, LLC (Saybrook); and

**WHEREAS**, there are several components of this project and the estimated costs are listed in Table 1 below; and

Table 1 – Project Components and Estimated Cost

1. Permitting	\$700,000
2. CEQA	\$650,000
3. CTF Improvements	\$3,620,000
4. Pipeline from CTF to River	\$3,382,000
5. Engineering and Construction Management	\$2,255,040
6. Contingency (10%)	\$1,060,704
7. Reimbursements for existing infrastructure	\$6,515,399
Total Estimate Cost	\$18,183,143

**WHEREAS**, each component of Table 1 is briefly described below:

1. Permitting: Includes all permits necessary to complete the project from the following agencies: Army Corp or Engineers, San Joaquin Valley Flood Protection Board, RD 17, and the Regional Water Quality Control Board.
2. CEQA: California Environmental Quality Act, environmental impact review.
3. CTF Improvements: Pump improvements and construction of a de-chlorination facility to reduce the chlorine level, which is harmful to fish.
4. Pipeline from CTF to River: 1.5-mile-long pipeline for the transmission of the recycled water from the CTF to the river.
5. Engineering and Construction Management: Program management, engineering, easements, fees, legal assistance and construction management.
6. Contingency (10%): Compensation for unforeseen costs.
7. Reimbursements: Existing infrastructure that is required to support the river discharge including existing pipes, pumps and ponds for storage; and

**WHEREAS**, the benefitting developments will contribute to the funding of the components listed in Table 1 in the amounts shown in Table 2 below; and

Table 2 – Cost Allocation

Contributor	Sewer Capacity (gpd)	Contribution Percentage	Reimbursements for Existing Infrastructure	Contribution
River Islands	2,843,719	65.2	\$6,061,649	\$5,804,121
Saybrook	427,255	9.8	-	\$1,782,774
Richland	330,000	7.6	-	\$1,376,966
City	756,800	17.3	\$453,750	\$2,703,883
Totals	4,357,724	100%	\$6,515,399	\$11,667,744

**WHEREAS**, the savings to future development are detailed in Table 3 below; and

Table 3 – Future Residential Development Savings (per home)

Component	Current Cost (w/o discharge)	Future Cost (w/ discharge)	Difference
Storage & Disposal	\$8,600	\$0	-\$6,000
River Discharge	\$0	\$761	\$761
Total	\$8,600	\$860	-\$7,740/home



**WHEREAS**, the total savings for future residential development is \$7,740 per home and the average savings for a typical restaurant with a sewer generation of 1,500 gallons per day is \$60,000. Staff requests that Council approve the Funding Agreement to fund the construction of the critical Recycled Water River Discharge Project; and

**WHEREAS**, the Recycled Water River Discharge Project will cost the City an estimated \$2,703,883 as detailed in the Funding Agreement. There is currently \$3,750,937 immediately available for the City's portion of the cost, which was collected from developments as their purchase of sewer capacity upon connection to the City's system; and

**WHEREAS**, CTF Dechlorination Facility is a part of Surface Water River Discharge Capital Improvement Project (CIP) WW 20-17 and will construct a dechlorination facility at the City's CTF to remove chlorine from recycled water, making it suitable for discharge to the San Joaquin River; and

**WHEREAS**, the plans and specifications for this project were completed by PACE and advertised for bid on June 4, 2021 in accordance with the Lathrop Municipal Code (LMC) 2.36.060; and

**WHEREAS**, a total of two (2) bids were received and opened by the City Clerk on June 29, 2021; and

**WHEREAS**, upon review and evaluation of the bids, the lowest responsive and responsible bidder for the project was determined to be Cushman Contracting Corporation (Cushman) with a base bid amount of \$3,620,000; and

**WHEREAS**, staff requests the City Council award a construction contract to Cushman in the amount of \$3,620,000; and

**WHEREAS**, staff also requests Council authorize a 10% construction contingency in the amount of \$362,000 and authorize staff to spend the contingency as necessary to achieve the goals of the project for a total cost not to exceed \$3,982,000; and

**WHEREAS**, the Surface Water River Discharge Capital Improvement Project (CIP) WW 20-17 will construct 2 segments of pipeline and an outfall structure on the San Joaquin River (River), enabling the conveyance and discharge of recycled water to the River; and

**WHEREAS**, the plans and specifications for this project were completed by KPFF Consulting Engineers and advertised for bid on June 4, 2021 in accordance with the Lathrop Municipal Code (LMC) 2.36.060; and

**WHEREAS**, a total of two (2) bids were received and opened by the City Clerk on June 29, 2021; and

**WHEREAS**, upon review and evaluation of the bids, the lowest responsive and responsible bidder for the project was determined to be Teichert & Son, Inc. dba Teichert Construction (Teichert), with a base bid of \$3,382,000; and

**WHEREAS**, City Manager approved Purchase Order No. 2022-57 with Teichert Construction in the amount of \$515,607.40 for the purchase of pipe and equipment (Attachment G to September 13, 2021 staff report) that was acquired to avoid the delivery time delay associated with all material, and

**WHEREAS**, staff requests the City Council approve a construction contract with Teichert in the amount of \$2,866,392.6 (low bid of \$3,382,000 - \$515,607.40 for pre-purchased pipe and equipment); and

**WHEREAS**, staff also requests City Council authorize a 10% construction contingency of \$338,200, and authorize staff to spend the contingency as necessary to achieve the goals of the project for a total cost not to exceed \$3,204,592.60; and

**WHEREAS**, construction management services are needed to oversee the modifications to the CTF, pipeline and river outfall structure construction due to the complexity of the construction and the strict construction schedule dictated by the permitting requirements; and

**WHEREAS**, staff solicited and received a proposal from TRC to provide Construction Management Services on a time and materials basis for a cost of \$228,220 and staff also requests City Council authorize a 10% contingency in the amount of \$22,800; and

**WHEREAS**, staff requests City Council approve a Professional Consulting Services Agreement with TRC to provide Construction Management Services on a time and material basis for an amount not to exceed \$251,020; and

**WHEREAS**, due to lengthy delivery times for large pipes and related material, it was determined that the purchase of pipe and equipment prior to City Council award of the construction contract was necessary to avoid the delivery time delays and give the City the opportunity to construct the Surface Water River Discharge Capital Improvement Project (CIP) WW 20-17 in 2021, and the low bidder for this Project, Teichert Construction, could be issued a purchase order to acquire the pipe and equipment immediately, and the final Teichert contract would be reduced by the amount of this advanced purchase by the City; and

**WHEREAS**, staff requests City Council ratify the City Manager's action to approve Purchase Order No. 2022-57 with Teichert Construction in the amount of \$515,607.40 for the purchase of pipe and equipment (Attachment G to September 13, 2021 staff report) that was paid for using approved Fiscal Year 2020/21 budget for this Project and was acquired to avoid the delivery time delay associated with all material and allow construction of the work in the San Joaquin River this calendar year; and

**WHEREAS**, Reclamation District 17 is responsible to maintain the levees, and so approval of this an Outfall Permit Agreement with Reclamation District 17 was required by the Central Valley Flood Protection Board before they would place their outfall permit on their calendar for August 27, 2021, and a one month delay in this permit would miss the in-water construction period allowed in the San Joaquin River; and

**WHEREAS**, staff requests City Council ratify the City Manager’s action to approve the Outfall Permit Agreement with Reclamation District 17 (Attachment H to September 13, 2021 staff report); and

**WHEREAS**, section 2.36.080 “Emergency Procedures” of the Lathrop Municipal Code (LMC) was utilized by the City Manager to efficiently and timely maintain essential public services; and

**WHEREAS**, funds were only budgeted for design and permitting, and so sufficient funds were not allocated to construct the Project in the adopted FY 2020/2021 Budget, therefore, staff requests City Council approve a budget amendment to add \$8,797,665 to the Surface Water Discharge Project CIP WW 20-17 budget to account for the funds being received from three developers per the Funding Agreements being approved tonight:

<u>Increase Revenue</u>		
2710-8000-372-0100		\$8,797,665
<u>Increase Transfer Out</u>		
271-9900-990-9010		\$8,797,665
<u>Increase Transfer In</u>		
6090-9900-393-0000	WW 20-17	\$8,797,665
<u>Increase Expenditures</u>		
6090-8000-420-12-00	WW 20-17	\$8,797,665

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Lathrop to hereby approve the following actions regarding the Surface Water Discharge Project CIP WW 20-17:

- Approve Funding Agreements with River Islands Development, LLC, Saybrook CLSP, LLC, and Richland Crossroads, L.P., and allow the City Manager and City Attorney to make minor adjustments as required,
- Award a Construction Contract to Cushman Contracting Corporation for Dechlorination Facilities, in the amount of \$3,620,000 plus a 10% contingency in the amount of \$362,000, and authorize staff to spend up to this amount as necessary to accomplish the goals of the project,

- Award a Construction Contract to A. Teichert & Son, Inc. dba Teichert Construction for Pipeline and River Outfall Construction in the amount of \$2,866,392.6 (low bid of \$3,382,000 - \$515,607.40 for pre-purchased pipe and equipment, Purchase Order No. 2022-57), plus a 10% contingency in the amount of \$338,200 for a total cost of \$3,204,592.60 and authorize staff to spend up to this amount as necessary to accomplish the goals of the project,
- Approve a Professional Consulting Services Agreement with TRC Engineers, Inc. for Professional Engineering Consulting Services and Construction Management on a time and material basis for an amount not to exceed \$251,020,
- Ratify the City Manager's action to approve Purchase Order No. 2022-57 with Teichert Construction in the amount of \$515,607.40 for the advance purchase of pipe and equipment (Attachment G to September 13, 2021 staff report),
- Ratify the City Manager's action to approve the Outfall Permit Agreement with Reclamation District 17 (Attachment H to September 13, 2021 staff report), and
- Approve a Related Budget Amendment to add \$8,797,665 to the Surface Water Discharge Project CIP WW 20-17 budget to account for the funds being received from three developers per the Funding Agreements being approved tonight.

The foregoing resolution was passed and adopted this 13<sup>th</sup> of September 2021, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSTAIN:


ABSENT:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

**ATTEST:**

\_\_\_\_\_  
Teresa Vargas, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

# ATTACHMENT B

## PROJECT FUNDING AGREEMENT

By and Among the City of Lathrop, California, a Municipal Corporation  
And  
River Islands Development, LLC  
For  
The City's Project Costs Related to the  
Surface Water Discharge Project CIP WW 20-17

This Project Funding Agreement (the "Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_ 2021, ("Effective Date"), by and between the CITY OF LATHROP, a municipal corporation (hereinafter "CITY") and River Islands Development, LLC (hereinafter "River Islands"). The three developers listed in Exhibit A and CITY are referred to herein, individually as "party" or "Developer", and collectively as the "parties." The Effective Date shall be the date upon which the City Council approves the Agreement.

### RECITALS

- A. The CITY currently operates the Lathrop Consolidated Treatment Facility (LCTF). CITY and River Islands and other developers desire to modify the LCTF and to construct a pipeline to accommodate the ability to dispose of highly treated effluent ("Recycled Water") from the LCTF via a surface water discharge to the San Joaquin River ("River"). This will require acquisition of a National Pollutant Discharge Elimination System ("NPDES") permit from the Central Valley Regional Water Quality Control Board ("CVRWQCB") plus permits from several other State of California and Federal agencies to construct the pipeline.
- B. The CITY currently possesses discharge permits with the CVRWQCB for the LCTF that requires recycled water to be disposed of on land for agricultural purposes ("Sprayfields") or as irrigation of urban landscaping (medians and side street landscaping). At buildout of CITY, the ponds required to hold this recycled water during the winter and lands required to dispose of the recycled water would cover 1,500 acres of potential development at a cost of over \$200 million.
- C. The Surface Water Discharge Project is designed to deliver recycled water to the River and includes design, construction and permitting of improvements at the LCTF to de-chlorinate the recycled water, of a pipeline from the LCTF to and over the River levee, and of an outfall structure to be built within the River, all included as CIP WW 20-17 (the "Project").
- D. As a condition of receiving the NPDES permit, the RWQCB will require CITY to maximize use of recycled water for urban irrigation, including parks and street landscaping. The Project costs therefore include the cost of permanent storage ponds to allow the recycled water system to operate when the city is built-out.
- E. River Islands has contributed certain recycled water improvements to the City system, including recycled water storage ponds and dedication of property for those ponds. Some of those improvements were constructed with funds from public agencies, including the River Islands Public Financing Authority (RIPFA) bond funds, and it is the responsibility of River Islands to resolve any claim on these funds from those agencies.

The Project includes purchasing two ponds and the property they sit upon from River Islands that would otherwise have been returned to River Islands under the right of reverter included in the deeds originally dedicating the property to CITY. Of the seven existing storage ponds currently available to CITY for storage of recycled water, the two River Islands ponds are in locations most useful to the recycled water system and are located in portions of the City where the development land value is lowest.

- F. River Islands has agreed to accept \$6,061,649 in reimbursement and fee credit for its ponds, pump stations and pipeline as a credit toward River Islands prorata share of the Project. In addition, once the Project Costs (as defined below) have been paid by River Islands in accordance with Exhibit A, then River Islands shall not pay any future wastewater disposal fees or charges towards the Project on future building permits to the extent River Islands assigns disposal capacity in the Project that covers the building permit. The amount of disposal capacity assigned to each permit, shall be in the same quantities as the amount of treatment capacity assigned to each permit. For example, River Islands currently assigns 200 gpd of treatment capacity to a single family home. That same home would be assigned 200 gpd of disposal capacity. These amounts may vary in the future pursuant to the terms of the Development Agreement between the City and River Islands.
- G. CITY, with funding from sewer connection fees, contracted for the design and permitting of the Project. The consultant cost for this preliminary work (approximately \$2,049,448 to date) is part of the total funding obligation of all stakeholders participating in the Project but is considered a credit to the City toward the total City responsibility for this Project.
- H. River Islands, as well as the other stakeholders who have requested capacity in the Project, are required to fund their pro-rata share of the design, permitting, program management, CEQA preparation and construction as detailed in attached Exhibit "A" ("**Project Costs**") and under the terms and conditions of this Agreement. This funding commitment may also include in-kind contributions towards design/permitting contracts, materials and/or equipment necessary for the Project as agreed to by CITY in advance, as well as funds that were deposited to the City to guarantee construction of sprayfields and ponds that would be deemed unnecessary by CITY once the Project is commissioned and recycled water discharged to the San Joaquin River, assuming River Islands agrees to commit these funds to the Project.
- I. At the City's request, River Islands funded two City contracts when work on the Surface Water Discharge Project began in 2019, including \$74,939 for a contract between the City and Robertson-Bryan, Inc (RBI) on January 14, 2019, plus \$91,287 for a contract between the City and Ascent Environmental on June 10, 2019, and these funds were understood to be treated as a credit toward River Islands share of Project Costs.
- J. Estimated Project Costs shown in Exhibit A will be incurred to provide design and construction for a project to serve the City at buildout.
- K. River Islands' payment of River Islands' proportionate Project Costs, minus any agreed upon credits, in-kind contribution or monies deposited towards other recycled water disposal not deemed necessary for land disposal (for example, the \$472,500 that River Islands placed into escrow with the City for construction of LAA A32) and agreed by River Islands to be contributed toward their share of the Project, and agreed upon

reimbursements will be due within 10 days after City award of the construction contracts for the Project, subject to Paragraph 2 below. If any developer prefunds costs prior to the deadline for full payment for all the Project Costs, Developer's prefunded contribution will be credited to their share of the total Project Costs. If any PARTICIPANT fails to provide the funds required in their Project Funding Agreement within the 10-day time limit, the cost of that PARTICIPANT's share will be immediately increased by adding 20% to the cost, plus an additional 10% per year for the time between the 10-day time limit and the date the full payment is made, unless an alternative payment schedule is agreed upon between the City and the PARTICIPANT.

- L. The estimated Project Costs include the individual developer's costs to modify the CVRWQCB waste discharge permit to allow their sprayfields and ponds to cease being used by the City and returned to them pursuant to the right of reverter contained in the deeds originally dedicating the property to the City, excepting the ponds retained by the City.
- M. Once the Project is constructed, CITY has been given approval to operate the Project, and the CVRWQCB waste discharge permit has been amended to remove the need for storage ponds and sprayfields as noted in Exhibit A, the River Islands will quitclaim their rights of reversion in the facilities being retained by the City, and the City will deed the parcels it owns in fee title as noted in Exhibit A to the developer that deeded the land to the City. Most of the River Islands' Sprayfields noted in Exhibit A are subject to the Sprayfield Agreement that granted an option to the City to purchase the properties in the future. Those optioned properties will be returned to River Islands via termination of the Sprayfield Agreement and the City will quitclaim any interest in those properties. Additionally, several other properties were included in the Report of Waste Discharge as future possible pond and spray field locations. River Islands shall have no obligation to convey those properties at any time to the City. The exception is the ponds retained by the City to become a part of the Project.
- N. CITY will make sewer disposal capacity available to River Islands in the Project at the capacity identified in Exhibit "A" provided River Islands fulfills all terms and conditions of, and pays its proportionate share of Project Costs. Additional capacity to River Islands can be purchased from CITY, or capacity from River Islands can be allocated or reallocated via CITY's Transfer Policy. The Parties acknowledge that there may be a gap between the completion of construction of the Project, and River Islands needing to demonstrate discharge capacity for upcoming final maps. The parties agree that upon River Islands funding of the Project as required under Paragraph 2, River Islands would not need to provide any additional funding guarantees for spray fields and rather, the City can rely on the funds paid by River Islands as an overall guarantee of funding discharge capacity. However, CITY is not responsible for providing alternative disposal capacity if there is a delay in completing the Project.
- O. Any costs required to remove constructed facilities on sprayfields or storage ponds to be returned by CITY to the Developer will be paid solely by the Developer. Property will be returned "As Is".
- P. Following construction of the Project, a capital facility fee (CFF) will be created to recover costs incurred by CITY in consultant cost for this preliminary work and the construction and permitting costs funded by CITY. This recycled water disposal CFF will only be charged to development that does not have adequate disposal credit for the development.



- Q. Exhibit A includes the low bid costs received by the City on July 13, 2021, as highlighted in that Exhibit.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, CITY and River Islands hereby agree as follows:

## AGREEMENT

1. Incorporation of Recitals. The parties agree that the foregoing Recitals are true and correct, and are incorporated as a part of this Agreement as if set forth in full herein.
  
2. Pro Rata Share.
  - a. River Islands agrees to provide Five Million Six Hundred and Thirty Seven Thousand, Eight Hundred Ninety-five Dollars (**\$5,637,895**) to CITY as their pro-rata share of the total Project Costs ("Project Costs") as detailed in "River Islands Cash Due" in Exhibit "A". The first \$2 million of this amount must be provided prior to but no later than 10 days after the City notifies in writing that it has awarded the construction contracts for the Project. The balance of River Islands pro-rata share of the total Project Costs shall be due at such time as the City has provided evidence of a Letter of Permission (Section 404 and 408 permits) from the U.S. Army Corps of Engineers.
  
  - b. Construction timing is critical, and cannot be delayed due to nonpayment by any Developer. If any Developer fails to contribute its designated pro-rata share of Project Costs set forth in these Funding Agreements within ten (10) days after the City awards the construction contract for the Project, or other such timeline as may be agreed to between CITY and Developer, then (A) CITY shall advance the non-contributing Developer's portion of Project Costs, and (B) the non-contributing Developer's portion of the Project Costs will be immediately increased by 20% of the Cost in this Agreement, plus an additional 10% per year of delay from the date ten (10) days after the CITY awards the construction contract for the Project to the date the full, increased by 20% share is paid to City, and (C) such non-contributing Developer's discharge capacity allocation shall not be available until such non-contributing Developer's portion of Project Costs is paid in full. The result will be that non-contributing Developers shall continue to be responsible to provide storage and disposal capacity for their Surface Water Discharge Capacity Allocated as identified in Exhibit A and their "Land Returned to Developers" identified in Exhibit A shall be retained by the City until such time as their portion of Project Costs are paid in full.
  
3. Final Accounting.
  - a. Exhibit A includes a 10% contingency which the City may use as necessary for unexpected Project costs. In the event costs exceed the total with contingency, City must immediately inform the developers of the cost overruns. CITY shall provide a draft final accounting of all construction costs incurred by CITY in connection with the Project (the "Final Accounting") to DEVELOPER not later than 90 days after final completion and CITY acceptance of the Project. DEVELOPER acknowledges that the Final Accounting may include costs that exceed the estimates with contingency ("Excess Costs").
  
  - b. DEVELOPER shall have the right to review and approve the Final Accounting, which review and approval shall be provided, if at all, within 10 business days after DEVELOPERS' receipt of the Final Accounting. If any Developer has not timely provided its written approval or comments, if any, then such Developer shall be deemed to have approved the Final Accounting. Subject to

the foregoing, CITY and Developers will work together to resolve any questions raised regarding the draft Final Accounting prior to it becoming final.

- c. Once all Developers approve the Final Accounting, (A) CITY shall notify all Developers of such agreement ("Notice of Approval of Final Accounting") and (B) all Developers shall pay their respective share of any "Excess Costs" as set forth in the Final Accounting within thirty (30) days after receipt of the Notice of Approval of Final Accounting. The Notice of Approval of Final Accounting shall attach the approved Final Accounting, the parties' final allocations of the Excess Costs applicable to each Developer.
- d. If any Developer fails to contribute its share of Excess Costs set forth in the Final Accounting within thirty (30) days after receipt of the Notice of Approval of Final Accounting, then, similar to Section 2 (a)(i) above, CITY shall advance the non-contributing Developer's portion of Excess Costs, and such non-contributing Developer's discharge capacity allocation shall not be available until such non-contributing Developer's portion of Excess Costs is paid in full. The result will be that non-contributing Developers shall continue to be responsible to provide storage and disposal capacity for their Surface Water Discharge Capacity Allocated as identified in Exhibit A and their "Land Returned to Developers" identified in Exhibit A shall be retained by the City until such time as their portion of Excess Costs are paid in full.
- e. To the extent that the approved Final Accounting illustrates cost savings (e.g. the Project was constructed for less than the Project Costs, CITY shall reimburse to each Developer its pro rata share of such cost savings within thirty (30) days after CITY'S issuance of the Notice of Approval of Final Accounting.

#### 4. Default.

a. If any party materially breaches or fails to comply with any of its obligations under this Agreement, such breaching party shall have thirty (30) days after receipt of written notice of breach from a non-defaulting party (the "Breach Notice") to cure such breach or noncompliance (as such period may be extended as set forth below, the "Cure Period"). If such breaching party does not cure such breach or noncompliance within the Cure Period, it shall be deemed in default ("Default") under this Agreement; provided, however, that if the nature of the breach or noncompliance reasonably requires more than thirty (30) days to cure, the breaching party shall not be in Default under this Agreement so long as the breaching party commences such cure within the Cure Period and diligently prosecutes such cure, and provided further that the Breach Notice shall set forth in reasonable detail the nature of the breach, noncompliance or default, as the case may be. The party sending the Breach Notice shall provide a copy to all parties hereunder.

b. Subject to the provisions of Section 4(c) below, upon a Default pursuant to Section 4(a), the parties shall first mediate the dispute in good faith using a mutually acceptable mediator, which mediation shall be scheduled and concluded not later than 60 days after expiration of the Cure Period. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Claims, controversies or disputes not resolved by mediation shall be decided by binding arbitration unless the parties mutually agree otherwise. Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect, The demand for arbitration shall be filed in writing with the other parties to this Agreement and the American Arbitration Association. Notwithstanding the foregoing, any party may seek injunctive or other immediate equitable relief, if applicable, in a court of law, pending resolution of the dispute through mediation or arbitration.

c. Notwithstanding the foregoing, in the event of a payment default hereunder that is not cured within ten (10) business days after any Developer's receipt of a Breach Notice from CITY, (i) CITY may immediately suspend such Developer's ability to use its discharge capacity and (ii) CITY may sell such Developer's discharge capacity to repay Developers that funded the Project Costs

5. Counterparts. This Agreement may be executed in counterparts, including electronic (pdf) and facsimile counterparts, each of which shall be considered an original and all of which together shall be considered the same document.

6. Advice of Counsel. Each of the parties has received the advice of legal counsel prior to signing this Agreement. Each party acknowledges no other party or agent or attorney has made a promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter herein to induce another party to execute this Agreement. The parties agree no provision or provisions may be subject to any rules of construction based upon any party being considered the party drafting this Agreement.

7. Governing Law. The validity, interpretation and effect of this Agreement are governed by and shall be construed in accordance with the laws of the State of California.

8. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable but the remainder of the Agreement can be enforced without failure of material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect. If, however, the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, all parties shall meet and negotiate in good faith not less frequently than every ten (10) days and formulate new terms that substitute the stricken clause with other provisions that provide substantially similar terms as the stricken clause. If the parties are unable to agree, then the parties shall resolve the issues through mediation as set forth in Section 11.b.

9. Authorization. Without any personal liability therefor, each person executing this Agreement on behalf of the applicable party hereto warrants that (i) such party is duly organized and existing, (ii) such person has been duly authorized to execute and deliver this Agreement on behalf of the applicable party, (iii) the execution of this Agreement by such person shall bind the applicable party to the terms of this Agreement, and (iv) to such person's knowledge, the execution of this Agreement does not violate any agreement as to which such party is bound. CITY represents and warrants that CITY has obtained any necessary approvals to execute this Agreement and be bound by the terms hereof.

10. Other Agreements Not Affected. This Agreement constitutes the entire agreement between the parties hereto with respect to the Project Costs and supersedes all prior understandings or agreements with respect to the subject matter hereof. This Agreement may be modified only by specific reference describing a mutual intent and agreement to amend this Agreement in written documents signed by all parties hereto.

11. Notices. All notices which are allowed or required to be given hereunder shall be in writing and (i) shall be deemed given and received when personally delivered or (ii) shall be deemed given when the same are deposited in the United States Mail, with sufficient postage prepaid, to be sent by registered or certified mail or overnight mail service, addressed to the designated person by one party to another in writing, and shall be deemed received on the fourth business day after such mailing. Any notice shall be given to all of the following:

**CITY**

City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330  
Attn. City Manager

With a copy to:

City of Lathrop  
390 Towne Centre Drive

**DEVELOPER**

River Islands Development, LLC  
73 Stewart Road  
Lathrop, CA 95330.  
Attn. Susan Dell'Osso

Lathrop, CA 95330

Attn: City Attorney

12. Further Assurances. The parties agree to perform such further acts and to execute and deliver such further instruments as are reasonably necessary to accomplish the intent and purpose of this Agreement.

13. Assignment and Transfer. This Agreement shall inure to the benefit of and bind the successors and permitted assigns of the parties. Except for an assignment to an Affiliate (defined below) of a Developer, no Developer may assign this Agreement without the prior written consent of CITY, which shall not be unreasonably withheld, conditioned or delayed. Without limiting the foregoing, prior to any Developer assignment, (i) the assigning Developer shall notify all parties of the proposed assignment and provide reasonable information to the parties regarding the proposed assignee and (ii) any potential assignee must reasonably demonstrate to the CITY's satisfaction that the proposed assignee has the financial ability and experience to fulfill the assigning Developer's obligations under this Agreement. Any Developer may assign this Agreement to an Affiliate, with notice to the other parties hereto. As used herein, the term "Affiliate" means any person, entity or organization as to which any Developer has a controlling interest. As used herein, "controlling interest" means the right to control the management decisions of such person or entity, whether by contract or otherwise.

14. Time of the Essence. Time is of the essence of this Agreement.

15. Construction. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision(s) to which they pertain.

16. No Joint Venture or Partnership. Nothing in this Agreement or in any document executed in connection with this Agreement shall be construed as creating a joint venture, partnership, or any agency relationship between CITY and a DEVELOPER or all Developers.

17. Waiver. No waiver of any provision of this Agreement shall be effective unless such waiver is in writing and signed by a duly authorized representative of the party against whom enforcement is sought.

18. Table of Exhibits. The following exhibits are attached hereto and made a part hereof:

Exhibit A: Discharge Capacities, Project Costs, Reimbursements, Developer's Share and Land Returned to Developers

In witness whereof, the City of Lathrop and River Islands have executed this Agreement as of the date or dates set forth below.

ATTEST:

CITY OF LATHROP, a Municipal Corporation of the State of California

BY: \_\_\_\_\_  
Teresa Vargas  
City Clerk

BY: \_\_\_\_\_  
Stephen J. Salvatore  
City Manager

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

River Islands Development, LLC

BY: \_\_\_\_\_  
Salvador V. Navarrete  
City Attorney

BY: Susan Dell'Osso  
Its: President

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

## EXHIBIT A

### Surface Water Discharge Capacity Allocated

River Islands	65.25%	2,843,719.	gpd
Saybrook CLSP, LLC.	9.8%	427,255.	gpd
Richland (Crossroads)	7.6%	330,000.	gpd
City of Lathrop	17.4%	756,750.	gpd
<b>Total Capacity</b>	<b>100 %</b>	<b>4,357,724.</b>	<b>gpd</b>

### Project Estimated Costs

1) Permitting		\$700,000.	
2) CEQA		\$650,000.	
3) Improvements at the CTF		\$ 3,620,000.	7/13/21 Low Bid
4) Construction of a pipeline to the river		\$ 3,382,000.	7/13/21 Low Bid
5) Design, construction management, etc.		\$ 2,255,040.	Revised based on bids
6) Contingency (10%)		\$ 1,060,704.	Revised to 10% on bids
7) Reimbursements		\$ 6,515,399.	
<b>Total Estimated Project Cost</b>		<b>\$18,183,143.</b>	Total with bids

### Credits Due for Advance Funding of Consultant Work awarded by City

River Islands: Robertson-Bryan contract	\$74,939.	Contract awarded Jan 14, 2019
River Islands Ascent Environmental	\$91,287	Contract awarded June 10, 2019
<b>Total Credits</b>	<b>\$166,226</b>	

### Reimbursements Due

River Islands Pond S5	\$1,001,800.	(pond not returned to RI)
Pond S16	\$4,083,716.	(pond not returned to RI)
RW Pipe to S16	\$ 886,000.	
LOF Pipe/land for Project	\$ 90,133.	(pipeline not returned to RI)
<b>Total RI Reimbursement</b>	<b>\$6,061,649.</b>	
City Pipeline for Project	\$ 453,750.	
<b>Total Reimbursements</b>	<b>\$6,515,399</b>	

### Developer's Share of Project Costs

River Islands	65.2%	\$11,865,770.
Saybrook CLSP, LLC.	9.8%	\$1,782,774.
Richland (Crossroads)	7.6%	\$1,376,966.
City of Lathrop	17.4%	\$3,157,633.
<b>Total Project Costs</b>	<b>100 %</b>	<b>\$18,183,143</b>

### River Islands Cash Due

\$11,865,770.	River Islands share of Project
-\$6,061,649.	River Islands Reimbursements Due
- \$166,226.	River Islands Credit for Advance Funding of Studies
<b>\$5,637,895.</b>	<b>River Islands Cash Due to Build Project</b>

(Note that a portion of this cash may be provided via a release of spray field guarantees such as the \$472,500 for LAA A32)

### Lands Owned in Fee by City to be Returned to Developers and City

	<u>LLA/Pond</u>	<u>Acres</u>	
River Islands			(LAA = land application area)
	LAA A35	50	(includes A35, A35b and A35c)
Saybrook	Pond S28	8	
	LLA A36	29	
	LLA A37	38	
	Pond S29	0	(former LAA, pond guaranteed but not yet built)
	LAA A37	10	(guaranteed but not yet built)
	LAA A38	9	(guaranteed but not yet built)
Richland	PB-1	23	(PB = Percolation Basin)
City of Lathrop	LAA A19	20	(acquired/designed but not yet built)
<b>Total Land to be Returned</b>		<b>187 Acres</b>	

### Lands Optioned by City to be Returned to River Islands via termination of the Sprayfield Agreement

	<u>LLA/Pond</u>	<u>Acres</u>	
River Islands	LAA A28	10	
	LAA A30	35	
	LAA A31	95	
	LAA A34	48	
	LAA A32	27	(\$472,500 guaranteed but not yet built)
<b>Total Option Land to be Returned</b>		<b>215 Acres</b>	

## PROJECT FUNDING AGREEMENT

By and Among the City of Lathrop, California, a Municipal Corporation  
and  
Saybrook CLSP, LLC, a Delaware limited liability company  
for  
The City's Project Costs Related to the  
Surface Water Discharge Project CIP WW 20-17

This Project Funding Agreement (the "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2021 ("Effective Date"), , by and between the CITY OF LATHROP, a municipal corporation (hereinafter "CITY") and Saybrook CLSP, LLC, a Delaware limited liability company (hereinafter "DEVELOPER"). The three developers listed in Exhibit A and CITY are referred to herein, individually as "PARTICIPANT, and collectively as the "PARTICIPANTS". The Effective Date shall be the date upon which the City Council approves the Agreement.

## RECITALS

- A. CITY currently operates the Lathrop Consolidated Treatment Facility (LCTF). CITY and DEVELOPER and PARTICIPANTS, set forth in Exhibit A, desire to modify the LCTF and to construct a pipeline to dispose of highly treated effluent ("Recycled Water") from the LCTF via a surface water discharge to the San Joaquin River (the "River"). This will require acquisition of a National Pollutant Discharge Elimination System ("NPDES") permit from the Central Valley Regional Water Quality Control Board ("CVRWQCB") plus permits from several other State of California and Federal agencies to construct the pipeline.
- B. CITY currently possesses discharge permits with CVRWQCB for the LCTF that requires recycled water to be disposed of on land for agricultural purposes, or as irrigation of urban landscaping (medians and side street landscaping). At buildout of CITY, the ponds required to hold this recycled water during the winter, and lands required to dispose of the effluent, would cover roughly 1,500 acres of potential development land at a cost of over \$200 million.
- C. The Surface Water Discharge Project is designed to deliver recycled water to the River and includes design, construction and permitting of improvements at the LCTF to de-chlorinate the recycled water, a pipeline from the LCTF to and over the River levee, and an outfall structure to be built within the River, all included as CIP WW 20-17, and to modify the waste discharge permit to allow specific ponds and spray fields to be released and used for development purposes as described in Recital L, M and NE. below (the "Project").
- D. As a condition of receiving the NPDES permit, the RWQCB will require CITY to maximize use of recycled water for urban irrigation, including parks and street landscaping. The Project costs therefore include the cost of permanent storage ponds to allow the recycled water system to operate when the CITY is built-out.
- E. The Project includes purchasing two ponds from River Islands Development, LLC ("River Islands") that would otherwise have been returned to River Islands under the right of reverter included in the deeds originally dedicating the property to CITY. Of the seven existing storage ponds currently available to CITY for storage of recycled



water, the two River Island ponds to remain are in locations most useful to the recycled water system and are located in portions of the City where the development land value is lowest.

- F. River Islands has agreed to accept \$6,061,649 in reimbursement and fee credit for its ponds, pump stations and pipeline as a credit toward River Islands pro rata share of the Project. In addition, once the Project Costs (as defined below) have been paid by DEVELOPER in accordance with Exhibit A, then DEVELOPER shall not pay any future wastewater disposal fees or charges towards the Project on future building permits.
- G. CITY, with funding from CITY sewer connection fees, contracted for the design and permitting of the Project. The consultant cost for this preliminary work (approximately \$2,049,448 to date) is part of the total funding obligation of all stakeholders participating in the Project, but is considered a credit to the City toward the total City responsibility for this Project.
- H. DEVELOPER, as well as the PARTICIPANTS who have requested capacity in the Project, is required to fund their pro-rata share of the design, permitting, program management, CEQA preparation and construction as detailed in attached Exhibit "A" ("Project Costs") and under the terms and conditions of this Agreement. This funding commitment may also include funds or bonds that were deposited to CITY to guarantee construction of sprayfields and ponds that would be deemed unnecessary by CITY once the Project is commissioned and recycled water discharged to the San Joaquin River, assuming DEVELOPER agrees to commit these funds to the Project. Any change in the Project Costs will require the immediate notification to all of the PARTICIPANTS.
- I. At the City's request, River Islands funded two City contracts when work on the Surface Water Discharge Project began in 2019, including \$74,939 for a contract between the City and Robertson-Bryan, Inc (RBI) on January 14, 2019, plus \$91,287 for a contract between the City and Ascent Environmental on June 10, 2019, and these funds were understood to be treated as a credit toward River Islands share of Project Costs.
- J. Estimated Project Costs shown in Exhibit A will be incurred to provide design and construction for the Project to serve the CITY at buildout.
- K. PARTICIPANTS full payment of PARTICIPANTS proportionate Project Costs will be due within 10 days after CITY award of the construction contracts for the Project. If any PARTICIPANT prefunds costs prior to the deadline for full payment for all the Project Costs, PARTICIPANTS prefunded contribution will be credited to their share of the total Project Costs. If any PARTICIPANT fails to provide the funds required in their Project Funding Agreement within the 10-day time limit, the cost of that PARTICIPANT's share will be immediately increased by adding 20% to the cost, plus an additional 10% per year for the time between the 10-day time limit and the date the full payment is made, unless an alternative payment schedule is agreed upon between the City and the PARTICIPANT.
- L. The Project and estimated Project Costs include the costs to modify the CVRWQCB waste discharge permit to allow their spray fields and ponds to cease being used by the City and returned to them pursuant to the right of reverter contained in the deeds

originally dedicating the property to the CITY, along with the land they sit upon, as detailed in this Agreement.

M. DEVELOPER executed various grant deeds (as Grantor) to benefit the CITY (as Grantee) which states in part in Section 3(c):

“c. because Grantor is participating in and has paid their fair share of some other alternative effort to lawfully dispose and/or store recycled water to allow replacement of the portion of the Spray Field and/or Storage Pond Property, including but not limited to a replacement pond or spray field, approved river discharge, or a regional effort, and that effort has resulted in a fully City and RWQCB approved substitution of the portion of disposal or storage capacity being requested for release”

N. In accordance with the grant deed, once the DEVELOPER pays the share of Project Costs, the Project is constructed, CITY has been given approval to operate the Project by CVRWQCB, and the CVRWQCB waste discharge permit has been amended to remove the need for storage ponds and spray fields as noted in Exhibit A, and allowing the ponds and spray fields to be used for development purposes, the CITY:

- a. Will deed the parcels noted in Exhibit A to the DEVELOPER that deeded the land to the CITY. The exception is the two ponds retained by the CITY that are part of the Project; and
- b. Acknowledge and take action under the Subdivision Improvement Agreement for Tract 4017, dated January 11, 2021, necessary to release the DEVELOPER'S obligation therein as it relates to the Project in satisfaction of a portion of the “Offsite Improvements” (as defined in therein).

O. CITY will make sewer disposal capacity available to DEVELOPER in the Project at the capacity identified in Exhibit “A” provided DEVELOPER fulfills all terms and conditions of, and pays its proportionate share of Project Costs.

P. Any costs required to remove constructed facilities on sprayfields or storage ponds to be returned by CITY to DEVELOPER will be paid solely by DEVELOPER. Property will be returned “As Is”.

Q. Following construction of the Project, a capital facility fee will be created to recover consultant costs incurred by CITY for this preliminary work, and the construction and permitting costs funded by CITY, but shall not apply to DEVELOPER as it has paid the share of Project Costs under this Agreement, to the extent DEVELOPER purchased and assigns disposal capacity in the Project that covers the building permit.

R. Exhibit “A” includes the low bid costs, a portion of the Project Costs, received by the CITY on July 13, 2021.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, CITY and DEVELOPER hereby agree as follows:

## AGREEMENT

1. Incorporation of Recitals. The parties agree that the foregoing Recitals are true and correct, and are incorporated as a part of this Agreement as if set forth in full herein.
2. Pro Rata Share.
  - a. DEVELOPER agrees to provide One Million Seven Hundred Ninety Four Thousand Eight Hundred Fifty Four Dollars (\$1,794,854) to CITY as its pro-rata share of the total Project Costs ("**Project Costs**") as detailed in Exhibit "A". This amount must be provided prior to but no later than 10 days after the City awards the construction contract for the Project.
    - i. Construction timing is critical, and cannot be delayed due to nonpayment by any Developer. If any PARTICIPANT fails to contribute its entire pro-rata share of Project Costs set forth in this Project Funding Agreement within ten (10) days after the CITY awards the construction contract for the Project, then (A) CITY shall advance the non-contributing PARTICIPANTS portion of Project Costs, and (B) the non-contributing PARTICIPANTS portion of the Project Costs will be immediately increased by 20% of the Cost in this Agreement, plus an additional 10% per year of delay from the date ten (10) days after the CITY awards the construction contract for the Project to the date the full, increased by 20% share is paid to City, and (such non-contributing PARTICIPANTS discharge capacity allocation shall not be available until such non-contributing PARTICIPANTS portion of Project Costs is paid in full. The result will be that non-contributing PARTICIPANTS shall continue to be responsible to provide storage and disposal capacity for their Surface Water Discharge Capacity Allocated as identified in Exhibit "A" and the "Land Returned to Developers" identified in Exhibit "A" shall be retained by the CITY until such time as their portion of Project Costs are paid in full.
3. Final Accounting.
  - a. CITY shall provide a draft final accounting of all construction costs incurred by CITY in connection with the Project (the "Final Accounting") to DEVELOPER not later than 90 days after final completion and CITY acceptance of the Project. DEVELOPER acknowledges that the Final Accounting may include costs that exceed the Project Costs ("**Excess Costs**") City shall outline with specificity in the Excess Costs explanation any deviation from Project Costs.
  - b. DEVELOPER shall have the right to review and approve the Final Accounting, which review and approval shall be provided, if at all, within 10 business days after DEVELOPERS' receipt of the Final Accounting. If any PARTICIPANT has not timely provided its written approval or comments, if any, then such PARTICIPANT shall be deemed to have approved the Final Accounting. Subject to the foregoing, CITY and PARTICIPANTS will work together to resolve any disputes raised regarding the draft Final Accounting prior to it becoming final.
  - c. Once all PARTICIPANTS approve, or fail to timely provide its review and approval of the Final Accounting, (A) CITY shall notify all PARTICIPANTS of such Final Accounting ("**Notice of Approval of Final Accounting**") and (B) all PARTICIPANTS shall pay their respective share of any "Excess Costs" as set forth in the Final Accounting within thirty (30) days after receipt of the Notice of Approval of Final Accounting. The Notice of Approval of Final Accounting shall attach the approved Final Accounting, the parties' final allocations of the Excess Costs applicable to each PARTICIPANT.

- d. If any PARTICIPANT fails to contribute its share of Excess Costs set forth in the Final Accounting within thirty (30) days after receipt of the Notice of Approval of Final Accounting, then, similar to Section 2 (a)(i) above, CITY shall advance the non-contributing PARTICIPANTS portion of Excess Costs, and such non-contributing PARTICIPANTS discharge capacity allocation shall not be available until such non-contributing PARTICIPANT'S portion of Excess Costs is paid in full. The result will be that non-contributing PARTICIPANTS shall continue to be responsible to provide storage and disposal capacity for their Surface Water Discharge Capacity Allocated as identified in Exhibit "A" and their "Land Returned to Developers" identified in Exhibit "A" shall be retained by the City until such time as their portion of Excess Costs are paid in full.
- e. To the extent that the approved Final Accounting illustrates cost savings (e.g. the Project was constructed for less than the Project Costs), CITY shall reimburse to each PARTICIPANT its pro rata share of such cost savings within thirty (30) days after CITY'S issuance of the Notice of Approval of Final Accounting.

#### 4. Default.

a. If any party materially breaches or fails to comply with any of its obligations under this Agreement, such breaching party shall have thirty (30) days after receipt of written notice of breach from a non-defaulting party (the "**Breach Notice**") to cure such breach or noncompliance (as such period may be extended as set forth below, the "**Cure Period**"). If such breaching party does not cure such breach or noncompliance within the Cure Period, it shall be deemed in default ("**Default**") under this Agreement; provided, however, that if the nature of the breach or noncompliance reasonably requires more than thirty (30) days to cure, the breaching party shall not be in Default under this Agreement so long as the breaching party commences such cure within the Cure Period and diligently prosecutes such cure, and provided further that the Breach Notice shall set forth in reasonable detail the nature of the breach, noncompliance or default, as the case may be. The party sending the Breach Notice shall provide a copy to all parties hereunder.

b. Subject to the provisions of Section 4(c) below, upon a Default pursuant to Section 4(a), the parties shall first mediate the dispute in good faith using a mutually acceptable mediator, which mediation shall be scheduled and concluded not later than 60 days after expiration of the Cure Period. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Claims, controversies or disputes not resolved by mediation shall be decided by binding arbitration unless the parties mutually agree otherwise. Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other parties to this Agreement and the American Arbitration Association. Notwithstanding the foregoing, any party may seek injunctive or other immediate equitable relief, if applicable, in a court of law, pending resolution of the dispute through mediation or arbitration.

c. Notwithstanding the foregoing, in the event of a payment default hereunder that is not cured within ten (10) business days after any PARTICIPANTS receipt of a Breach Notice from CITY, (i) CITY may immediately suspend such PARTICIPANTS ability to use its discharge capacity and (ii) CITY may sell such PARTICIPANTS discharge capacity to repay PARTICIPANTS that funded the Project Costs

5. Counterparts. This Agreement may be executed in counterparts, including electronic (pdf) and facsimile counterparts, each of which shall be considered an original and all of which together shall be considered the same document.

6. Advice of Counsel. Each of the parties has received the advice of legal counsel prior to signing this Agreement. Each party acknowledges no other party or agent or attorney has made a promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter herein to induce another party to execute this Agreement. The parties agree no provision or provisions may be subject to any rules of construction based upon any party being considered the party drafting this Agreement.

7. Governing Law. The validity, interpretation and effect of this Agreement are governed by and shall be construed in accordance with the laws of the State of California.

8. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable but the remainder of the Agreement can be enforced without failure of material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect. If, however, the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, all parties shall meet and negotiate in good faith not less frequently than every ten (10) days and formulate new terms that substitute the stricken clause with other provisions that provide substantially similar terms as the stricken clause. If the parties are unable to agree, then the parties shall resolve the issues through mediation as set forth in Section 11.b.

9. Authorization. Without any personal liability therefor, each person executing this Agreement on behalf of the applicable party hereto warrants that (i) such party is duly organized and existing, (ii) such person has been duly authorized to execute and deliver this Agreement on behalf of the applicable party, (iii) the execution of this Agreement by such person shall bind the applicable party to the terms of this Agreement, and (iv) to such person's knowledge, the execution of this Agreement does not violate any agreement as to which such party is bound. CITY represents and warrants that CITY has obtained any necessary approvals to execute this Agreement and be bound by the terms hereof.

10. Other Agreements Not Affected. This Agreement constitutes the entire agreement between the parties hereto with respect to the Project Costs and supersedes all prior understandings or agreements with respect to the subject matter hereof. This Agreement may be modified only by specific reference describing a mutual intent and agreement to amend this Agreement in written documents signed by all parties hereto.

11. Notices. All notices which are allowed or required to be given hereunder shall be in writing and (i) shall be deemed given and received when personally delivered or (ii) shall be deemed given when the same are deposited in the United States Mail, with sufficient postage prepaid, to be sent by registered or certified mail or overnight mail service, addressed to the designated person by one party to another in writing, and shall be deemed received on the fourth business day after such mailing. Any notice shall be given to all of the following:

**CITY**

City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330  
Attn. City Manager

With a copy to:  
City of Lathrop

390 Towne Centre Drive  
65134.00001\34319375.1

**DEVELOPER**

Saybrook CLSP, LLC  
303 Twin Dolphin Drive  
Suite 600  
Redwood Shores, CA 94065

Attn: Jeff Wilson

With a copy to:  
Best and Krieger

Lathrop, CA 95330  
Attn: City Attorney

300 South Grand Avenue  
25<sup>th</sup> Floor  
Los Angeles, CA 90071  
Attn: Seth Merewitz, Esq.

12. Further Assurances. The parties agree to perform such further acts and to execute and deliver such further instruments as are reasonably necessary to accomplish the intent and purpose of this Agreement.

13. Assignment and Transfer. This Agreement shall inure to the benefit of and bind the successors and permitted assigns of the parties. Except for an assignment to an Affiliate (defined below) of a PARTICIPANT, no PARTICIPANT may assign this Agreement without the prior written consent of CITY, which shall not be unreasonably withheld, conditioned or delayed. Without limiting the foregoing, prior to any PARTICIPANT assignment, (i) the assigning PARTICIPANT shall notify all parties of the proposed assignment and provide reasonable information to the parties regarding the proposed assignee and (ii) any potential assignee must reasonably demonstrate to the CITY's satisfaction that the proposed assignee has the financial ability and experience to fulfill the assigning PARTICIPANTS obligations under this Agreement. Any PARTICIPANT may assign this Agreement to an Affiliate, with notice to the other parties hereto. As used herein, the term "Affiliate" means any person, entity or organization as to which any PARTICIPANT has a controlling interest. As used herein, "controlling interest" means the right to control the management decisions of such person or entity, whether by contract or otherwise.

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BY: \_\_\_\_\_  
Teresa Vargas  
City Clerk

BY: \_\_\_\_\_  
Stephen J. Salvatore  
City Manager

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

SAYBROOK CLSP, LLC, a Delaware limited liability company

BY: \_\_\_\_\_  
Salvador V. Navarrete  
City Attorney

BY: Saybrook Fund Investors, LLC  
Its: Managing Member

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: Jeffrey M. Wilson

Its: Officer

Dated: \_\_\_\_\_

\_\_\_\_\_

# EXHIBIT A

## Surface Water Discharge Capacity Allocated

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<b>Total</b>	<b>100 %</b>	<b>4,357,724.</b>	<b>gpd</b>

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2) CEQA	\$650,000.	
3) Improvements at the CTF	\$ 3,620,000.	7/13/21 Low Bid
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<b>\$5,637,895.</b>	<b>River Islands Cash Due to Build Project</b>

**Lands Returned to PARTICIPANTS**

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	LAA A30	35		
	LAA A31	95		
	LAA A34	48		
	LAA A35	50		(includes A35, A35b and A35c)
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	LLA A36	29		
	LLA A37	38		
	Pond S29	0	(former LAA, pond guaranteed but not yet built)	
	LAA A37	10	(guaranteed but not yet built)	
	LAA A38	9	(guaranteed but not yet built)	
Richland	PB-1	23	(PB = Percolation Basin)	
City of Lathrop	LAA Axx	20	(acquired/designed but not yet built)	
<b>Total Land to be Returned</b>		<b>402 Acres</b>		

## PROJECT FUNDING AGREEMENT

By and Among the City of Lathrop, California, a Municipal Corporation  
and  
Richland Crossroads, L.P.  
for  
The City's Project Costs Related to the  
Surface Water Discharge Project CIP WW 20-17

This Project Funding Agreement (the "Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_ 2021 ("Execution Date"), by and between the CITY OF LATHROP, a municipal corporation (hereinafter "CITY") and Richland Crossroads, L.P., a California limited partnership (hereinafter "DEVELOPER"). The three developers listed in Exhibit A and CITY are referred to herein, individually as "party" or "Developer", and collectively as the "parties." The Effective Date shall be the date upon which all of the Developers execute this same form of agreement.

### RECITALS

- A. CITY currently operates the Lathrop Consolidated Treatment Facility ("LCTF"). CITY and DEVELOPER and other developers, set forth in Exhibit "A" ("Project Costs"), desire to modify the LCTF and to construct a pipeline to dispose of highly treated effluent ("Recycled Water") from the LCTF via a surface water discharge to the San Joaquin River (the "River"). This will require acquisition of a National Pollutant Discharge Elimination System ("NPDES") permit from the Central Valley Regional Water Quality Control Board ("CVRWQCB") plus permits from several other State of California and Federal agencies to construct the pipeline.
- B. CITY currently possesses discharge permits with the CVRWQCB for the LCTF that requires recycled water to be disposed of on land for agricultural purposes, or as irrigation of urban landscaping (medians and side street landscaping). At buildout of CITY, the ponds required to hold this recycled water during the winter, and lands required to dispose of the effluent, would cover roughly 1,500 acres of potential development land at a cost of over \$200 million.
- C. The Surface Water Discharge Project CIP WW 20-17 (the "Project") is designed to deliver recycled water to the River and includes construction of improvements at the LCTF to de-chlorinate the recycled water, construction of a pipeline from the LCTF to and over the River levee, and construction of an outfall structure to be built within the River.
- D. As a condition of receiving the NPDES permit, the RWQCB will require CITY to maximize use of recycled water for urban irrigation, including parks and street landscaping. The Project costs therefore include the cost of permanent storage ponds to allow the recycled water system to operate when the city is built-out.
- E. The Project includes purchasing two ponds from River Islands Development, LLC ("River Islands") that would otherwise have been returned to River Islands under the right of

reverter included in the deeds originally dedicating the property to CITY. Of the seven existing storage ponds currently available to CITY for storage of recycled water, the two River Island ponds are in locations most useful to the recycled water system and are located in portions of the City where the development land value is lowest.

- F. River Islands has agreed to accept the \$6.1 million in reimbursement and fee credit for its ponds, pump stations and pipeline as a credit toward River Islands pro rata share of the Project. Accordingly, River Islands shall not pay any future wastewater disposal fees or charges towards the Project on future building permits. In addition, once the Project Costs (as defined below) have been paid by DEVELOPER in accordance with Exhibit A, then DEVELOPER shall not pay any future wastewater disposal fees or charges towards the Project on future building permits, to the extent DEVELOPER acquires and retains surface water discharge disposal capacity with this agreement.
- G. CITY, with funding from CITY sewer connection fees, contracted for the design and permitting of the Project. The consultant cost for this preliminary work (approximately \$2,049,448 to date) is part of the total funding obligation of all stakeholders participating in the Project.
- H. DEVELOPER, as well as the other stakeholders who have requested capacity in the Project, is required to fund their pro-rata share of the design, permitting, program management, CEQA preparation and construction as detailed in the attached Exhibit "A" and under the terms and conditions of this Agreement. This funding commitment may also include funds that were deposited to CITY to guarantee construction of sprayfields and ponds that would be deemed unnecessary by CITY once the Project is commissioned and recycled water discharged to the San Joaquin River, assuming DEVELOPER agrees to commit these funds to the Project.
- I. At the City's request, River Islands funded two City contracts when work on the Surface Water Discharge Project began in 2019, including \$74,939 for a contract between the City and Robertson-Bryan, Inc (RBI) on January 14, 2019, plus \$91,287 for a contract between the City and Ascent Environmental on June 10, 2019, and these funds were understood to be treated as a credit toward River Islands share of Project Costs.
- J. Estimated Project Costs shown in Exhibit A will be incurred to provide design and construction for the Project to serve the City at buildout.
- K. DEVELOPER's full payment of DEVELOPER's proportionate Project Costs will be due within 10 days after CITY award of the construction contracts for the Project. If any developer prefunds costs prior to the deadline for full payment for all the Project Costs, DEVELOPER's prefunded contribution will be credited to their share of the total Project Costs. If any PARTICIPANT fails to provide the funds required in their Project Funding Agreement within the 10-day time limit, the cost of that PARTICIPANT's share will be immediately increased by adding 20% to the cost, plus an additional 10% per year for the time between the 10-day time limit and the date the full payment is made, unless an alternative payment schedule is agreed upon between the City and the PARTICIPANT.

- L. The estimated Project Costs include the individual developer's costs to modify the CVRWQCB waste discharge permit to allow their sprayfields and ponds or percolation pond to cease being used by the City and returned to them pursuant to the right of reverter contained in the deeds originally dedicating the property to the City.
- M. Once DEVELOPER pays the share of Project Costs, the Project is constructed, CITY has been given approval to operate the Project by CVRWQCB, and the CVRWQCB waste discharge permit has been amended to remove the need for storage ponds and spray fields as noted in Exhibit A, and allowing the ponds and spray fields to be used for development purposes, the City:
  - a. Will deed the parcels noted in Exhibit A to the Developer that deeded the land to the City. The exception is the ponds retained by the City that are part of the Project; and
- N. CITY will make sewer disposal capacity available to DEVELOPER in the Project at the capacity identified in Exhibit "A" provided DEVELOPER fulfills all terms and conditions of, pays its proportionate share of Project Costs.
- O. Any costs required to remove constructed facilities on sprayfields or storage ponds to be returned by CITY to DEVELOPER will be paid solely by DEVELOPER. Property will be returned "As Is".
- P. Following construction of the Project, a capital facility fee will be created to recover costs incurred by CITY in consultant cost for this preliminary work and in the construction costs funded by CITY, but shall not apply to DEVELOPER as they have paid their share of Project Costs under this Agreement.
- Q. Exhibit A includes the low bid costs received by the City on July 13, 2021, as highlighted in that Exhibit.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, CITY and DEVELOPER hereby agree as follows:

### **AGREEMENT**

1. Incorporation of Recitals. The parties agree that the foregoing Recitals are true and correct, and are incorporated as a part of this Agreement as if set forth in full herein.
2. Pro Rata Share.
  - a. DEVELOPER agrees to provide One Million Three Hundred Seventy-five Thousand Nine Hundred Fifty Two Dollars (\$1,375,952) to CITY as their pro-rata share of the total Project Costs as detailed in Exhibit "A". This amount must be provided prior to but no later than 10 days after the City awards the construction contract for the Project.
    - (i) Construction timing is critical, and cannot be delayed due to nonpayment by any Developer. If any Developer fails to contribute its entire pro-rata share of Project

Costs set forth in these Funding Agreements within ten (10) days after the City awards the construction contract for the Project, or other such timeline as may be agreed to between CITY and Developer, then (A) CITY shall advance the non-contributing Developer's portion of Project Costs, and (B) ) the non-contributing PARTICIPANTS portion of the Project Costs will be immediately increased by 20% of the Cost in this Agreement, plus an additional 10% per year of delay from the date ten (10) days after the CITY awards the construction contract for the Project to the date the full, increased by 20% share is paid to City, and (C) such non-contributing Developer's discharge capacity allocation shall not be available until such non-contributing Developer's portion of Project Costs is paid in full. The result will be that non-contributing Developers shall continue to be responsible to provide storage and disposal capacity for their Surface Water Discharge Capacity Allocated as identified in Exhibit A and their "Land Returned to Developers" identified in Exhibit A shall be retained by the City until such time as their portion of Project Costs are paid in full.

3. Final Accounting.

- a. CITY shall provide a draft final accounting of all construction costs incurred by CITY in connection with the Project (the "Final Accounting") to DEVELOPER not later than 90 days after final completion and CITY acceptance of the Project. DEVELOPER acknowledges that the Final Accounting may include costs that exceed the estimates ("Excess Costs").
- b. DEVELOPER shall have the right to review and approve the Final Accounting, which review and approval shall be provided, if at all, within 10 business days after DEVELOPERS' receipt of the Final Accounting. If any Developer has not timely provided its written approval or comments, if any, then such Developer shall be deemed to have approved the Final Accounting. Subject to the foregoing, CITY and Developers will work together to resolve any questions raised regarding the draft Final Accounting prior to it becoming final.
- c. Once all Developers approve the Final Accounting, (A) CITY shall notify all Developers of such agreement ("Notice of Approval of Final Accounting") and (B) all Developers shall pay their respective share of any "Excess Costs" as set forth in the Final Accounting within thirty (30) days after receipt of the Notice of Approval of Final Accounting. The Notice of Approval of Final Accounting shall attach the approved Final Accounting, the parties' final allocations of the Excess Costs applicable to each Developer.
- d. If any Developer fails to contribute its share of Excess Costs set forth in the Final Accounting within thirty (30) days after receipt of the Notice of Approval of Final Accounting, then, similar to Section 2 (a)(i) above, CITY shall advance the non-contributing Developer's portion of Excess Costs, and such non-contributing Developer's discharge capacity allocation shall not be available until such non-contributing Developer's portion of Excess Costs is paid in full. The result will be that non-contributing Developers shall continue to be responsible to provide storage and disposal capacity for their Surface Water Discharge Capacity Allocated as identified in Exhibit A and their "Land Returned to Developers" identified in Exhibit A shall be retained by the City until such time as their portion of Excess Costs are paid in full.

- e. To the extent that the approved Final Accounting illustrates cost savings (e.g. the Project was constructed for less than the Project Costs, CITY shall reimburse to each Developer its pro rata share of such cost savings within thirty (30) days after CITY'S issuance of the Notice of Approval of Final Accounting.
4. Default.
- a. If any party materially breaches or fails to comply with any of its obligations under this Agreement, such breaching party shall have thirty (30) days after receipt of written notice of breach from a non-defaulting party (the "Breach Notice") to cure such breach or noncompliance (as such period may be extended as set forth below, the "Cure Period"). If such breaching party does not cure such breach or noncompliance within the Cure Period, it shall be deemed in default ("Default") under this Agreement; provided, however, that if the nature of the breach or noncompliance reasonably requires more than thirty (30) days to cure, the breaching party shall not be in Default under this Agreement so long as the breaching party commences such cure within the Cure Period and diligently prosecutes such cure, and provided further that the Breach Notice shall set forth in reasonable detail the nature of the breach, noncompliance or default, as the case may be. The party sending the Breach Notice shall provide a copy to all parties hereunder.
  - b. Subject to the provisions of Section 4(c) below, upon a Default pursuant to Section 4(a), the parties shall first mediate the dispute in good faith using a mutually acceptable mediator, which mediation shall be scheduled and concluded not later than 60 days after expiration of the Cure Period. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Claims, controversies or disputes not resolved by mediation shall be decided by binding arbitration unless the parties mutually agree otherwise. Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other parties to this Agreement and the American Arbitration Association. Notwithstanding the foregoing, any party may seek injunctive or other immediate equitable relief, if applicable, in a court of law, pending resolution of the dispute through mediation or arbitration.
  - c. Notwithstanding the foregoing, in the event of a payment default hereunder that is not cured within ten (10) business days after any DEVELOPER's receipt of a Breach Notice from CITY:
    - (i) CITY may immediately suspend such Developer's ability to use its discharge capacity; and
    - (ii) CITY may sell such Developer's discharge capacity to repay Developers that funded the Project Costs.
5. Counterparts. This Agreement may be executed in counterparts, including electronic (pdf) and facsimile counterparts, each of which shall be considered an original and all of which together shall be considered the same document.
6. Advice of Counsel. Each of the parties has received the advice of legal counsel prior to signing this Agreement. Each party acknowledges no other party or agent or attorney has made a promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the

subject matter herein to induce another party to execute this Agreement. The parties agree no provision or provisions may be subject to any rules of construction based upon any party being considered the party drafting this Agreement.

7. Governing Law. The validity, interpretation and effect of this Agreement are governed by and shall be construed in accordance with the laws of the State of California.
8. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable but the remainder of the Agreement can be enforced without failure of material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect. If, however, the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, all parties shall meet and negotiate in good faith not less frequently than every ten (10) days and formulate new terms that substitute the stricken clause with other provisions that provide substantially similar terms as the stricken clause. If the parties are unable to agree, then the parties shall resolve the issues through mediation as set forth in Section 11.b.
9. Authorization. Without any personal liability therefor, each person executing this Agreement on behalf of the applicable party hereto warrants that (i) such party is duly organized and existing, (ii) such person has been duly authorized to execute and deliver this Agreement on behalf of the applicable party, (iii) the execution of this Agreement by such person shall bind the applicable party to the terms of this Agreement, and (iv) to such person's knowledge, the execution of this Agreement does not violate any agreement as to which such party is bound. CITY represents and warrants that CITY has obtained any necessary approvals to execute this Agreement and be bound by the terms hereof.
10. Other Agreements Not Affected. This Agreement constitutes the entire agreement between the parties hereto with respect to the Project Costs and supersedes all prior understandings or agreements with respect to the subject matter hereof. This Agreement may be modified only by specific reference describing a mutual intent and agreement to amend this Agreement in written documents signed by all parties hereto.
11. Notices. All notices which are allowed or required to be given hereunder shall be in writing and (i) shall be deemed given and received when personally delivered or (ii) shall be deemed given when the same are deposited in the United States Mail, with sufficient postage prepaid, to be sent by registered or certified mail or overnight mail service, addressed to the designated person by one party to another in writing, and shall be deemed received on the fourth business day after such mailing. Any notice shall be given to all of the following:

**CITY**

City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330  
Attn. City Manager

**DEVELOPER**

Richland Crossroads, L.P.  
3161 Michelson Drive, Suite 425  
Irvine, CA 92612  
Attn: Craig Cristina

With a copy to:

City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330  
Attn: City Attorney

12. Further Assurances. The parties agree to perform such further acts and to execute and deliver such further instruments as are reasonably necessary to accomplish the intent and purpose of this Agreement.
13. Assignment and Transfer. This Agreement shall inure to the benefit of and bind the successors and permitted assigns of the parties. Except for an assignment to an Affiliate (defined below) of a Developer, no Developer may assign this Agreement without the prior written consent of CITY, which shall not be unreasonably withheld, conditioned or delayed. Without limiting the foregoing, prior to any Developer assignment, (i) the assigning Developer shall notify all parties of the proposed assignment and provide reasonable information to the parties regarding the proposed assignee and (ii) any potential assignee must reasonably demonstrate to the CITY's satisfaction that the proposed assignee has the financial ability and experience to fulfill the assigning Developer's obligations under this Agreement. Any Developer may assign this Agreement to an Affiliate, with notice to the other parties hereto. As used herein, the term "Affiliate" means any person, entity or organization as to which any Developer has a controlling interest. As used herein, "controlling interest" means the right to control the management decisions of such person or entity, whether by contract or otherwise.
14. Time of the Essence. Time is of the essence of this Agreement.
15. Construction. All parties have been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision(s) to which they pertain.
16. No Joint Venture or Partnership. Nothing in this Agreement or in any document executed in connection with this Agreement shall be construed as creating a joint venture, partnership, or any agency relationship between CITY and a DEVELOPER or all Developers.
17. Waiver. No waiver of any provision of this Agreement shall be effective unless such waiver is in writing and signed by a duly authorized representative of the party against whom enforcement is sought.
18. Table of Exhibits. The following exhibits are attached hereto and made a part hereof:  
  
Exhibit A: Discharge Capacities, Project Costs, Reimbursements, Developer's Share and Land Returned to Developers



In witness whereof, the CITY and DEVELOPER have executed this Agreement as of the date or dates set forth below.

CITY OF LATHROP, a Municipal Corporation of the State of California

BY: \_\_\_\_\_  
Stephen J. Salvatore  
City Manager

ATTEST:

BY: \_\_\_\_\_  
Teresa Vargas  
City Clerk

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Salvador V. Navarrete  
City Attorney

Dated: \_\_\_\_\_

RICHLAND CROSSROADS, L.P.  
a California limited partnership (DEVELOPER)

BY: \_\_\_\_\_  
John Troutman  
Vice President

Dated: \_\_\_\_\_

**EXHIBIT A**  
**(“Project Costs”)**

**Surface Water Discharge Capacity Allocated**

River Islands	65.2%	2,843,719.	gpd
Lathrop Land Acq.	9.8%	427,255.	gpd
Richland (Crossroads)	7.6%	330,000.	gpd
City of Lathrop	17.4%	756,750.	gpd
<b>Total</b>	<b>100 %</b>	<b>4,357,724.</b>	<b>gpd</b>

**Project ESTIMATED Costs**

1) Permitting		\$700,000.	
2) CEQA		\$650,000.	
3) Improvements at the CTF		\$ 3,620,000.	7/13/21 Low Bid
4) Construction of a pipeline to the river		\$ 3,382,000.	7/13/21 Low Bid
5) Design, construction management, etc.		\$ 2,255,040.	Revised based on bids
6) Contingency (10%)		\$ 1,060,704.	Revised to 10% on bids
7) Reimbursements		\$ 6,515,399.	
<b>Total Estimated Project Cost</b>		<b>\$18,183,143.</b>	Total with bids

**Credits Due for Advance Funding of Consultant Work awarded by City**

River Islands: Robertson-Bryan contract	\$ 74,939.	Contract awarded Jan 14, 2019
River Islands: Ascent Environmental	\$ 91,287.	Contract awarded June 10, 2019
<b>Total Credits</b>	<b>\$166,226.</b>	

**Reimbursements Due**

River Islands	Pond S5	\$1,001,800.	(pond not returned to RI)
	Pond S16	\$4,083,716	(pond not returned to RI)
	RW Pipe to S16	\$ 886,000.	
	Pipeline/land for Project	\$ 90,133.	(pipeline not returned to RI)
	<b>Total RI Reimbursement</b>	<b>\$6,061,649.</b>	
City	Pipeline for Project	\$ 453,750.	
	<b>Total Reimbursements</b>	<b>\$6,515,399.</b>	

### Developer's Share of Project Costs

River Islands	65.2%	\$11,865,770
Saybrook CLSP, LLC	9.8%	\$1,782,774
Richland (Crossroads)	7.6%	\$1,376,966
City of Lathrop	17.4%	\$3,157,633
<b>Total Project Costs</b>	<b>100 %</b>	<b>\$18,183,143</b>

### River Islands Cash Due

\$11,865,770.	River Islands share of Project
-\$6,061,649.	River Islands Reimbursements Due
- \$166,226.	River Islands Credit for Advance Funding of Studies
<b>\$5,637,895.</b>	<b>River Islands Cash Due to Build Project</b>

### Lands Returned to Developers

	<u>LLA/Pond</u>	<u>Acres</u>	
River Islands	LAA A28	10	(LAA = land application area)
	LAA A30	35	
	LAA A31	95	
	LAA A34	48	
	LAA A35	50	(includes A35, A35b and A35c)
	LAA A32	27	(guaranteed but not yet built)
Lathrop Land Acq.	Pond S28	8	
	LLA A36	29	
	LLA A37	38	
	Pond S29	0	(former LAA, pond guaranteed but not yet built)
	LAA A37	10	(guaranteed but not yet built)
	LAA A38	9	(guaranteed but not yet built)
Richland	PB-1	23	(PB = Percolation Basin)
City of Lathrop	LAA Axx	20	(acquired/designed but not yet built)
<b>Total Land to be Returned</b>		<b>402 Acres</b>	

## CONSTRUCTION CONTRACT

This Contract, dated **September 13, 2021**, is entered into by and between the **City of Lathrop**, a municipal corporation of the State of California (City), and **Cushman Contracting Corporation** (Contractor), whose Taxpayer Identification Number is \_\_\_\_\_.

For and in consideration of the following covenants, terms and conditions, City and Contractor (the parties) agree:

1. Term. This Contract shall commence on, and be binding on the parties on, the date of execution of this Contract, and shall expire on the date of recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder, subject to the earlier termination of this Contract.
2. General Scope of Project and Work. Construction Documents for the **SCTF Dechlorination Facility, CIP WW 20-17** (Project). Contractor shall furnish labor, services, materials and equipment in connection with the construction of the Project and complete the Work in accordance with the covenants, terms and conditions of this Contract to the satisfaction of City. The Project and Work is generally described as follows:

The work to be performed under this contract includes all work contained in the Construction Documents, as detailed in Paragraph 3 below, including but not limited to the construction of a dechlorination facility at the City's Consolidated Treatment Facility (CTF) including provision, installation and assembly of all pertinent equipment.

The work shall be **completed within 230 working days** following issuance of Notice to Proceed.

The Work shall be complete, and all appurtenant work, materials, and services not expressly shown or called for in the Construction Documents which may be necessary for the complete and proper construction of the Work in good faith shall be performed, furnished, and installed by the Contractor as though originally specified or shown. The Contractor will be compensated for work actual work performed in accordance with the unit prices and provisions contained in these Construction Documents.

**Base Bid Total: \$ 3,620,000 (Three Million Six Hundred Twenty Thousand Dollars)**

3. Construction Documents. This Contract shall include the Construction Documents, which are hereby incorporated by reference (i.e. Project Specifications, Project Plans, addenda, performance bond, labor and materials bond, certification of insurance, workers compensation certification, and guaranty), and the Bid Documents submitted by Cushman Contracting Corporation on July 13, 2021. For the purposes of construing, interpreting and resolving inconsistencies between the provisions of this Contract, these documents and the provisions thereof are set forth in the order of precedence described in Article 3 of the General Conditions.

4. Compensation. In consideration of Contractor's performance of its obligations hereunder, City shall pay to Contractor the amount set forth in Contractor's Bid in accordance with the provisions of this Contract and upon the receipt of written invoices and all necessary supporting documentation within the time set forth in the Construction Documents. Contractor hereby shall not be permitted to invoice the City nor accept compensation for work not yet complete. In no event, shall the Contractor be entitled to payment for work not included in the approved scope of work, a written task order, or change order signed by the City's Public Works Director prior to commencement of any work.
5. Insurance. On or before the Date of Execution, Contractor shall obtain and maintain the policies of insurance coverage described in Section 5.2 of the General Conditions on terms and conditions and in amounts as may be required by the City. City shall not be obligated to take out insurance on Contractor's personal property or the personal property of any person performing labor or services or supplying materials or equipment under the Project. Contractor shall furnish City with the certificates of insurance and with original endorsements affecting coverage required under this Contract on or before the Date of Execution. The certificates and endorsements for each insurance policy shall be signed by a person who is authorized by that insurer to bind coverage in its behalf. Proof of insurance shall be mailed to the Project Manager to the address set forth in Section 15 of this Contract.
6. Indemnification. Contractor agrees to protect, defend, indemnify and hold City, its City Council members, officers, employees, engineer, and construction manager harmless from and against any and all claims, demands, liabilities, losses, damages, costs, expenses, liens, penalties, suits, or judgments, arising in whole or in part, directly or indirectly, at any time from any injury to or death of persons or damage to property as a result of the willful or negligent act or omission of Contractor, or which results from Contractor's noncompliance with any Law respecting the condition, use, occupation or safety of the Project site, or any part thereof, or which arises from Contractor's failure to do anything required under this Contract or for doing anything which Contractor is required not to do under this Contract, or which arises from conduct for which any Law imposes strict liability on Contractor in the performance of or failure to perform the terms and conditions of this Contract, except as may arise from the sole willful or negligent act or omission of City or any of its City Council members, officers, employees. This indemnification shall extend to any and all claims, demands, or liens made or filed by reason of any construction, renovation, or remodeling work performed by Contractor under this Contract at any time during the term of this Contract, or arising thereafter.
7. Assumption of Risk. Contractor agrees to voluntarily assume any and all risk of loss, damage, or injury to the property of Contractor which may occur in, on, or about the Project site at any time and in any manner, excepting such loss, injury, or damage as may be caused by the sole willful or negligent act or omission of City or any of its City Council members, officers, or employees.
8. Waiver. The acceptance of any payment or performance, or any part thereof, shall not operate as a waiver by City of its rights under this Contract. A waiver by City of any breach of any part or provision of this Contract by Contractor shall not operate as a waiver or continuing waiver of any subsequent breach of the same or any other provision, nor shall

any custom or practice which may arise between the parties in the administration of any part or provision of this Contract be construed to waive or to lessen the right of City to insist upon the performance of Contractor in strict compliance with the covenants, terms and conditions of this Contract.

9. Compliance with Laws. Contractor shall comply with all Laws now in force or which may hereafter be in force pertaining to the Project and Work and this Contract, with the requirement of any bond or fire underwriters or other similar body now or hereafter constituted, with any discretionary license or permit issued pursuant to any Law of any public agency or official as well as with any provision of all recorded documents affecting the Project site, insofar as any are required by reason of the use or occupancy of the Project site, and with all Laws pertaining to nondiscrimination and affirmative action in employment and hazardous materials.

#### DEPARTMENT OF INDUSTRIAL RELATIONS- COMPLIANCE MONITORING UNIT

##### **DIR Registration.**

- a) Contractor and Subcontractor Compliance. Strict compliance with DIR registration requirements pursuant to Labor Code Section 1725.5 is a material obligation of the Contractor under the Contract Documents. The foregoing includes without limitation, compliance with DIR Registration requirements at all times during performance of the Work by the Contractor and all Subcontractors of any tier. The failure of the Contractor and all Subcontractors of every tier to be DIR registered at all times during the performance of the Work is the Contractor's default of a material obligation of the Contractor under the Contract Documents.
- b) No Subcontractor Performance of Work Without DIR Registration. No portion of the Work is permitted to be performed by a Subcontractor of any tier unless the Subcontractor is a DIR Registered contractor.
- c) Contractor Obligation to Verify Subcontractor DIR Registration Status. An affirmative and on-going obligation of the Contractor under the Contract Documents is the Contractor's verification that all Subcontractors, of all tiers, are at all times during performance of Work in full and strict compliance with DIR Registration requirements. The Contractor shall not permit or allow any Subcontractor of any tier to perform any Work without the Contractor's verification that all such Subcontractors are in full and strict compliance with DIR Registration requirements.
- d) Contractor Obligation to Request Substitution of Non-DIR Registered Subcontractor. If any Subcontractor identified in the Contractor's Subcontractor List submitted with the Contractor's proposal for the Work is not DIR Registered at the time of opening of proposals for the Work or if a Subcontractor's DIR registration lapses prior to or during a Subcontractor's performance of Work, the Contractor shall request the CITY's consent to substitute the non-DIR registered Subcontractor pursuant to Labor Code Section 1771.1(c)(3) and/ or Labor Code Section 1771.1(d).

## **Certified Payroll Records**

- a) Compliance with Labor Code Section 1771.4 and 1776. A material obligation of the Contractor under the Contract Documents is: (i) the Contractor's strict compliance with the requirements pursuant to Labor Code Section 1771.4 and 1776 for preparation and submittal of Certified Payroll Records ("CPR"); and (ii) the Contractor's enforcement of CPR preparation and submittal for all Subcontractors of every tier.
- b) Express Condition Precedent to Payment of Contract Price. Strict compliance with CPR requirements established pursuant to Labor Code Section 1776 is an express condition precedent to the CITY's obligation to: (i) process any request for payment of any portion of the Contract Price; or (ii) to disburse any portion of the Contract Price to the Contractor. The Contractor shall demonstrate strict compliance with CPR preparation and submittal requirements by delivery to the CITY of electronic files or hard copies of all CPR's submitted by the Contractor and/ or Subcontractors for Work pursuant to Labor Code Section 1771.4 and 1776 concurrently with the submittal thereof to the Labor Commissioner. The CITY: (i) shall not be obligated to process or disburse any portion of the Contract Price; or (ii) shall not be deemed in default of the CITY's obligations under the Contract Documents unless the Contractor's demonstrates strict compliance with CPR preparation and submittal requirements.
- c) PWR Monitoring and Enforcement. During the Work pursuant to Labor Code Section 1771.4(a)(4), the Department of Industrial Relations shall monitor and enforce the obligation of the Construction and Subcontractors of every tier to pay the laborers performing any portion of the work the PWR established for the classification of work/ labor performed.

## **RECORD OF WAGES PAID: INSPECTION**

Pursuant to Labor Code section 1776, Contractor stipulates to the following:

- a) Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work under the Facilities lease and Construction Provisions. Such records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information of such forms. The payroll records may consist of payroll data that are maintained as computer records, if printouts contain the same information as the forms provided by the division and the printouts are verified as specified in subdivision (a) of Labor Code section 1776.
- b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:



- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employees or his or her authorized representative on request.
  - (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the CITY, the Division of Labor Standards Enforcement, and Division of Apprenticeship Standards of the Department of Industrial Relations.
  - (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or copies thereof. However, a request by the public shall be made through either the CITY, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by Contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to such records at the principal office of Contractor.
- c) Contractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of the written request.
  - d) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, by the CITY, the Division of Apprenticeship Standards, or the division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of contractor awarded the contract or performing the contract shall not be marked or obliterated.
  - e) Contractor shall inform the CITY of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within (5) working days, provide a notice of a change of location and address.
  - f) In the event of noncompliance with the requirements of this Article, Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this Article. Should noncompliance still be evident after such 10-day period, Contractor shall pay a penalty of One- Hundred Dollars (\$100.00) to the CITY for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from the progress payment then due.

The responsibility for compliance with this Article shall rest upon Contractor.

10. Bonds. As a condition precedent to City's obligation to pay compensation to Contractor, and on or before the date of Execution, Contractor shall furnish to the Project Manager the Bonds as required under the Notice to Contractors.
11. Representations and Warranties. In the supply of any materials and equipment and the rendering of labor and services during the course and scope of the Project and Work, Contractor represents and warrants:
  - (1) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be vested in Contractor;
  - (2) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be merchantable and fit to be used for the particular purpose for which the materials are required;
  - (3) Any labor and services rendered and materials and equipment used or employed during the course and scope of the Project and Work shall be free of defects in workmanship for a period of one (1) year after the recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder;
  - (4) Any manufacturer's warranty obtained by Contractor shall be obtained or shall be deemed obtained by Contractor for and on behalf of City.
  - (5) Any information submitted by Contractor prior to the award of Contract, or thereafter, upon request, whether or not submitted under a continuing obligation by the terms of the Contract to do so, is true and correct at the time such information is submitted or made available to the City;
  - (6) Contractor has not colluded, conspired, or agreed, directly or indirectly, with any person in regard to the terms and conditions of Contractor's Bid, except as may be permitted by the Notice to Contractors;
  - (7) Contractor has the power and the authority to enter into this Contract with City, that the individual executing this Contract is duly authorized to do so by appropriate resolution, and that this Contract shall be executed, delivered and performed pursuant to the power and authority conferred upon the person or persons authorized to bind Contractor;
  - (8) Contractor has not made an attempt to exert undue influence with the Project Manager or any other person who has directly contributed to City's decision to award the Contract to Contractor;
  - (9) There are no unresolved claims or disputes between Contractor and City which would materially affect Contractor's ability to perform under the Contract;

- (10) Contractor has furnished and will furnish true and accurate statements, records, reports, resolutions, certifications, and other written information as may be requested of Contractor by City from time to time during the term of this Contract;
  - (11) Contractor and any person performing labor and services under this Project is duly licensed as a contractor with the State of California as required by California Business & Professional Code Section 7028, as amended; and
  - (12) Contractor has fully examined and inspected the Project site and has full knowledge of the physical conditions of the Project site.
12. Assignment. This Contract and the performance required hereunder is personal to Contractor, and it shall not be assigned by Contractor. Any attempted assignment shall be null and void.
  13. Claims of Contractor. All claims pertaining to extra work, additional charges, or delays within the Contract Time or other disputes arising out of the Contract shall be submitted by Contractor in accordance with the General Conditions.
  14. Audits by City. During the term of this Contract and for a period of not less than three (3) years after the expiration or earlier termination of this Contract, City shall have the right to audit Contractor's Project-related and Work-related writings and business records, as such terms are defined in California Evidence Code Sections 250 and 1271, as amended, during the regular business hours of Contractor, or, if Contractor has no such hours, during the regular business hours of City.
  15. Notices. All contracts, agreements, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail, postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) days by delivery of a hard copy of the material sent by facsimile transmission, in accordance with (1), (2) or (3) above. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City: City of Lathrop  
City Clerk  
390 Towne Centre Drive  
Lathrop, CA 95330

To City: City of Lathrop  
Department of Public Works  
390 Towne Centre Drive  
Lathrop, CA 95330  
PHONE: (209) 941-7430  
FAX: (209) 941-7449

ATTN: Senior Construction Manager

To Contractor: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
ATTN: \_\_\_\_\_

Miscellaneous

- (1) Bailee Disclaimer. The parties understand and agree that City does not purport to be Contractor's bailee, and City is, therefore, not responsible for any damage to the personal property of Contractor.
- (2) Consent. Whenever in this Contract the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.
- (3) Controlling Law. The parties agree that this Contract shall be governed and construed by and in accordance with the Laws of the State of California.
- (4) Definitions. The definitions and terms are as defined in these specifications.
- (5) Force Majeure. Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Contract, which directly results from an Act of God or an act of a superior governmental authority.
- (6) Headings. The paragraph headings are not a part of this Contract and shall have no effect upon the construction or interpretation of any part of this Contract.
- (7) Incorporation of Documents. All documents constituting the Construction Documents described in Section 3 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in this Contract and shall be deemed to be part of this Contract.
- (8) Integration. This Contract and any amendments hereto between the parties constitute the entire contract between the parties concerning the Project and Work, and there are no other prior oral or written contracts between the parties that are not incorporated in this Contract.
- (9) Modification of Contract. This Contract shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.
- (10) Provision. Any contract, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Contract shall define or otherwise control, establish, or limit the performance required or permitted or to be required

of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.

- (11) Resolution. Contractor shall submit with its Bid a copy of any corporate or partnership resolution or other writing, which authorizes any director, officer or other employee or partner to act for or on behalf of Contractor or which authorizes Contractor to enter into this Contract.
- (12) Severability. If a court of competent jurisdiction finds or rules that any provision of this Contract is void or unenforceable, the provisions of this Contract not so affected shall remain in full force and effect.
- (13) Status of Contractor. In the exercise of rights and obligations under this Contract, Contractor acts as an independent contractor and not as an agent or employee of City. Contractor shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of City, and Contractor expressly waives any and all claims to such rights and benefits.
- (14) Successors and Assigns. The provisions of this Contract shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.
- (15) Time of the Essence. Time is of the essence of this Contract and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday, or any Day observed as a legal holiday by City, the time for performance shall be extended to the following Business Day.
- (16) Venue. In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.
- (17) Recovery of costs. The prevailing party in any action brought to enforce the terms of this Contract or arising out of this Contract, including the enforcement of the indemnity provision(s), may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.
- (18) Contractor and subcontractors must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency Regulations at 40 CFR Part 15.
- (19) Contractors and subcontractors must comply with mandatory standards and policies relating to the energy efficiency which are contained in the State Energy

Conservation Plan issued in compliance with the Energy Policy and Conservation ACT (Public Law 94-163, 89 stat 871).

- (20) The Contractor shall provide access to the site for the Environmental Protection Agency and its duly authorized representatives, and the City.
- (21) If during the course of construction evidence of deposit of historical or archaeological interest is found, the Contractor shall cease operation affecting the find and shall notify the City, who shall notify the EPA and the State Historic Preservation Officer. No further disturbance of the deposits shall ensue until the Contractor has been notified by the City that construction may proceed. The City will issue a notice to proceed only after the state official has surveyed the find and made a determination to the EPA and the City. Compensation to the contractor, if any, for lost time or changes in construction to avoid the find, shall be determined in accordance with changed conditions or change order provisions of the Construction Documents.
- (22) Notice to Proceed. Prior to commencing work under this Contract, CONTRACTOR shall receive a written "Notice to Proceed" from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONTRACTOR for any services prior to issuance of the Notice to proceed.
- (23) Signatures. The individuals executing this Contract represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Contract on behalf of the respective legal entities of the CONTRACTOR and the CITY. This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- (24) This project is a public works project: Contractor shall comply with requirements of California Labor Code § 1700 and following, and prevailing wages shall be paid for work performed on this project.
- (25) The statutory provisions for penalties for failing to comply with the State of California wage and labor laws be enforced, as well as that for failing to pay prevailing wages.

EXHIBITS:

EXHIBIT A: Contractor's Submitted Bid Packet

*Certification of insurance, performance and payment bonds, and worker's compensation certification shall be furnished to the City by the Contractor after City Council's approval with resolution.*

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above stated in Lathrop, California.

**CONTRACTOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY OF LATHROP**

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Salvador Navarrete, City Attorney

RECOMMENDED FOR APPROVAL:

By: \_\_\_\_\_  
Michael King, Director of Public Works

APPROVED:

By: \_\_\_\_\_  
Stephen J. Salvatore, City Manager

**BID PROPOSAL FORMS**

TO: City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330

ATTENTION: City Clerk

FOR: CTF – Dechlorination Facility, CIP WW 20-17

THE UNDERSIGNED, AS BIDDER, HEREBY AGREES AND DECLARES THAT:

**LEGAL COMPLIANCE**

The only persons or parties interested in this Bid as Principals are those named herein; that this Bid is made without collusion with any other person, firm, partnership, corporation, or association; that he has carefully examined the location of the proposed work and the Construction Documents; and he proposes and agrees that if this Bid is accepted he will contract with the City of Lathrop, in the form of the Contract as set forth in the Construction Documents for said project, to provide all the necessary labor, services, materials, and equipment, and to do all the work and furnish all the materials; and that he will accept in full payment therefore the price as proposed in the following Bid Schedule.

**SCHEDULE OF PRICES**

All applicable permit fees, licensing costs, sales taxes, State, and/or Federal, and any other taxes, patent rights, or royalties are included in the prices quoted in the Bid. All blank spaces must be filled in.

**BASIS OF AWARD**

The basis for award of the contract will be the total price of the base bid. The City of Lathrop reserves the right to award the work contemplated by the Base Bid only, the Base Bid plus Bid Alternate 1, or none of the work.



ATTACHMENT A

CTF Dechlorination Facility, CIP WW 20-17

**REVISED BASE BID SCHEDULE**

BID ITEM	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	EXTENDED TOTAL
1	Mobilization, Bonds & Insurance	1	LS	419,500 <sup>-</sup>	419,500 <sup>-</sup>
2	Erosion & Sediment Control Plan provision / execution	1	LS	12,800 <sup>-</sup>	12,800 <sup>-</sup>
3	Tank excavation and backfill	1	LS	131,000 <sup>-</sup>	131,000 <sup>-</sup>
4	Concrete slab floors: tank, bldg., incl. any rat slabs	200	CY	1,115 <sup>-</sup>	223,000 <sup>-</sup>
5	Tank walls concrete	200	CY	2,404 <sup>-</sup>	480,800 <sup>-</sup>
6	Building C Roof	600	SF	151 <sup>-</sup>	90,600 <sup>-</sup>
7	16"-24" DIP w/ fittings installed	250	LF	927 <sup>-</sup>	231,750 <sup>-</sup>
8	16"-24" C905 PVC w/ fittings installed	700	LF	588 <sup>-</sup>	411,600 <sup>-</sup>
9	12" sch40 PVC highline installed	150	LF	350 <sup>-</sup>	52,500 <sup>-</sup>
10	Relocate 6" C900 RW pipe installed	80	LF	585 <sup>-</sup>	46,800 <sup>-</sup>
11	6" schedule 80 drain pipe installed	80	LF	550 <sup>-</sup>	44,000 <sup>-</sup>
12	New drain rock	1	LS	32,000 <sup>-</sup>	32,000 <sup>-</sup>
13	Buried service butterfly valves with stems	1	EA	33,600 <sup>-</sup>	33,600 <sup>-</sup>
14	Crossroads Basin A Liner Replacement	8,000	SF	7 <sup>50</sup>	60,000 <sup>-</sup>
15	PCC Paving	1,600	SF	19 <sup>50</sup>	31,200 <sup>-</sup>
16	Stormdrain Grading	1	LS	80,500 <sup>-</sup>	80,500 <sup>-</sup>
17	Automated hydraulic weir / sluice gates	4	EA	24,500 <sup>-</sup>	98,000 <sup>-</sup>
18	Small mixer / sample pumps	4	EA	9,200 <sup>-</sup>	36,800 <sup>-</sup>
19	Chemical injection skid	1	LS	22,000 <sup>-</sup>	22,000 <sup>-</sup>

**ATTACHMENT A**

20	Analyzer board systems	2	EA	30,500 <sup>-</sup>	61,000 <sup>-</sup>
21	Building Fan	1	LS	1,600 <sup>-</sup>	1,600 <sup>-</sup>
22	16" -18" stainless piping	120	LF	1,035 <sup>-</sup>	124,200 <sup>-</sup>
23	18" D.I. piping	25	LF	2,750 <sup>-</sup>	68,750 <sup>-</sup>
24	Chemical Tanks	2	EA	18,100 <sup>-</sup>	36,200 <sup>-</sup>
25	Miscellaneous small diameter piping and tubing	1	LS	79,000 <sup>-</sup>	79,000 <sup>-</sup>
26	Relocate existing digester perm tank	1	LS	17,200 <sup>-</sup>	17,200 <sup>-</sup>
27	Relocate existing stairs	1	LS	30,000 <sup>-</sup>	30,000 <sup>-</sup>
28	Beams, catwalks, guiderails and grating	1	LS	199,000 <sup>-</sup>	199,000 <sup>-</sup>
29	Fiberglass baffle wall panels	2,420	SF	66 <sup>-</sup>	159,720 <sup>-</sup>
30	18" flow meter to Crossroads	1	EA	15,500 <sup>-</sup>	15,500 <sup>-</sup>
31	Tank ultrasonic level instrumentation	1	EA	5,400 <sup>-</sup>	5,400 <sup>-</sup>
32	Level and pressure transducers	4	EA	1,350 <sup>-</sup>	5,400 <sup>-</sup>
33	Water quality instrumentation including transmitters	1	LS	5,400 <sup>-</sup>	5,400 <sup>-</sup>
34	Small yard electrical power	150	LF	61 <sup>-</sup>	9,150 <sup>-</sup>
35	120/240 VAC distribution panel	1	LS	3,000 <sup>-</sup>	3,000 <sup>-</sup>
36	Misc junction / pull / gutter boxes and disconnects	15	EA	180 <sup>-</sup>	2,700 <sup>-</sup>
37	Local conduit and wire	1	LS	253,000 <sup>-</sup>	253,000 <sup>-</sup>
38	Lighting / receptacles	1	LS	3,780 <sup>-</sup>	3,780 <sup>-</sup>
39	Miscellaneous Items Not Covered by Above Bid Items	1	LS	1,550 <sup>-</sup>	1,550 <sup>-</sup>

TOTAL BASE BID : 3,620,000<sup>-</sup>

TOTAL BASE BID IN WORDS : THREE MILLION SIX HUNDRED TWENTY THOUSAND DOLLARS

ATTACHMENT A

BID ALTERNATE 1

BID ITEM	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	EXTENDED TOTAL
1	Crossroads Basin C backfill	36,000	CY	45 <sup>-</sup>	1,620,600 <sup>-</sup>

TOTAL BID ALTERNATE 1: \$ 1,620,000<sup>-</sup>

TOTAL BID ALTERNATE 1 IN WORDS: ONE MILLION SIX HUNDRED TWENTY THOUSAND  
DOLLARS <sup>00</sup>

## SECTION 00300

CTF DECHLORINATION FACILITY  
CIP WW 20-17

BID PROPOSAL FORMS

## CTF Dechlorination Facility, CIP WW 20-17

## BASE BID SCHEDULE

BID ITEM	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	EXTENDED TOTAL
1	Mobilization, Bonds & Insurance	1	LS		
2	Erosion & Sediment Control Plan provision / execution	1	LS		
3	Tank excavation and backfill	711	CY		
4	Concrete slab floors: tank, bldg	193	CY		
5	Tank walls concrete	199	CY		
6	Building C Roof	600	SF		
7	16"-24" DIP w/ fittings installed	250	LF		
8	16"-24" C905 PVC w/ fittings installed	700	LF		
9	12" sch40 PVC highline installed	150	LF		
10	Relocate 6" C900 RW pipe installed	80	LF		
11	6" schedule 80 drain pipe installed	80	LF		
12	New drain rock	1	LS		
13	Buried service butterfly valves with stems	1	EA		
14	Crossroads Basin A Liner Replacement	8,000	SF		
15	PCC Paving	1,600	SF		
16	Stormdrain Grading	741	CY		
17	Automated hydraulic weir / sluice gates	4	EA		
18	Small mixer / sample pumps	4	EA		
19	Chemical injection skid	1	LS		

Replaced by Add. A2 BC

00300-2

## SECTION 00300

CTF DECHLORINATION FACILITY  
CIP WW 20-17

BID PROPOSAL FORMS

20	Analyzer board systems	2	EA		
21	Building Fan	1	LS		
22	16" -18" stainless piping	120	LF		
23	18" D.I. piping	25	LF		
24	Chemical Tanks	2	EA		
25	Miscellaneous small diameter piping and tubing	300	LF		
26	Relocate existing digester perm tank	1	LS		
27	Relocate existing stairs	1	LS		
28	Beams, catwalks, guiderails and grating	1	LS		
29	Fiberglass baffle wall panels	2,420	SF		
30	18" flow meter to Crossroads	1	EA		
31	Tank ultrasonic level instrumentation	1	EA		
32	Level and pressure transducers	4	EA		
33	Water quality instrumentation including transmitters	1	LS		
34	Small yard electrical power	150	LF		
35	120/240 VAC distribution panel	1	LS		
36	Misc junction / pull / gutter boxes and disconnects	15	EA		
37	Local conduit and wire	1	LS		
38	Lighting / receptacles	1	LS		

TOTAL BASE BID : \_\_\_\_\_

TOTAL BASE BID IN WORDS : \_\_\_\_\_

*Replaced by Add. #2 BC*

00300-3

SECTION 00300

CTF DECHLORINATION FACILITY  
CIP WW 20-17

BID PROPOSAL FORMS

**BID ALTERNATE 1**

BID ITEM	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	EXTENDED TOTAL
1	Crossroads Basin C backfill	36,000	CY		

TOTAL BID ALTERNATE 1: \$ \_\_\_\_\_

*Replaced by Add. #2 BC*

TOTAL BID ALTERNATE 1 IN WORDS: \_\_\_\_\_

**BID SCHEDULE NOTES**

The work shall include general civil, architectural, mechanical, structural, electrical, and control work shown in the construction documents.

Unless otherwise stated, all bid item costs shall include the Contractor's cost to procure and construct or install said bid item.

All work on this project will be coordinated with the City's Engineering, Public Works, and CTF Operational staff.

*NOTE: PLC programming and integration, including SCADA integration, shall be performed by the City's consultant. The Contractor shall be responsible for landing the wiring of these instruments at the PLCs and calibration and programming of the instrumentation. The CONTRACTOR shall be responsible for the installation of all conduits, wires, and all required tags/identification. The CONTRACTOR shall also be responsible for the installation of the instruments and landing all field wiring to the instruments.*

1. Repair of asphalt roads and PCC pavements along proposed utilities installation routes. Min " concrete over 8" AB;
2. General grading improvements, installation of new drain piping infrastructure to ESB sump, and relocation of existing 6" diameter recycled water main;
3. Temporarily install and demo high-lined MBR filtrate to the existing chlorine contact basin, including relocated static mixer and chlorine injection lines;
4. Relocate existing digester MBR permeate backpulse tank south of existing west chlorine contact tank, demolish heater disconnect switch adjacent to the tank.
5. Relocate aluminum staircase and landing east of the existing west chlorine contact basin as shown in the contract documents. Install temporary stairs for operations access during construction.

SECTION 00300

CTF DECHLORINATION FACILITY  
CIP WW 20-17

BID PROPOSAL FORMS

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6. Provide New Multi-Level Center Raceway and East Chlorine Contact Basin

- a. Provide general excavation, grading, and cast-in-place construction of the new process structures as shown in the contract documents, including waterproofed structural connection to existing west chlorine contact structure.
- b. Provide and install new Fiberglass baffle walls
- c. Provide and install new Fiberglass or 316 stainless V notch weir on the outlet of the east chlorine contact basin
- d. Provide and install new 316 stainless catwalk for conduit routing with orange FRP grating
- e. Provide and install new mixers, sample pumps, automated weir gates with nappe level transducers, mud valvesupper instrument panel board, and other features as shown in the contract documents.
- f. Provide and install new discharge piping from center raceway to the east chlorine contact basin

7. Construction of New Yard Piping, Utilities, and Valving:

- a. Provide and install new MBR Filtrate Piping to Upper Raceway
- b. Provide and install new East Chlorine Contact Discharge to S5 including valve
- c. Provide and install new Drain Piping to ESB Sump
- d. Provide and install new SBS Chemical Fill
- e. Provide and install new Chlorine (Hypochlorite) Sleeves and Tubing
- f. Provide and install new SBS Sleeves and Tubing
- g. Provide and install new Sample Piping
- h. Provide and install new Dechlorination Piping to the Crossroads Pump Station including valves
- i. Dechlorination Piping Connections to Existing Crossroads Basins including valves
- j. Provide and install new Crossroads Pump Station Discharge Manifold and Connections to Existing LAS3 Piping and Proposed (see KPFF Plans) River Discharge Piping

SECTION 00300

CTF DECHLORINATION FACILITY  
CIP WW 20-17

BID PROPOSAL FORMS

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8. Construction of Dechlorination Building, complete with all architectural, structural, mechanical, HVAC, plumbing, and electrical elements:
  - a. Provide and install new 208VAC 3 Phase Power Service from Existing Phase 1 Building House Panel to New Dechlorination Building House Electrical Panel
  - b. Provide and install new SBS Chemical Storage Tanks
  - c. Provide and install new SBS Chemical Injection Pumps
  - d. Provide and install new SBS Chemical Containment Area with Drain and Valve
  - e. Provide and install new Exhaust Fan, Lighting, Receptacles
  - f. Provide and install new Floor Trench Drain
  - g. Provide and install new Lower Instrument Panel board with Instruments as Shown
  - h. Provide and install new Flow and Level Instrumentation.
9. Construction of Improvements to Existing West Chlorine Contact Basin
  - a. Removal of high-line piping and relocate existing discharge from the center raceway into the west chlorine contact basin to a lower elevation
  - b. Extend existing recycled water pump station suction line
  - c. Repair existing baffle walls as required
10. Construction of Improvements to Crossroads Recycled Water Pump Station:
  - a. Provide and install new Level and Water Quality Instruments with associated wiring
  - b. Demo Existing Portion of Piping Header, and provide and install new Piping Header with split discharges to LAS3 and the River
  - c. Provide and install new automated butterfly valves with associated wiring
11. Provide and Install Opening in the Existing Berm between Crossroads Basins A and C to allow for cooling of dechlorinated water through a portion of Basin C and Basin A prior to discharging to the river. Provide earthwork, re-lining, etc.
12. Installation of instrumentation and wiring and panels for new PLC and SCADA systems, including new fiber connection from PLC 1 and PLC 2 to be PLC 1 to PLC 3 to PLC 2 (new ring configuration).
13. Testing, commissioning, and startup of the new equipment and improved and expanded



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process areas within the plant.

14. OPTIONAL BID ADDER 1: Grading in Crossroads Basin C as shown to fill and level Basin C to +/-17.5 elevation as shown in the contract documents.

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**INFORMATION REQUIRED OF BIDDER**

The Bidder (Contractor) shall furnish the following information. This information is considered essential in enabling the Project Manager to determine if the Bidder is experienced in similar types of work and if the Bid is based on a careful study of methods applicable to the work and full realization of the various factors which may affect the progress of the work. Failure to comply with this requirement may render the Bid non-responsive and may cause its rejection. Additional sheets shall be attached as required.

**BIDDER'S INFORMATION**

- (1) Bidder's name and address:  
Cushman Contracting Corporation  
P.O. Box 147  
Goleta, CA 93116-0147
- (2) Bidder's telephone number: (805) 964-8661
- (3) Bidder's fax number: (805) 967-6057
- (4) Bidder's Contractor's License (Class): A  
 License No.: 1072807  
 Expires: 11/31/23
- (5) Person who inspected site of proposed work for Contractor's firm:  
 Name: Casoy Coelho Date of Inspection: 6/8/21
- (5) List 6 projects of a nature similar to this project:

Project	Contract Price	Name, Address and Telephone Number of Owner
Porterville WWTF Sludge Dewatering	3,954,986	City of Porterville, 291 N. Main St. Porterville, CA 93257 (559) 549-4589 / Daniel Cervantes
Clear Creek WWTP Biosolids Dewatering	5,830,446	City of Redding, 2200 Meta Rd. Redding, CA 96007 (530) 225-4532 / Don Chilton
Paso Robles WWTP Tertiary Treatment	10,396,110	City of Paso Robles, 1000 Spring St. Paso Robles, CA 93446 (805) 227-7200 / M.H. Thompson
Madera WWTP Rehabilitation	5,239,791	City of Madera, 205 West 4th Street, Madera, CA 93637 (559) 661-5429 / Frank Holquin
Tapia Water Reclamation Facility Air Upgrades	3,601,959	Las Virgenes Municipal Water District 9232 Las Virgenes Rd, Calabasas, CA 91302 (818) 251-2192 / Eric Schizeter
Ventura Water Reclamation Fac. Digester Improve.	7,580,722	City of San Buenaventura, 501 Pol. St. Ventura, CA 93002 (805) 677-3992 / Ron Herbst

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**LIST OF SUBCONTRACTORS:**

The Bidder shall list below the name and business address of each subcontractor who will perform work under this Bid in excess of one-half of one percent of the Contractor's Total Bid Price, and shall also list the portion of the WORK which will be done by such subcontractor, in accordance with Section 4107 of the Public Contract Code. After the opening of bids, no changes or substitutions will be allowed except as otherwise provided by law. The listing of more than one subcontractor for each item of work to be performed with the words "and/or" will not be permitted. Failure to comply with this requirement may render the Bid non-responsive and may cause its rejection. Should the Contractor provide a bid that does not require a subcontractor, the Contractor shall note that on this page by writing "Not Applicable" in the list below.

<u>Work to be Performed</u>	<u>Subcontractor License Number</u>	<u>Percent of Total Contract</u>	<u>Subcontractor / Address / Phone</u>
1. <u>REBAR</u>	<u>218 839</u>	<u>2.3 %</u>	✓ <u>CARBON STEEL, ROSEVILLE CA</u>
2. <u>COATING</u>	<u>610 483</u>	<u>1.9</u>	✓ <u>E D THOMAS INC SACRAMENTO CA</u>
3. <u>GEO MEMBRANE LINER</u>	<u>733203</u>	<u>1.2 %</u>	✓ <u>DHE CONST. VISALIA CA</u>
4. <u>ELECTRICAL / TAUST</u>	<u>663 928</u>	<u>7.6 %</u>	✓ <u>AUL RAY ELECT BENTONWOOD CA</u>
5. _____	_____	_____	_____
6. <u>EARTHWORK</u>	<u>683 849</u>	<u>18 %</u>	✓ <u>COZART BROS LIVERMORE CA</u>

Note: Attach additional sheets if required.

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CTF DECHLORINATION FACILITY  
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BID PROPOSAL FORMS

**ADDENDA**

Bidder certifies he reviewed ARC Stockton's Plan Well for addenda within 48 hours of bid opening and acknowledges receipt of the following addendum (addenda):

1      2      \_\_\_\_\_

Respectfully submitted,

7-12-21  
Dated

Cushman Contracting Corporation  
Legal Name of Firm

Blair Cushman  
Signature of Authorized Representative  
Blair Cushman  
(Seal)

(If Bidder is a corporation, show State in which incorporated.)

California

The full names and post office addresses of all persons and parties interested in the foregoing Bid as principals are as follows:

(NOTICE): Give first and last names in full; in case of corporation, give names of President, Secretary, Treasurer, and Manager, and in case of partnerships and joint ventures, give names and Post Office addresses of all the individual members.

President - Blair Cushman, P.O. Box 147, Goleta, CA 93116-0147  
Secretary - Kyle Cushman, P.O. Box 147, Goleta, CA 93116-0147  
Treasurer - Dale Cushman, P.O. Box 147, Goleta, CA 93116-0147

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION 00300

CTF DECHLORINATION FACILITY  
CIP WW 20-17

BID PROPOSAL FORMS

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**BIDDER'S BOND**

**KNOW ALL MEN BY THESE PRESENTS:**

THAT WE Cushman Contracting Corporation

---

as PRINCIPAL, and Travelers Casualty and Surety Company of America

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as SURETY are held; and firmly bond unto the City of Lathrop in the penal sum of TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE BID of the Principal above named, submitted by the Principal to the City of Lathrop for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made to the City of Lathrop to which the bid was submitted, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by those presents. In no case shall the liability of the surety hereunder exceed the sum of \$ 10% of Amount Bid in Dollars

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

**THAT, WHEREAS,** the Principal has submitted the above mentioned bid to the City of Lathrop for certain construction specifically described as follows, for which bids are to be opened at the City Hall, 390 Towne Centre Drive, Lathrop, CA: CTF Dechlorination Facility CIP WW 20-17.

**NOW, THEREFORE,** if the Principal is awarded the contract and within the time and manner required under the specifications, after the prescribed forms are presented to him for signature enters into a written contract in the prescribed form, in accordance with the bid, and files two bonds with the City, one to guarantee faithful performance, and the other to guarantee payment for labor and materials as required by law, then this obligation shall be null and void; otherwise, it shall be and remain in full force.

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CTF DECHLORINATION FACILITY  
CIP WW 20-17

BID PROPOSAL FORMS

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IN WITNESS WHEREOF, we have hereunto set our hands and seals on this 10th day  
of June, 2021

Cushman Contracting Corporation (Seal)

Blair Cushman (Seal)  
Blair Cushman, President

Address: 5354 Overpass Road

Santa Barbara, CA 93111

Travelers Casualty and Surety Company of America (Seal)

Judy Pearen (Seal)  
Judy Pearen, Attorney-In-Fact

Address: 21688 Gateway Center Drive

Diamond Bar, CA 91765

NOTE: Signatures of those executing for the surety must be properly acknowledged.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Santa Barbara )

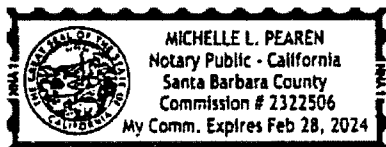
On June 10, 2021 before me, Michelle L. Pearen, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Judy Pearen  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Bid Bond Document Date: June 10, 2021  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Judy Pearen  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_

Signer Is Representing: Travelers Casualty and Surety Company of America

Signer Is Representing: \_\_\_\_\_



**Travelers Casualty and Surety Company of America  
Travelers Casualty and Surety Company  
St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint Judy Pearen of Santa Barbara, California, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 3rd day of February, 2017.



State of Connecticut  
City of Hartford ss

By:   
Robert L. Raney, Senior Vice President

On this the 3rd day of February, 2017, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Marie C Tetreault  
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 10<sup>th</sup> day of June, 2021.



Kevin E. Hughes  
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.  
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.



NONCOLLUSION AFFIDAVIT

STATE OF California )  
 )  
COUNTY OF Santa Barbara ) ss.

Blair Cushman, being first duly sworn, deposes and says that he ~~or she~~ is

President of Cushman Contracting Corporation the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company associated, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Blair Cushman  
Signature of: President, Secretary,  
Manager, Project Manager or Representative

The County of Santa Barbara

State of California

Subscribed and sworn to (or affirmed) before me

on this 12<sup>th</sup> day of July, 2021, by

Blair Cushman, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Seal \_\_\_\_\_

Signature Shane N. Alexander, Gen. Mgr  
Shane N. Alexander

**PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE**

In accordance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder, who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes \_\_\_\_\_ No  \_\_\_\_\_

If the answer is yes, explain the circumstances in the following space.

**PUBLIC CONTRACT SECTION 10232 STATEMENT**

In accordance with Public Contract Code Section 10232, the Contractor hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

NOTE: The above Statement and Questionnaire are part of the Proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

*(END OF SECTION)*

# ATTACHMENT F

## CONSTRUCTION CONTRACT

This Contract, dated **September 13, 2021**, is entered into by and between the **City of Lathrop**, a municipal corporation of the State of California (City), and **A. Teichert & Son, Inc. dba Teichert Construction** (Contractor), whose Taxpayer Identification Number is \_\_\_\_\_.

For and in consideration of the following covenants, terms and conditions, City and Contractor (the parties) agree:

1. Term. This Contract shall commence on, and be binding on the parties on, the date of execution of this Contract, and shall expire on the date of recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder, subject to the earlier termination of this Contract.
2. General Scope of Project and Work. Construction Documents for the **Recycled Water River Discharge, CIP WW 20-17** (Project). Contractor shall furnish labor, services, materials and equipment in connection with the construction of the Project and complete the Work in accordance with the covenants, terms and conditions of this Contract to the satisfaction of City. The Project and Work is generally described as follows:

The work to be performed under this contract includes all work contained in the Construction Documents, as detailed in Paragraph 3 below, including but not limited to two separate pipeline segments within City streets, undeveloped land and a levee crossing, and a river outfall structure to connect the City's water treatment facility discharge to the San Joaquin River.

The work shall be **completed within 100 working days** following issuance of Notice to Proceed.

The Work shall be complete, and all appurtenant work, materials, and services not expressly shown or called for in the Construction Documents which may be necessary for the complete and proper construction of the Work in good faith shall be performed, furnished, and installed by the Contractor as though originally specified or shown. The Contractor will be compensated for work actual work performed in accordance with the unit prices and provisions contained in these Construction Documents.

**Base Bid Total: \$ 3,382,000 (Three Million Three Hundred Eighty Two Thousand Dollars)**

**Previously Approved Equipment Purchase: \$515,607.40 (Purchase Order 2022-057)**

**Contract Amount: \$2,866,392.60 (\$3,382,000 - \$515,607.40)**

3. Construction Documents. This Contract shall include the Construction Documents, which are hereby incorporated by reference (i.e. Project Specifications, Project Plans, addenda, performance bond, labor and materials bond, certification of insurance, workers compensation certification, and guaranty), and the Bid Documents submitted by A.

Teichert & Son, Inc. dba Teichert Construction on July 13, 2021. For the purposes of construing, interpreting and resolving inconsistencies between the provisions of this Contract, these documents and the provisions thereof are set forth in the order of precedence described in Article 3 of the General Conditions.

4. Compensation. In consideration of Contractor's performance of its obligations hereunder, City shall pay to Contractor the amount set forth in Contractor's Bid in accordance with the provisions of this Contract and upon the receipt of written invoices and all necessary supporting documentation within the time set forth in the Construction Documents. Contractor hereby shall not be permitted to invoice the City nor accept compensation for work not yet complete. In no event, shall the Contractor be entitled to payment for work not included in the approved scope of work, a written task order, or change order signed by the City's Public Works Director prior to commencement of any work.
5. Insurance. On or before the Date of Execution, Contractor shall obtain and maintain the policies of insurance coverage described in Section 5.2 of the General Conditions on terms and conditions and in amounts as may be required by the City. City shall not be obligated to take out insurance on Contractor's personal property or the personal property of any person performing labor or services or supplying materials or equipment under the Project. Contractor shall furnish City with the certificates of insurance and with original endorsements affecting coverage required under this Contract on or before the Date of Execution. The certificates and endorsements for each insurance policy shall be signed by a person who is authorized by that insurer to bind coverage in its behalf. Proof of insurance shall be mailed to the Project Manager to the address set forth in Section 15 of this Contract.
6. Indemnification. Contractor agrees to protect, defend, indemnify and hold City, its City Council members, officers, employees, engineer, and construction manager harmless from and against any and all claims, demands, liabilities, losses, damages, costs, expenses, liens, penalties, suits, or judgments, arising in whole or in part, directly or indirectly, at any time from any injury to or death of persons or damage to property as a result of the willful or negligent act or omission of Contractor, or which results from Contractor's noncompliance with any Law respecting the condition, use, occupation or safety of the Project site, or any part thereof, or which arises from Contractor's failure to do anything required under this Contract or for doing anything which Contractor is required not to do under this Contract, or which arises from conduct for which any Law imposes strict liability on Contractor in the performance of or failure to perform the terms and conditions of this Contract, except as may arise from the sole willful or negligent act or omission of City or any of its City Council members, officers, employees. This indemnification shall extend to any and all claims, demands, or liens made or filed by reason of any construction, renovation, or remodeling work performed by Contractor under this Contract at any time during the term of this Contract, or arising thereafter.
7. Assumption of Risk. Contractor agrees to voluntarily assume any and all risk of loss, damage, or injury to the property of Contractor which may occur in, on, or about the Project site at any time and in any manner, excepting such loss, injury, or damage as may be caused by the sole willful or negligent act or omission of City or any of its City Council members, officers, or employees.

8. Waiver. The acceptance of any payment or performance, or any part thereof, shall not operate as a waiver by City of its rights under this Contract. A waiver by City of any breach of any part or provision of this Contract by Contractor shall not operate as a waiver or continuing waiver of any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the parties in the administration of any part or provision of this Contract be construed to waive or to lessen the right of City to insist upon the performance of Contractor in strict compliance with the covenants, terms and conditions of this Contract.
9. Compliance with Laws. Contractor shall comply with all Laws now in force or which may hereafter be in force pertaining to the Project and Work and this Contract, with the requirement of any bond or fire underwriters or other similar body now or hereafter constituted, with any discretionary license or permit issued pursuant to any Law of any public agency or official as well as with any provision of all recorded documents affecting the Project site, insofar as any are required by reason of the use or occupancy of the Project site, and with all Laws pertaining to nondiscrimination and affirmative action in employment and hazardous materials.

#### DEPARTMENT OF INDUSTRIAL RELATIONS- COMPLIANCE MONITORING UNIT

##### **DIR Registration.**

- a) **Contractor and Subcontractor Compliance.** Strict compliance with DIR registration requirements pursuant to Labor Code Section 1725.5 is a material obligation of the Contractor under the Contract Documents. The foregoing includes without limitation, compliance with DIR Registration requirements at all times during performance of the Work by the Contractor and all Subcontractors of any tier. The failure of the Contractor and all Subcontractors of every tier to be DIR registered at all times during the performance of the Work is the Contractor's default of a material obligation of the Contractor under the Contract Documents.
- b) **No Subcontractor Performance of Work Without DIR Registration.** No portion of the Work is permitted to be performed by a Subcontractor of any tier unless the Subcontractor is a DIR Registered contractor.
- c) **Contractor Obligation to Verify Subcontractor DIR Registration Status.** An affirmative and on-going obligation of the Contractor under the Contract Documents is the Contractor's verification that all Subcontractors, of all tiers, are at all times during performance of Work in full and strict compliance with DIR Registration requirements. The Contractor shall not permit or allow any Subcontractor of any tier to perform any Work without the Contractor's verification that all such Subcontractors are in full and strict compliance with DIR Registration requirements.
- d) **Contractor Obligation to Request Substitution of Non-DIR Registered Subcontractor.** If any Subcontractor identified in the Contractor's Subcontractor List submitted with the Contractor's proposal for the Work is not DIR Registered at the time of opening of

proposals for the Work or if a Subcontractor's DIR registration lapses prior to or during a Subcontractor's performance of Work, the Contractor shall request the CITY's consent to substitute the non-DIR registered Subcontractor pursuant to Labor Code Section 1771.1(c)(3) and/ or Labor Code Section 1771.1(d).

### **Certified Payroll Records**

- a) Compliance with Labor Code Section 1771.4 and 1776. A material obligation of the Contractor under the Contract Documents is: (i) the Contractor's strict compliance with the requirements pursuant to Labor Code Section 1771.4 and 1776 for preparation and submittal of Certified Payroll Records ("CPR"); and (ii) the Contractor's enforcement of CPR preparation and submittal for all Subcontractors of every tier.
- b) Express Condition Precedent to Payment of Contract Price. Strict compliance with CPR requirements established pursuant to Labor Code Section 1776 is an express condition precedent to the CITY's obligation to: (i) process any request for payment of any portion of the Contract Price; or (ii) to disburse any portion of the Contract Price to the Contractor. The Contractor shall demonstrate strict compliance with CPR preparation and submittal requirements by delivery to the CITY of electronic files or hard copies of all CPR's submitted by the Contractor and/ or Subcontractors for Work pursuant to Labor Code Section 1771.4 and 1776 concurrently with the submittal thereof to the Labor Commissioner. The CITY: (i) shall not be obligated to process or disburse any portion of the Contract Price; or (ii) shall not be deemed in default of the CITY's obligations under the Contract Documents unless the Contractor's demonstrates strict compliance with CPR preparation and submittal requirements.
- c) PWR Monitoring and Enforcement. During the Work pursuant to Labor Code Section 1771.4(a)(4), the Department of Industrial Relations shall monitor and enforce the obligation of the Construction and Subcontractors of every tier to pay the laborers performing any portion of the work the PWR established for the classification of work/ labor performed.

### **RECORD OF WAGES PAID: INSPECTION**

Pursuant to Labor Code section 1776, Contractor stipulates to the following:

- a) Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work under the Facilities lease and Construction Provisions. Such records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information of such forms. The payroll records may consist of payroll data that are maintained as computer records, if printouts contain the same information as the forms provided by the division and the printouts are verified as specified in subdivision (a) of Labor Code section 1776.

- b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:
- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employees or his or her authorized representative on request.
  - (2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the CITY, the Division of Labor Standards Enforcement, and Division of Apprenticeship Standards of the Department of Industrial Relations.
  - (3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or copies thereof. However, a request by the public shall be made through either the CITY, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by Contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to such records at the principal office of Contractor.
- c) Contractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested such records within ten (10) days after receipt of the written request.
- d) Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, by the CITY, the Division of Apprenticeship Standards, or the division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of contractor awarded the contract or performing the contract shall not be marked or obliterated.
- e) Contractor shall inform the CITY of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within (5) working days, provide a notice of a change of location and address.
- f) In the event of noncompliance with the requirements of this Article, Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Contractor must comply with this Article. Should noncompliance still be evident after such 10-day period, Contractor shall pay a penalty of One- Hundred Dollars (\$100.00) to the CITY for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from the progress payment then due.

The responsibility for compliance with this Article shall rest upon Contractor.

10. Bonds. As a condition precedent to City's obligation to pay compensation to Contractor, and on or before the date of Execution, Contractor shall furnish to the Project Manager the Bonds as required under the Notice to Contractors.
11. Representations and Warranties. In the supply of any materials and equipment and the rendering of labor and services during the course and scope of the Project and Work, Contractor represents and warrants:
  - (1) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be vested in Contractor;
  - (2) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be merchantable and fit to be used for the particular purpose for which the materials are required;
  - (3) Any labor and services rendered and materials and equipment used or employed during the course and scope of the Project and Work shall be free of defects in workmanship for a period of one (1) year after the recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder;
  - (4) Any manufacturer's warranty obtained by Contractor shall be obtained or shall be deemed obtained by Contractor for and on behalf of City.
  - (5) Any information submitted by Contractor prior to the award of Contract, or thereafter, upon request, whether or not submitted under a continuing obligation by the terms of the Contract to do so, is true and correct at the time such information is submitted or made available to the City;
  - (6) Contractor has not colluded, conspired, or agreed, directly or indirectly, with any person in regard to the terms and conditions of Contractor's Bid, except as may be permitted by the Notice to Contractors;
  - (7) Contractor has the power and the authority to enter into this Contract with City, that the individual executing this Contract is duly authorized to do so by appropriate resolution, and that this Contract shall be executed, delivered and performed pursuant to the power and authority conferred upon the person or persons authorized to bind Contractor;
  - (8) Contractor has not made an attempt to exert undue influence with the Project Manager or any other person who has directly contributed to City's decision to award the Contract to Contractor;
  - (9) There are no unresolved claims or disputes between Contractor and City which would materially affect Contractor's ability to perform under the Contract;



- (10) Contractor has furnished and will furnish true and accurate statements, records, reports, resolutions, certifications, and other written information as may be requested of Contractor by City from time to time during the term of this Contract;
  - (11) Contractor and any person performing labor and services under this Project is duly licensed as a contractor with the State of California as required by California Business & Professional Code Section 7028, as amended; and
  - (12) Contractor has fully examined and inspected the Project site and has full knowledge of the physical conditions of the Project site.
12. Assignment. This Contract and the performance required hereunder is personal to Contractor, and it shall not be assigned by Contractor. Any attempted assignment shall be null and void.
13. Claims of Contractor. All claims pertaining to extra work, additional charges, or delays within the Contract Time or other disputes arising out of the Contract shall be submitted by Contractor in accordance with the General Conditions.
14. Audits by City. During the term of this Contract and for a period of not less than three (3) years after the expiration or earlier termination of this Contract, City shall have the right to audit Contractor's Project-related and Work-related writings and business records, as such terms are defined in California Evidence Code Sections 250 and 1271, as amended, during the regular business hours of Contractor, or, if Contractor has no such hours, during the regular business hours of City.
15. Notices. All contracts, agreements, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail, postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) days by delivery of a hard copy of the material sent by facsimile transmission, in accordance with (1), (2) or (3) above. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City: City of Lathrop  
City Clerk  
390 Towne Centre Drive  
Lathrop, CA 95330

To City: City of Lathrop  
Department of Public Works  
390 Towne Centre Drive  
Lathrop, CA 95330  
PHONE: (209) 941-7430  
FAX: (209) 941-7449

ATTN: Senior Construction Manager

To Contractor: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
ATTN: \_\_\_\_\_

Miscellaneous

- (1) Bailee Disclaimer. The parties understand and agree that City does not purport to be Contractor's bailee, and City is, therefore, not responsible for any damage to the personal property of Contractor.
- (2) Consent. Whenever in this Contract the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.
- (3) Controlling Law. The parties agree that this Contract shall be governed and construed by and in accordance with the Laws of the State of California.
- (4) Definitions. The definitions and terms are as defined in these specifications.
- (5) Force Majeure. Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Contract, which directly results from an Act of God or an act of a superior governmental authority.
- (6) Headings. The paragraph headings are not a part of this Contract and shall have no effect upon the construction or interpretation of any part of this Contract.
- (7) Incorporation of Documents. All documents constituting the Construction Documents described in Section 3 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in this Contract and shall be deemed to be part of this Contract.
- (8) Integration. This Contract and any amendments hereto between the parties constitute the entire contract between the parties concerning the Project and Work, and there are no other prior oral or written contracts between the parties that are not incorporated in this Contract.
- (9) Modification of Contract. This Contract shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.
- (10) Provision. Any contract, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Contract shall define or otherwise control, establish, or limit the performance required or permitted or to be required

of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.

- (11) **Resolution.** Contractor shall submit with its Bid a copy of any corporate or partnership resolution or other writing, which authorizes any director, officer or other employee or partner to act for or on behalf of Contractor or which authorizes Contractor to enter into this Contract.
- (12) **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Contract is void or unenforceable, the provisions of this Contract not so affected shall remain in full force and effect.
- (13) **Status of Contractor.** In the exercise of rights and obligations under this Contract, Contractor acts as an independent contractor and not as an agent or employee of City. Contractor shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of City, and Contractor expressly waives any and all claims to such rights and benefits.
- (14) **Successors and Assigns.** The provisions of this Contract shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.
- (15) **Time of the Essence.** Time is of the essence of this Contract and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday, or any Day observed as a legal holiday by City, the time for performance shall be extended to the following Business Day.
- (16) **Venue.** In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.
- (17) **Recovery of costs.** The prevailing party in any action brought to enforce the terms of this Contract or arising out of this Contract, including the enforcement of the indemnity provision(s), may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.
- (18) Contractor and subcontractors must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency Regulations at 40 CFR Part 15.
- (19) Contractors and subcontractors must comply with mandatory standards and policies relating to the energy efficiency which are contained in the State Energy

Conservation Plan issued in compliance with the Energy Policy and Conservation ACT (Public Law 94-163, 89 stat 871).

- (20) The Contractor shall provide access to the site for the Environmental Protection Agency and its duly authorized representatives, and the City.
- (21) If during the course of construction evidence of deposit of historical or archaeological interest is found, the Contractor shall cease operation affecting the find and shall notify the City, who shall notify the EPA and the State Historic Preservation Officer. No further disturbance of the deposits shall ensue until the Contractor has been notified by the City that construction may proceed. The City will issue a notice to proceed only after the state official has surveyed the find and made a determination to the EPA and the City. Compensation to the contractor, if any, for lost time or changes in construction to avoid the find, shall be determined in accordance with changed conditions or change order provisions of the Construction Documents.
- (22) Notice to Proceed. Prior to commencing work under this Contract, CONTRACTOR shall receive a written "Notice to Proceed" from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONTRACTOR for any services prior to issuance of the Notice to proceed.
- (23) Signatures. The individuals executing this Contract represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Contract on behalf of the respective legal entities of the CONTRACTOR and the CITY. This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- (24) This project is a public works project: Contractor shall comply with requirements of California Labor Code § 1700 and following, and prevailing wages shall be paid for work performed on this project.
- (25) The statutory provisions for penalties for failing to comply with the State of California wage and labor laws be enforced, as well as that for failing to pay prevailing wages.

EXHIBITS:

EXHIBIT A: Contractor's Submitted Bid Packet

*Certification of insurance, performance and payment bonds, and worker's compensation certification shall be furnished to the City by the Contractor after City Council's approval with resolution.*

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above stated in Lathrop, California.

**CONTRACTOR:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY OF LATHROP**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Salvador Navarrete, City Attorney

**RECOMMENDED FOR APPROVAL:**

By: \_\_\_\_\_  
Michael King, Director of Public Works

**APPROVED:**

By: \_\_\_\_\_  
Stephen J. Salvatore, City Manager

SECTION 00300

RECYCLED WATER RIVER DISCHARGE  
CIP WW 20-17

BID PROPOSAL FORMS

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**BID PROPOSAL FORMS**

TO: City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330

ATTENTION: City Clerk

FOR: Recycled Water River Discharge, CIP WW 20-17

THE UNDERSIGNED, AS BIDDER, HEREBY AGREES AND DECLARES THAT:

**LEGAL COMPLIANCE**

The only persons or parties interested in this Bid as Principals are those named herein; that this Bid is made without collusion with any other person, firm, partnership, corporation, or association; that he has carefully examined the location of the proposed work and the Construction Documents; and he proposes and agrees that if this Bid is accepted he will contract with the City of Lathrop, in the form of the Contract as set forth in the Construction Documents for said project, to provide all the necessary labor, services, materials, and equipment, and to do all the work and furnish all the materials; and that he will accept in full payment therefore the price as proposed in the following Bid Schedule.

**SCHEDULE OF PRICES**

All applicable permit fees, licensing costs, sales taxes, State, and/or Federal, and any other taxes, patent rights, or royalties are included in the prices quoted in the Bid. All blank spaces must be filled in.

**BASIS OF AWARD**

The basis for award of the contract will be the total price of the base bid. The City of Lathrop reserves the right to award the work contemplated by the Base Bid, or none of the work.

**ATTACHMENT 1**

## REVISED BID SCHEDULE

BID ITEM	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	EXTENDED TOTAL
<b>GENERAL</b>					
1	MOBILIZATION, BONDS AND INSURANCE	1	LS	300,000.-	300,000.-
2	CONSTRUCTION STAKING	1	LS	20,000.00	20,000.00
3	SWPPP	1	LS	40,000.00	40,000.00
4	TRAFFIC CONTROL	1	LS	180,000.-	180,000.-
4A	SUPPLY AND INSTALL CATHODIC PROTECTION SYSTEM - IMPRESSED CURRENT - ALLOWANCE	1	LS	\$90,000	\$90,000
<b>TESLA DRIVE IMPROVEMENTS</b>					
5	SAWCUTTING AND DEMOLITION	11,000	SF	3.00	33,000.00
6	VERTICAL CURB AND GUTTER REPLACEMENT	7	LF	500.00	3,500.00
7	ROADWAY EXCAVATION AND TRENCH BACKFILL	2,128	LF	25.00	53,200.00
8	BORE AND JACK INCL. 28" STEEL CASING AND T-LOCK PIPE	60	LF	2,000.00	120,000.00
9	CLASS 2 AB PAVING (2" THICKER THAN EXISTING, 9" THICK MINIMUM)	11,000	SF	3.00	33,000.00
10	HMA PAVING (1" THICKER THAN EXISTING, 5.5" THICK MINIMUM)	11,000	SF	6.00	66,000.00
11	CUT AND CAP EXISTING L.O.F LINE	2	EA	10,000.00	20,000.00
12	18" PVC C905 PIPE	2,128	LF	220.-	468,160.-
13	SUPPLY AND INSTALL CATHODIC PROTECTION SYSTEM - PASSIVE	1	LS	7,000.00	7,000.00

14	BUTTERFLY VALVE - 18"	3	EA	13,000.00	39,000.00
15	AIR RELEASE VALVE - 18"	1	EA	10,000.00	10,000.00
16	STRIPING (RE-STRIP PAVEMENT MARKINGS AS EXISTING)	1	LS	9,000.00	9,000.00
INLAND PASSAGE WAY IMPROVEMENTS					
17	SAWCUTTING AND DEMOLITION	3,450	SF	8.00	27,600.00
18	ROADWAY EXCAVATION AND TRENCH BACKFILL	675	LF	25.00	16,875.00
19	VERTICAL CURB AND GUTTER REPLACEMENT	16	LF	300.00	4,800.00
20	CLASS 2 AB PAVING (2" THICKER THAN EXISTING, 9" THICK MINIMUM)	3,450	SF	5.00	17,250.00
21	HMA PAVING (1" THICKER THAN EXISTING, 5.5" THICK MINIMUM)	3,450	SF	7.00	24,150.00
22	CUT AND CAP EXISTING L.O.F LINE	1	EA	10,000.00	10,000.00
23	20" PVC C905 PIPE	675	LF	270.00	182,250.00
24	20" 7 GAUGE STEEL PIPE, WITH CEMENT COATING AND LINING	20	LF	1,200.-	24,000.-
25	STRIPING (RE-STRIP PAVEMENT MARKINGS AS EXISTING)	1	LS	7,000.00	7,000.00
LEVEE CROSSING IMPROVEMENTS					
26	TEMP DEWATERING	1	LS	170,000.-	170,000.-
27	SEEPAGE BERM CONSTRUCTION	1	LS	10,000.00	10,000.00
28	SAWCUTTING AND DEMOLITION	340	SF	8.00	2,720.00
29	CLEARING & GRUBBING	6,600	SF	1.50	9,900.00
30	EARTHWORK, EXCAVATION AND GRADING	1	LS	155,905.-	155,905.-



31	SHEETPIILING WATER COFFERDAM, APPROX. 200 LF, INCL. TURBIDITY SCREEN	1	LS	1000,000.-	1200,000.-
32	CONCRETE HEADWALL	16	CY	4,000.00	64,000.00
33	24" THICK RIPRAP SLOPE PROTECTION	4,000	SF	10.00	40,000.00
34	ARTICULATED BLOCKS	400	SF	60.00	24,000.00
35	CONCRETE CURB	16	LF	300.00	4,800.00
36	8" THICK REINFORCED CONCRETE	400	SF	39.00	15,600.00
37	SHOREBLOCK REMOVAL AND REPLACEMENT	200	SF	88.00	17,600.00
38	2.5" THICK HMA PATHWAY PAVING	2,250	SF	5.00	11,250.00
39	6" THICK CLASS 2 AB PAVING	2,250	SF	4.00	9,000.00
40	DECOMPOSED GRANITE	200	SF	40.00	8,000.00
41	CHECK VALVE AT PIPE OUTFALL	1	EA	10,000.00	10,000.00
42	8" AIR VENT PIPE	1	EA	7,000.-	7,000.-
43	BUTTERFLY VALVE - 20"	1	EA	15,000.00	15,000.00
44	20" 7 GAUGE STEEL PIPE W/ CEMENT COATING AND LINING	248	LF	1,000.-	248,000.-
45	BOLLARDS	2	EA	1,000.00	2,000.00
46	REDWOOD HEADERBOARDS	370	LF	12.00	4,440.00
47	CLSM BACKFILL	920	CY	150.00	138,000.00
48	LEVEE SURFACE RESTORATION	9,000	SF	1.00	9,000.00

TOTAL BASE BID : 3,382,000.00

TOTAL BASE BID IN WORDS : 3(AK) THREE MILLION THREE HUNDRED EIGHTY TWO THOUSAND DOLLARS

**BID SCHEDULE NOTES**

The work shall include general civil and structural work shown in the construction documents.

Unless otherwise stated, all bid item costs shall include the Contractor's cost to procure and construct or install said bid item.

All work on this project will be coordinated with the City's Engineering, Public Works, and CTF Operational staff.

## SECTION 00300

RECYCLED WATER RIVER DISCHARGE  
CIP WW 20-17

BID PROPOSAL FORMS

**INFORMATION REQUIRED OF BIDDER**

The Bidder (Contractor) shall furnish the following information. This information is considered essential in enabling the Project Manager to determine if the Bidder is experienced in similar types of work and if the Bid is based on a careful study of methods applicable to the work and full realization of the various factors which may affect the progress of the work. Failure to comply with this requirement may render the Bid non-responsive and may cause its rejection. Additional sheets shall be attached as required.

**BIDDER'S INFORMATION**

- (1) Bidder's name and address:  
A. Teichert & Son, Inc. dba Teichert Construction  
400 Sunrise Avenue, Suite 300  
Roseville, CA 95661
- (2) Bidder's telephone number: 916-757-6400
- (3) Bidder's fax number: 916-757-6499
- (4) Bidder's Contractor's License (Class): A, B, C16, C22, C27, C-61/D49  
 License No.: 8  
 Expires: 4/30/23
- (5) Person who inspected site of proposed work for Contractor's firm:  
 Name: Will Martin Date of Inspection: 6/21
- (5) List 6 projects of a nature similar to this project:

Project	Contract Price	Name, Address and Telephone Number of Owner
Service Road Sewer Extention @ Waste Water Treatment Plant	\$2,211,000	City of Ceres - San Royal (209) 539-5617 2220 Magnolia St.; Ceres, CA 95307
East Sacramento Watermain Replacement, Phase 2	\$11,435,747	City of Sacramento, Department of Utilities Rosa Millino (916) 808-1451 1395 35th Avenue; Sacramento, CA 95822
Water Supply System Phase 1D and 1E, East Porterville	\$3,072,375	Department of Water Resources Will Verigin (916) 653-4867 1416 Ninth Street, Room 418; Sacramento, CA 95814
#4205; EchoWater Flow Equalization	\$113,869,000	Sacramento Regional County Sanitation District Christina Brown (916) 875-9455 9660 Ecology Lane; Sacramento, CA 95827
Northwest Levee Bethal Island	\$6,349,982	Bethal Island Municipal Improvement District Mark Fortner (916) 631-4500 Ext 84534 3085 Stone Rd.; Bethal Island, CA 94511
South Lathrop Commerce Center-Storm Outfall	\$2,359,704	South Lathrop Land, LLC Jeff Hill (949) 698-8482 527 W. 7th Street, Suite 308; Los Angeles, CA 94550

SECTION 00300

RECYCLED WATER RIVER DISCHARGE  
CIP WW 20-17

BID PROPOSAL FORMS

**LIST OF SUBCONTRACTORS:**

The Bidder shall list below the name and business address of each subcontractor who will perform work under this Bid in excess of one-half of one percent of the Contractor's Total Bid Price, and shall also list the portion of the WORK which will be done by such subcontractor, in accordance with Section 4107 of the Public Contract Code. After the opening of bids, no changes or substitutions will be allowed except as otherwise provided by law. The listing of more than one subcontractor for each item of work to be performed with the words "and/or" will not be permitted. Failure to comply with this requirement may render the Bid non-responsive and may cause its rejection. Should the Contractor provide a bid that does not require a subcontractor, the Contractor shall note that on this page by writing "Not Applicable" in the list below.

<u>Work to be Performed</u>	<u>Subcontractor License Number</u>	<u>Percent of Total Contract</u>	<u>Subcontractor, Address &amp; Phone #</u>
1. <u>COFFER DAM</u>	CSLB# 1009464 DIR# 1000004297	1.2%	BLUE IRON FOUNDATIONS AND SHORING LLC 3545 CARLIN DRIVE WEST SACRAMENTO, CA 95691 (916) 272-0790
2. <u>STRUCTURE CONCRETE</u>	CSLB# 382708 DIR# 1000003928	1.2%	R A NEMETZ CONSTRUCTION CO INC P O BOX 5306 GALT, CA 95632 (209) 744-1001
3. <u>JACK &amp; BORE</u>	CSLB# 553794 DIR# 1000003953	1.4%	PACIFIC BORING INCORPORATED PO BOX 727 CARUTHERS, CA 93609 (559) 864-9444
4. <u>SAWCUTTING</u>	CSLB# 697710 DIR# 1000006774	0.7%	FINE LINE SAWING AND DRILLING INC P O BOX 1636 NEWARK, CA 94560 (510) 793-6700
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Note: Attach additional sheets if required.

SECTION 00300

RECYCLED WATER RIVER DISCHARGE  
CIP WW 20-17

BID PROPOSAL FORMS

**ADDENDA**

Bidder certifies he reviewed ARC Stockton's Plan Well for addenda within 48 hours of bid opening and acknowledges receipt of the following addendum (addenda):

1      2      \_\_\_\_\_

Respectfully submitted,

7/13/21  
Dated

A. Teichert & Son, Inc. dba Teichert Construction  
Legal Name of Firm

*Nathan Rinaldi*

Signature of Authorized Representative  
Nathan Rinaldi - Chief Estimator, Central Valley Public Works  
(Seal)

(If Bidder is a corporation, show State in which incorporated.)

California

The full names and post office addresses of all persons and parties interested in the foregoing Bid as principals are as follows:

(NOTICE): Give first and last names in full; in case of corporation, give names of President, Secretary, Treasurer, and Manager, and in case of partnerships and joint ventures, give names and Post Office addresses of all the individual members.

\*SEE ATTACHED CORPORATE RESOLUTION  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**A. TEICHERT & SON, INC., 3500 American River Drive, Sacramento, California 95864**

I, PAULA D. JAMES, Secretary of A. TEICHERT & SON, INC., a California Corporation, which does business under the fictitious names of TEICHERT CONSTRUCTION, TEICHERT MATERIALS, TEICHERT AGGREGATES, TEICHERT ROCK PRODUCTS, and TEICHERT WATERWORK SERVICES, as well as under its own name, certify that the following is a true and correct copy of a resolution unanimously passed and adopted by the Board of Directors of this corporation at a meeting held on April 1, 2021:

RESOLVED, That

	MARY T. TEICHERT	President
and	RONALD L. GATTO	Executive Vice President, Chief Financial Officer & Assistant Secretary
and	PAULA D. JAMES	Secretary

any two of whom acting in combination, are authorized on behalf of this corporation and in its name or in any of the fictitious names under which this corporation does business, to sign, seal, acknowledge, verify and deliver deeds, deeds of trust, mortgages, pledges, transfers, promissory notes, and any other documents and instruments relating to the business and properties, real and personal, of this corporation,

RESOLVED FURTHER, That the following officers of this corporation:

Mary T. Teichert	President
Judson T. Riggs	Senior Vice President
Ronald L. Gatto	Executive Vice President, Chief Financial Officer & Assistant Secretary
David A. Swartz	Executive Vice President
Dana M. Davis	Senior Vice President & President – Teichert Materials
A. Ed Hermberger	Senior Vice President & President – Teichert Construction
Christopher C. Barkley	Vice President, Director Field Operations
Clark J. Hulbert	Vice President Organizational Development
Francis C. Johnson	Vice President & Regional Manager, Bay Area
Scott R. Lewis	Vice President & Regional Manager, Greater Sacramento
Timothy B. Murphy	Vice President, Manager Mobile Equipment
Mark A. Nilsen	Vice President & Regional Manager, Central Valley
Eric D. Stannard	Vice President Public Works
Paula D. James	Secretary
Christopher M. McCaffree	Treasurer
Kathy Radley-Timberlake	Controller

are authorized, acting alone or in any combination, on behalf of this corporation and in its name or in any of the fictitious names under which this corporation does business, to execute and deliver proposals, bids, bonds, contracts, and agreements for construction work; and to do all other acts of a business nature that this corporation is empowered to do by law;

RESOLVED FURTHER, That the following employees of this corporation:

Wee Chu	Senior Estimator, North Region
Rick Czuleger	Chief Estimator, North Region
Jeff Feusi	Chief Estimator, North Region
Jim Gallagher	Area Manager, Bay Area Region
Darryl Hansen	Senior Estimator, North Region
Stephen Muck	Area Manager, North Region
Tom Musson	Chief Estimator, Central Valley Region
Raul Ortiz	Area Manager, Central Valley Region
Bryan Ramirez	Area Manager, North Region
Nathan Rinaldi	Chief Estimator, Central Valley Region Public Works
Alexander Salcedo	Area Manager, South Valley Region
Janez Seliskar	Director of Public Estimating
Mike Stephenson	Senior Estimator, Bay Area Region
Jason Theriault	Chief Estimator, Bay Area Region

are designated as attorneys in fact of this corporation with full authority to execute proposals, bids, bonds, contracts, and agreements for construction work;

RESOLVED FURTHER, That the following employee of this corporation:

Sean Collins	Credit & Contracts Manager
--------------	----------------------------

is designated as attorney in fact of this corporation with full authority to execute credit agreements, credit settlement agreements, lien rights, contracts and other documents relating to the credit and contracts for this corporation.

DATED: \_\_\_\_\_

7/13/21



\_\_\_\_\_  
Paula D. James  
Secretary of A. Teichert & Son, Inc

SECTION 00300

RECYCLED WATER RIVER DISCHARGE  
CIP WW 20-17

BID PROPOSAL FORMS

---

**BIDDER'S BOND**

**KNOW ALL MEN BY THESE PRESENTS:**

THAT WE A. Teichert & Son, Inc. dba Teichert Construction

---

as PRINCIPAL, and Liberty Mutual Insurance Company

---

as SURETY are held; and firmly bond unto the City of Lathrop in the penal sum of TEN PERCENT (10%) OF THE TOTAL AMOUNT OF THE BID of the Principal above named, submitted by the Principal to the City of Lathrop for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made to the City of Lathrop to which the bid was submitted, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by those presents. In no case shall the liability of the surety hereunder exceed the sum of \$ ten percent (10%) of total amount bid

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

**THAT, WHEREAS,** the Principal has submitted the above mentioned bid to the City of Lathrop for certain construction specifically described as follows, for which bids are to be opened at the City Hall, 390 Towne Centre Drive, Lathrop, CA: Recycled Water River Discharge, CIP WW 20-17.

**NOW, THEREFORE,** if the Principal is awarded the contract and within the time and manner required under the specifications, after the prescribed forms are presented to him for signature enters into a written contract in the prescribed form, in accordance with the bid, and files two bonds with the City, one to guarantee faithful performance, and the other to guarantee payment for labor and materials as required by law, then this obligation shall be null and void; otherwise, it shall be and remain in full force.





**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**Civil Code § 1189**

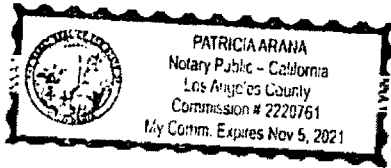
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California )  
 ) ss  
County of Los Angeles )

On JUN 21 2021, before me, Patricia Arana, Notary Public, personally appeared Natalie K. Trofimoff, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



(Seal)

Signature: *Patricia Arana*  
Patricia Arana, Notary Public



This Power of Attorney binds the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No. 8204962-977459

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, C. K. Nakamura, E. R. Albrecht Jr., Jessica L. Rosser, Lisa L. Thornton, Maria Pena, Natalie K. Trofimoff, Noemi Quíroz, Patricia S. Arana, Tim M. Tumko

of the city of Los Angeles state of CA each individually if there be more than one named, his true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on his behalf as surety and as agent and agent, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 4th day of March, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY

On this 4th day of March, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 128044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the By-laws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, whenever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which this foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this JUN 21 2021 day of



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

NOT VALID FOR mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

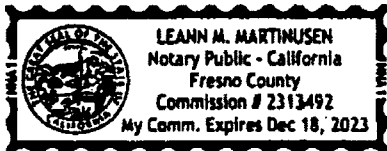


A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Fresno

Subscribed and sworn to (or affirmed) before me on this 8<sup>th</sup>  
day of July, 2021, by Nathan Rinaldi

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(Seal)

Signature

A handwritten signature in cursive script, appearing to read "Nathan Rinaldi", written over a horizontal line.

SECTION 00300

RECYCLED WATER RIVER DISCHARGE  
CIP WW 20-17

BID PROPOSAL FORMS

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**PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE**

In accordance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the Bidder, any officer of the Bidder, or any employee of the Bidder, who has a proprietary interest in the Bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes \_\_\_\_\_ No x \_\_\_\_\_

If the answer is yes, explain the circumstances in the following space.

**PUBLIC CONTRACT SECTION 10232 STATEMENT**

In accordance with Public Contract Code Section 10232, the Contractor hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

NOTE: The above Statement and Questionnaire are part of the Proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

*(END OF SECTION)*



390 Towne Centre Dr. – Lathrop, CA 95330  
Phone (209) 941-7430 – fax (209) 941-7449  
[www.ci.lathrop.ca.us](http://www.ci.lathrop.ca.us)

**ADDENDUM NO. 1 – June 23, 2021**

**Recycled Water River Discharge  
CIP WW 20-17**

This addendum amends the Contract Drawings and Specifications for this project as follows:

1. The bid opening date for this project has been revised to **Tuesday, July 13, 2021 at 2:00 PM.**
2. Replace the Bid Schedule on Pages 00300-2 – 00300-5 of the Bid Specifications with **Attachment 1: Revised Bid Schedule** to include item #4A – Supply and Install Cathodic Protection System – Impressed Current, \$90,000 allowance. This design-build bid item is required to have plans and specifications stamped by a CA-licensed Electrical Engineer.
3. **POINT OF CLARIFICATION:** The City anticipates obtaining final permitting for in-water work by September 1, 2021, and the permits will prohibit in-water work after October 31, 2021. Therefore, the Contractor is expected to make this work the highest priority, working 6 days / week if necessary, to ensure all in-water work is completed by October 31, 2021. All work on the dry side of the levy can be completed without seasonal restrictions.

The following Requests for Information (RFI) have been received by the City, and are followed by the City's answer (A):

RFI 1: Tesla Way – at the railroad crossing there are two each air valves. I see no size called out for these or indication of what type of air valve these are to be

A 1: 2”

RFI 2: The restraining schedule – Plan detail 4/C8.2 – this states it is to be filled out by the engineer, it is blank

A 2: See **Attachment 2**, “Revised Plan Detail 4 / Sheet C 8.2 – *City of Lathrop Std. Detail W-5, Restrained Joints* and **Attachment 3**, “Revised Plan Detail 5 / Sheet C 8.2 – *Butterfly Valve at Railroad Crossing*.”

RFI 3: Is it the intent to have the pipelines on Tesla way and Inland passage fully restrained? If so what are the acceptable options for restraint?

A 3: No; N/A

RFI 4: The pipe specification for C900 PVC pipe calls out for Class 150. DR25 is rated 165, DR18 is rated 235. As there is no longer a Class 150 C900 pipe please provide the desired DR rating

A 4: DR 25

RFI 5: Can the engineer, or district, provide information on the existing pipes we are to re-connect to?

A 5: Connection on Sadler Oak Dr. to have a welded flange to connect to an 18" steel pipe. Connection on Tesla Dr. will be to an 18" C905 pipe via 45° coupling.

RFI 6: Will The City perform compaction testing for the levee, trench backfill and asphalt paving on the project?

A 6: Yes

RFI 7: Will the City require a jack and bore operation to cross under the railroad tracks on Tesla Dr.?

A 7: Bore and Jack is the required method, per Detail 2 on Plan Sheet C5.0.

RFI 8: Is it the intent of the City to install the River Outfall rip rap inside the sheet piling or after the sheet piling has been removed?

A 8: The rip rap may be installed before and / or after the removal of the sheet piles.

RFI 9: The plans show a jack and bore under an existing Railroad. Will the owner of the Railroad require Railroad Flagging? If flagging is required, who is responsible to cover the costs?

A 9: This spur line is private, and will not require flagging.

RFI 10: What are the dewatering discharge requirements for the levee work after the coffer dam is installed? Is the intent of the project to dewater river water and groundwater into the city sewer as stated in page I-52 of the project specifications? Please provide the location of the Sewer Line the contractor is to use to dewater.

A 10: All water removed as a function of dewatering must be placed into a Baker tank to allow for the settlement of silt. Upon settlement of silt, the water may be discharged to the City's storm drain system, and the silt shall be disposed of by the Contractor in a manner approved by the Engineer. Contractor may not discharge into the City's sanitary sewer system water removed as a function of dewatering.

RFI 11: How is the pay quantity for Bid Item 30 (Earthwork, Excavation & Grading) calculated?  
Is the contractor paid for every CY that is excavated, imported or placed?

A 11: Change bid item #30 to 1 Lump Sum; See Attachment 1: Revised Bid Schedule.

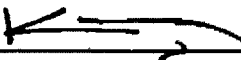
When submitting the bid for the project, the Contractor must acknowledge receipt of the addendum.

Recommended by:

 FOR  
\_\_\_\_\_  
Ken Reed  
Senior Construction Manager

6-23-21  
Date

Approved by:

  
\_\_\_\_\_  
Michael King  
Public Works Director

6-23-21  
Date

Signed:

  
\_\_\_\_\_  
Nathan Rinaldi - Chief Estimator, Central Valley Public Works





A. Teichert & Son, Inc. dba Teichert Construction

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Phone (209) 941-7430 – fax (209) 941-7449  
[www.ci.lathrop.ca.us](http://www.ci.lathrop.ca.us)

**ADDENDUM NO. 2 – July 6, 2021**

**Recycled Water River Discharge  
CIP WW 20-17**


The following Requests for Information (RFI) have been received by the City, and are followed by the City's answer (A):

RFI 1: Will the City revise the Construction Drawings to show the approximate location of sheet piling to be outside the limits of the new rip rap?

A 1: No. The Contractor will set sheet piles around the structure such that it can be de-watered and constructed and the shore block installed. The rip rap can be installed underwater and stacked up to the shore bank. The City will not require the Contractor to dig the 2' toe trench and slope. The Contractor will still be required to maintain the turbidity screen at a depth that prevents silt from escaping the work zone.

When submitting the bid for the project, the Contractor must acknowledge receipt of the addendum.

Recommended by:

  
\_\_\_\_\_  
Ken Reed  
Senior Construction Manager

7-6-2021  
Date

Approved by:

  
\_\_\_\_\_  
Michael King  
Public Works Director

7/6/2021  
Date

Signed:

  
\_\_\_\_\_  
Nathan Rinaldi - Chief Estimator, Central Valley Public Works

## CITY OF LATHROP

### AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES WITH TRC ENGINEERS, INC.

#### Surface Water Discharge Project CIP WW 20-17

**THIS AGREEMENT**, dated for convenience this 13 day of September, is by and between **TRC Engineers, Inc** (“CONSULTANT”) and the **City of Lathrop**, a California municipal corporation (“CITY”);

#### RECITALS:

**WHEREAS**, CONSULTANT is specially trained, experienced, and competent to perform Professional Engineering Consulting Services, which are required by this agreement; and

**WHEREAS**, CITY selected the CONSULTANT pursuant to said qualifications; and

**WHEREAS**, CONSULTANT is willing to render such Professional Engineering Consulting Services, as hereinafter defined, on the following terms and conditions;

**NOW, THEREFORE**, CONSULTANT and the CITY agree as follows:

#### AGREEMENT

##### (1) Scope of Service

CONSULTANT agrees to perform Professional Engineering Consulting Services in accordance with the scope of work and fee proposal provided by CONSULTANT, attached hereto as Exhibit “A” and incorporated herein by reference. CONSULTANT represents it is prepared to and can diligently perform these services in accordance with the upmost standards of its profession and to CITY’S satisfaction. The fee proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved of in advance and in writing, by the CITY.

##### (2) Compensation

CITY hereby agrees to pay CONSULTANT a sum not to exceed **\$228,220** for the Professional Engineering Consulting Services set forth in Exhibit “A”. CONSULTANT shall be paid any uncontested sum due and payable within thirty (30) days of receipt of billings containing all information pursuant to Paragraph 5 below. Compensation for any task must be equal to or less than the percentage of task complete. In no event shall CONSULTANT be entitled to compensation for

work not included in Exhibit “A”, unless a written change order or authorization describing the extra work and payment terms has been executed by CITY’s authorized representative prior to the commencement of the work. Payment is made based on a time and materials basis.

**(3) Effective Date and Term**

The effective date of this Agreement is **September 13, 2021** and it shall terminate no later than **December 31, 2022**

**(4) Independent Contractor Status**

It is expressly understood and agreed by both parties that CONSULTANT, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of the CITY. As an independent contractor, CONSULTANT is responsible for controlling the means and methods to complete the scope of work described in Exhibit “A” to City’s satisfaction. CONSULTANT expressly warrants not to represent, at any time or in any manner, that CONSULTANT is an employee of the CITY.

**(5) Billings**

CONSULTANT shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONSULTANT’S bills shall include a list of all tasks, a total amount due, the amounts previously billed, and the net amount due on the invoice. Except as specifically authorized by CITY, CONSULTANT shall not bill CITY for duplicate services performed by more than one person. In no event shall CONSULTANT submit any billing for an amount in excess of the rates or the maximum amount of compensation provided in section (2) for either task or for the entire Agreement, unless modified by a properly executed change order.

**(6) Advice and Status Reporting**

CONSULTANT shall provide the CITY with timely reports, orally or in writing, of all significant developments arising during performance of its services hereunder, and shall furnish to CITY such information as is necessary to enable CITY to monitor the performance of this Agreement.

CONSULTANT shall submit to CITY such reports, diagrams, drawings and other work products developed pursuant to the Scope of Services.

**(7) Auditing**

CITY reserves the right to periodically audit all charges made by CONSULTANT to CITY for services under this Agreement. Upon request, CONSULTANT agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONSULTANT agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONSULTANT agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with the requirement. CONSULTANT further agrees to maintain such records for a period of three (3) years after final payment under this agreement.

**(8) Assignment of Personnel**

CONSULTANT acknowledges that the CITY has relied on CONSULTANT's capabilities and on the qualifications of CONSULTANT's principals and staff as identified in its proposal to CITY. The services shall be performed by, or under the direct supervision, of CONSULTANT's Authorized Representative: **Lincoln Leaman, Vice President and Regional Manager**. CITY shall be notified by CONSULTANT of any change of its Authorized Representative, and CITY is granted the right of approval of all original, additional, and replacement personnel at CITY's sole discretion, and shall be notified by CONSULTANT of any changes of CONSULTANT's project staff prior to any change.

CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. If CITY asks CONSULTANT to remove a person assigned to the work called for under this Agreement, CONSULTANT agrees to do so immediately, without requiring the City to process a reason or explanation for its request.

**(9) Assignment and Subcontracting**

It is recognized by the parties hereto that a substantial inducement to CITY for entering into this Agreement was, and is, the professional reputation and competence of CONSULTANT. Neither this Agreement nor any interest therein may be assigned by CONSULTANT without the prior written approval of CITY'S authorized representative. CONSULTANT shall not subcontract any portion of the performance contemplated and provided for herein, other than the subcontractors noted in the proposal, without prior written approval of the CITY'S authorized representative.

**(10) Insurance**

On or before beginning any of the services or work called for by any term of this Agreement, CONSULTANT, at its own cost and expense, shall carry, maintain for the duration of the Agreement, and provide proof thereof that is acceptable to the CITY the insurance specified in subsections (a) through (c) below with insurers and under forms of insurance satisfactory in all respects to the CITY. CONSULTANT shall not allow any subcontractor to commence work on any subcontract until all insurance required of the CONSULTANT has also been obtained for the subcontractor. Verification of this insurance shall be submitted and made part of this Agreement prior to execution.

- (a) Workers' Compensation. CONSULTANT shall, at CONSULTANT'S sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by CONSULTANT. Said Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than one million dollars (\$1,000,000). In the alternative, CONSULTANT may rely on a self-insurance program to meet these requirements provided that the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or the CONSULTANT, if a program of self-insurance is provided, shall waive all rights of subrogation against the CITY for loss arising from work performed under this Agreement.
  
- (b) Commercial General and Automobile Liability Insurance. CONSULTANT, at CONSULTANT'S own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this Agreement in an amount not less than one million dollars (\$1,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

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

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT WITH TRC ENGINEERS INC.,  
FOR SURFACE WATER DISCHARGE PROJECT CIP WW 20-17

(ed. 12/90) Code 1 (any auto).

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

- (i) CITY, its officers, employees, agents, and volunteers are to be covered as insured with respect to each of the following: liability arising out of activities performed by or on behalf of CONSULTANT, including the insider's general supervision of CONSULTANT; products and completed operations of CONSULTANT; premises owned, occupied or used by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents, or volunteers.
  - (ii) The insurance shall cover on an occurrence or an accident basis, and not on a claim made basis.
  - (iii) An endorsement must state that coverage is primary insurance and that no other insurance affected by the CITY will be called upon to contribute to a loss under the coverage.
  - (iv) Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
  - (v) Insurance is to be placed with California-admitted insurers with a Best's rating of no less than A: VII.
  - (vi) Notice of cancellation or non-renewal must be received by CITY at least thirty days prior to such change.
- (c) Professional Liability. CONSULTANT, at CONSULTANT'S own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than Two Million Dollars (\$2,000,000) per claim made and per policy aggregate covering the licensed professionals' errors and omissions, as follows:
- (i) Any deductible or self-insured retention shall not exceed \$150,000 per claim.
  - (ii) Notice of cancellation, material change, or non-renewal must be received by the CITY at least thirty days prior to such change shall be included in the coverage or added as an endorsement to the policy.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT WITH TRC ENGINEERS INC.,  
FOR SURFACE WATER DISCHARGE PROJECT CIP WW 20-17

- (iii) The policy must contain a cross liability or severability of interest clause.
  - (iv) The following provisions shall apply if the professional liability coverages are written on a claims made form:
    1. The retroactive date of the policy must be shown and must be before the date of the Agreement.
    2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
    3. If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this Agreement, CONSULTANT must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The CITY shall have the right to exercise at the CONSULTANT'S cost, any extended reporting provisions of the policy should the CONSULTANT cancel or not renew the coverage.
    4. A copy of the claim reporting requirements must be submitted to the CITY prior to the commencement of any work under this Agreement.
- (d) Deductibles and Self-Insured Retentions. CONSULTANT shall disclose the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. During the period covered by this Agreement, upon express written authorization of the CITY's authorized representative, CONSULTANT may increase such deductibles or self-insured retentions with respect to CITY, its officers, employees, agents, and volunteers. The CITY's authorized representative may condition approval of an increase in deductible or self-insured retention levels upon a requirement that CONSULTANT procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- (e) Notice of Reduction in Coverage. In the event that any coverage required under subsections (a), (b), or (c) of this section of the Agreement is reduced, limited, or materially affected in any other manner, CONSULTANT shall provide written notice to CITY at CONSULTANT'S earliest possible opportunity and in no case later than five days after CONSULTANT is notified of the change in coverage.
- (f) In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:
- (i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
  - (ii) Order CONSULTANT to stop work under this Agreement or withhold any payment which becomes due to CONSULTANT hereunder, or both stop work and withhold any payment, until CONSULTANT demonstrates compliance with the requirements hereof;
  - (iii) Terminate this Agreement.

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

**(11) Indemnification - CONSULTANT'S Responsibility**

As to the CONSULTANT'S work hereunder, it is understood and agreed that (a) CONSULTANT has the professional skills necessary to perform the work, (b) CITY relies upon the professional skills of CONSULTANT to perform the work in a skillful and professional manner, and (c) CONSULTANT thus agrees to so perform.

Acceptance by CITY of the work performed under this Agreement does not operate as a release of said CONSULTANT from such professional responsibility for the work performed. It is further understood and agreed that CONSULTANT is apprised of the scope of the work to be performed under this Agreement and CONSULTANT agrees that said work can and shall be performed in a fully competent manner in accordance with the standard of care applicable to CONSULTANT'S profession.

CONSULTANT shall indemnify, defend, and hold CITY, its officers, employees, agents, and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal,



state, or municipal law or ordinance, to the extent caused by the willful misconduct or negligent acts or omissions of CONSULTANT, its employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising out of the negligence or willful misconduct of the CITY, its officers, employees, agents, or volunteers. It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

**(12) Licenses**

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

**(13) Business Licenses**

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

**(14) Termination**

Either CITY or CONSULTANT may cancel this Agreement upon 30 days written notification to the other party. Upon termination, or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONSULTANT to CITY within ten (10) calendar days.

**(15) Funding**

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

**(16) Notices**

All contracts, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail,

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT WITH TRC ENGINEERS INC.,  
FOR SURFACE WATER DISCHARGE PROJECT CIP WW 20-17

postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) Days by delivery of a hard copy of the material sent by facsimile transmission. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City: City of Lathrop  
City Clerk  
390 Towne Centre  
Lathrop, CA 95330

Copy to: City of Lathrop  
Department of Public Works  
390 Towne Centre  
Lathrop, CA 95330  
MAIN: (209) 941-7430  
FAX: (209) 941-7449

To Consultant: TRC Engineers Inc.  
1760 Creekside Oaks Drive, Suite 290  
Sacramento, CA 95833  
Phone: (916) 562-2033

**(17) Miscellaneous**

- (a) Consent. Whenever in this Agreement the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.
- (b) Contract Terms Prevail. All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and attached exhibits, the terms of this Agreement shall prevail.
- (c) Controlling Law. The parties agree that this Agreement shall be governed and construed by and in accordance with the Laws of the State of California.
- (d) Definitions. The definitions and terms are as defined in these specifications.
- (e) Force Majeure. Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Agreement, which directly results from an Act of God or an act of a superior governmental authority.

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT WITH TRC ENGINEERS INC.,  
FOR SURFACE WATER DISCHARGE PROJECT CIP WW 20-17

- (f) Headings. The paragraph headings are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement.
- (g) Incorporation of Documents. All documents constituting the Agreement documents described in Section 1 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in the Agreement and shall be deemed to be part of this Agreement.
- (h) Integration. This Agreement and any amendments hereto between the parties constitute the entire Agreement between the parties concerning the Project and Work, and there are no other prior oral or written agreements between the parties that are not incorporated in this Agreement.
- (i) Modification of Agreement. This Agreement shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.
- (j) Ownership of Documents. All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of the CITY. Upon CITY's request, CONSULTANT shall allow CITY to inspect all such documents during the CONSULTANT's regular business hours.
- (k) Provision. Any agreement, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Agreement shall define or otherwise control, establish or limit the performance required or permitted or to be required of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.
- (l) Severability. The invalidity in whole or part of any provision of this Agreement shall not void or affect the validity of any other provision of this agreement. If a court of competent jurisdiction finds or rules that any provision of this Agreement is void or unenforceable, the provisions of this Agreement not so affected shall remain in full force and effect.
- (m) Status of CONSULTANT. In the exercise of rights and obligations under this Agreement, CONSULTANT acts as an independent contractor and not as an agent or employee of CITY. CONSULTANT shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of CITY, and CONSULTANT expressly waives any and all claims to such right and benefits.

- (n) Successors and Assigns. The provisions of this Agreement shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.
- (o) Time of the Essence. Time is of the essence of this Agreement and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday or any Day observed as a legal holiday by CITY, the time for performance shall be extended to the following Business Day.
- (p) Venue. In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.
- (q) Recovery of Costs. The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.

**(18) Notice to Proceed**

Prior to commencing work under this agreement, CONSULTANT shall receive a written "Notice to Proceed" from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONSULTANT for any services prior to issuance of the Notice to Proceed.

**(19) Signatures**

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

CITY OF LATHROP – CONSULTING SERVICES AGREEMENT WITH TRC ENGINEERS INC.,  
FOR SURFACE WATER DISCHARGE PROJECT CIP WW 20-17

Approved as to Form: City of Lathrop  
City Attorney

---

Salvador Navarrete Date

Recommended for Approval: City of Lathrop  
Public Works Director

---

Michael King Date

Approved by: City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330

---

Stephen J. Salvatore Date  
City Manager

Consultant: TRC Engineers Inc.  
1760 Creekside Oaks Drive, Suite 290  
Sacramento, CA 95833  
Phone: (916) 562-2033

Fed ID # \_\_\_\_\_  
Business License # \_\_\_\_\_

---

Signature Date

---

Print Name and Title



183 D'Arcy Pkwy.  
Lathrop, CA 95207

T 209.858.5500  
TRCcompanies.com

September 8, 2021

Ken Reed, Senior Construction Manager  
City of Lathrop  
390 Towne Centre Dr  
Lathrop, CA 95330

# EXHIBIT A to ATTACHMENT G

**Re: CM & Inspection Services, CTF Dichlorination Facility CIP WW 20-17,  
Lathrop Recycled water River Discharge CIP WW 20-17, (Revised)**

Dear Mr. Reed,

We appreciate the opportunity to submit our estimated cost to provide Construction Management and Inspection Services for the subject project. Our estimate is based on a 130 working day schedule, per our discussion with you on July 26, 2021 regarding the City's project needs, our review of the project documents, and our experience with similar work.

## **Scope of Services**

**Submittal Management:** TRC will utilize Procore to receive and review submittals for compliance with project plans, specifications, and City of Lathrop Standards prior to forwarding to the Designer/City for final approval. The status of all submittals will be maintained in a submittal log. Submittal transmittals and logs will be provided to City of Lathrop at project completion.

**Requests for information:** TRC will utilize Procore to manage the status of RFIs. All RFIs will be uploaded by the contractor to Procore. TRC will review each RFI for completeness prior to forwarding to the Designer or City. RFIs which appear to impact the design intent will be forwarded to Pace for review first, with copy to City. TRC will respond directly to RFI's if/when appropriate. RFI log will be delivered to City of Lathrop at project completion.

**Field Inspection:** Complete all inspection services related to the project, which will include the following:

- TRC will prepare electronic daily inspection reports to document the contractor's activities, location of work, and significant conversations with the contractor.
- Discuss work plans with the contractor's responsible field staff, in detail, to highlight special contract requirements and to identify and avoid potential problems.
- Observe work preparations, verifying the suitability of these preparations for the work planned, and providing appropriate feedback to those involved.
- Identify construction flaws as soon as possible and explore possible remedies with those concerned to get an acceptable product.
- Verify material testing/quality control testing, provided by others, is being performed as requested by City of Lathrop. Verify corrective measures are being taken as required for failing tests results.
- Attend weekly project meetings run by Contractor.
- Take progress photos of the work.
- Prepare punch lists.
- Verify implementation of contractor's safety plan
- TRC will provide as-built drawings prior to final turnover.

**Staffing and Cost Proposal:** Dispatched from our Lathrop, California office, TRC will provide a well-qualified inspector to provide inspection services for this project. Our services will be provided on a time-and-materials basis, meaning the City of Lathrop will only be billed for services provided. We have developed our cost estimate Based on a 130 working day schedule with 8-hour daytime shifts only. If the City should require or request

inspection to occur outside an 8-hour workday or on weekends, an additional overtime surcharge will apply, and a budget adjustment may be required.

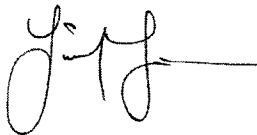
Thank you once again for the opportunity to provide construction management and inspection services for this project. We look forward to continuing our great working relationship with you and the City of Lathrop. Please feel free to contact Justin Wehling directly via phone at (916) 826-4429 or via email at [jwehling@trccompanies.com](mailto:jwehling@trccompanies.com).

Project	Estimated Fee
-CTF Dichlorination Facility CIP WW 20-17 -Lathrop Recycled water River Discharge CIP WW 20-17	\$228,220.00

All project resources will be dispatched from our Lathrop office. **Please direct all contract matters and documents to Lincoln Leaman, 1760 Creekside Oaks Drive, Suite 290, Sacramento CA 95833.**

Respectfully submitted,

TRC ENGINEERS, INC.



Lincoln Leaman, PE, QSD  
Vice President and Regional Manager

# ATTACHMENT H



**Bill To** 390 Towne Centre Dr  
Lathrop, CA 95330

**Purchase Order**

No. 2022-00000057

**Date** 7/21/2021

**Resolution**

**The parties to this agreement are:**

**Vendor No.** 1326

PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, SHIPPERS, BILL OF LADING AND CORRESPONDENCE

**DELIVER BY**

**Vendor** Teichert Construction  
P. O. BOX 1118  
STOCKTON, CA 95201

**Ship To** 390 Towne Centre Dr  
Lathrop, CA 95330

**SHIP VIA**  
**FREIGHT TERMS**  
**PAGE**  
**ORIGINATOR**

1 of 3  
Grace Manganaan

QUANTITY	UNIT	DESCRIPTION	UNIT COST	TOTAL COST
280.00	FOOT	20" Steel Pipe with Flanges - Jifco	\$541.3300	\$151,572.40
1.00	EACH	20" Proflex Check Valve - Core and Main	\$7,043.0000	\$7,043.00
6,495.00	EACH	20" Butterfly Valve - Core and Main	\$1.0000	\$6,495.00
1.00	EACH	Underground Materials for 18" and 20" Pipe, Fittings & Valves	\$301,562.0000	\$301,562.00
400.00	SQFT	Articulated Blocks - Contech	\$40.5750	\$16,230.00
1.00	EACH	Turbidity Curtain - Abasco, LLC	\$22,482.0000	\$22,482.00
200.00	SQFT	Shoreblock - Shoretec	\$51.1150	\$10,223.00


**\$151,607.40**

The contractor agrees to furnish all labor, equipment and materials necessary to perform the services describe herein and agrees to comply with the terms and conditions identified below which are made a part hereof by this reference (Outline exact detail what is to be done, where is to be done and include work specifications, if applicable.)

  
CITY OF LATHROP  
RECOMMENDED FOR APPROVAL      8-4-2021  
DATE

x  8/4/21  
VENDOR (Signature) Mark A. Nixen  
APPROVED BY Vice President      DATE

  
CITY OF LATHROP  
APPROVED BY      8-4-21  
DATE

  
VENDOR (Print Name)  
APPROVED BY      DATE

**Special Instructions**

Construction Materials - Recycled Water River Discharge WW 20-17



Page 2 of 3  
STANDARD PURCHASE ORDER  
TERMS AND CONDITIONS

1. **ACCEPTANCE.** Acceptance of this Purchase Order, whether by written acknowledgement or by performance by Seller, shall be upon the terms and conditions hereof; no other terms or conditions shall be binding on Buyer unless written approval thereof specifically referring to such other terms and conditions shall have been given to Seller.
2. **INVOICES.** Separate invoice shall be supplied for each Purchase Order shipment. Each invoice shall be itemized and shall show Contract Number, terms, discounts, date of shipment or service dates, and Purchase Order Number. Failure to show said items may result in delay of payment with all rights reserved, including cash discounts. The Vendor name on this Purchase Order resulted from a quotation signed in the same name. Payment will not be made to a firm name other than that shown on the face hereof without written assignment.
3. **PAYMENT TERMS.** Seller shall receive payment either by One-Time payment (Lump Sum), Monthly or Quarterly ITEMIZED INVOICE. All payments are in arrears.
4. **ORDER CHANGES.** The Buyer shall have the right from time to time by written notices to make changes in quantities and/or delivery dates of any article, material, or services covered by this Purchase Order prior to the time the item or items are actually placed into final production by the Seller. If such changes are made after the article, material, or services are placed into final production by the Seller and such changes cause a substantial increase or decrease in Seller's performance will be made and this order will be modified in writing accordingly, provided that any claim for adjustment must be asserted by the Seller within a reasonable time (in no case to exceed twenty days) after the change is ordered.
5. **SHIPPING.** Seller will indicate plainly the Purchase Order Number on all bills of lading, all goods shipped pursuant to said order, and on all invoices, freight bills, and packages. Each package must contain a memorandum showing Seller's name, contents of package, and Purchase Order Number.  
  
Shipments of goods specified on this Purchase Order number should result in lowest possible freight rate unless otherwise specified by Buyer. Penalties or increased charges due to failure to observe this provision will be charged to Seller.  
  
Shipping costs for goods on back order shall be paid only at the rate which would have been applicable had the complete order been shipped at one time. All excess costs shall be borne by Seller. Partial shipments must be identified as such on shipping memoranda and invoices.  
  
When shipping, Seller will make no declaration of value to carried, except where shipment is subject to released value ratings.  
  
Any materials supplied to City which are covered by the OSHA Hazard Communication Standard must be accompanied by the applicable Material Safety Data Sheet (MSDS) at the time of delivery.
6. **DELIVERY.** Unless otherwise expressly provided, Seller shall deliver all articles to Buyer's premises, free of all freight, handling, transportation, drayage, boxing and similar charges. All times in this contract are of the essence.
7. **TERMINATION.** Buyer may terminate all or part of this contract, with or without cause. If buyer terminates without cause, then Buyer shall pay all reasonable termination charges incurred by Seller.
8. **DECLINE IN PRICES.** Buyer shall be protected in the event of declining prices on the undelivered portion of this Purchase Order. If prices decline on items ordered, Seller may elect to meet priced reductions or other vendors, or its own lower prices to other purchasers, but if Seller should refuse to do so, Buyer shall have the right to cancel any or all of the balance due on this Purchase Order without cost to Buyer.
9. **FORCE MAJEURE.** Neither Seller nor Buyer shall be liable for nonperformance due to causes beyond reasonable control. Where only a part of Seller's capacity to perform is excused under this paragraph, Seller must allocated production and deliveries among the various customers then under contract for similar goods during the period. The allocation must be made in a fair and equitable manner. Where either Seller or Buyer claims an excuse for nonperformance under this paragraph, it must give notice in writing to the other party. Seller shall not be obligated to sell, nor Buyer obligated to purchase, at a later date, that portion of the goods that Seller is unable to deliver or Buyer is unable to receive or use due to any excused cause. No goods are to be tendered by Seller after the expiration of the terms specified in this Purchase Order without consent of Buyer.
10. **WARRANTY.** Seller warrants that all articles and services covered by this Purchase Order will conform to drawings, specifications, or samples and will be merchantable and of good material, design and workmanship, free from all defects, and suitable for the use intended. All articles will be subject to Buyer's inspection and rejection at the place of delivery. Defective articles may be returned to the Seller for full credit or replacement at the Seller's risk and expense, including transportation charges both ways, but no defective articles shall be replaced without formal replacement order signed by the Buyer.
11. **ASSIGNMENT.** Neither party shall assign or transfer this Purchase Order without the written consent of the other.
12. **INDEMNITY.** SELLER WARRANTS THAT GOODS FURNISHED UNDER THIS PURCHASE ORDER DO NOT INFRINGE ANY PATENT, TRADEMARK, OR TRADE NAME, OR COPYRIGHT AND AGREES TO INDEMNIFY AND SAVE HARMLESS BUYER OR ITS VENDEES FROM ANY AND ALL CLAIMS, SUITS, LIABILITIES, DAMAGES, LOSSES, OR EXPENSES INCURRED BY BUYER OR ITS VENDEES BY REASON OF ANY ALLEGED INFRINGEMENT OF ANY SUCH RIGHTS.

SELLER SHALL ENDEMNIFY AND HOLD HARMLESS BUYER AND ITS AGENTS AND EMPLOYEES FROM AN AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING ATTORNEY'S FEES, ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE WORK CAUSED BY ANY NEGLIGENT ACT OR OMISSION OF SELLER, ANY SUBCONTRACTOR, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE. IN CASE OF CONCURRING FAULT, EACH PARTY SHALL BEAR ITS SHARE OF THE LOSS.

13. **BUYER'S PROPERTY.** Any property of Buyer in Seller's active or constructive possession or custody hereunder will be at Seller's risk, and Seller agrees to reimburse Buyer for any loss or damage to such property however caused.
14. **COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS.** By acceptance hereof, Seller Warrants:
  - (a) that all goods, merchandise, and materials delivered and services rendered hereunder will have been produced and provided in compliance with all requirements of the Fair Labor Standards Act of 1938, as amended, and
  - (b) that all goods, materials, and equipment delivered hereunder shall comply with the applicable federal standards prescribed by the Occupational Safety and Health Act of 1970, or as amended
  - (c) that Seller will comply with all applicable laws, rules and regulations of federal, state and local governments and agencies, thereof, including but not limited to Executive Orders 11246, 11701, and section 503 of Public Law 93-112, The Rehabilitation Act of 1973, the provisions of The Americans and Disabilities Act, Transient Employer Law (285.230 R. S. Mo. et seq.) and Excessive Unemployment Law (Section 290.550 et seq R.S. Mo.) which are hereby incorporated by reference, unless this Purchase Order is exempt pursuant to said Executive Orders, or Acts and the regulations issued thereunder
15. **WORKER'S COMPENSATION, EMPLOYER'S LIABILITY, AND GENERAL LIABILITY.** When work is performed on Buyer's premises, Seller agrees to carry at Seller's own expense.
  - (a) Worker's Compensation and Employer's Liability Insurance.
  - (b) General liability (including Contractual Liability and Products Liability/Completed Operations) Insurance and Auto Liability insurance each in amounts no less than \$1,000,000 per occurrence. Insurance certificates of such coverage shall be submitted to City Utilities' Risk Management upon request of Buyer.
16. **INSOLVENCY** If Seller shall become insolvent, file a petition in bankruptcy, or shall make an assignment for the benefit of creditors, or if a receiver or trustee shall be appointed of or for any of Seller's property or business, the Purchase Order may be cancelled at Buyer's option without liability.
17. **TAXES.** Seller agrees to cooperate with Buyer in opposing the imposition of any tax on any article covered by this Purchase Order, the legality of which is questioned by Buyer, and in securing any abatement or any refund thereof sought by Buyer.
18. **FOREIGN SHIPMENTS.** Foreign shipments must be preceded by execution of formal Consular Invoice. At time of shipment, Ocean Bills of Lading, Consular Invoice, and Commercial Invoices, in triplicate, shall be forwarded directly to the Purchasing Agent issuing this Purchase Order.
19. **VENUE.** This Purchase Order shall be governed by the law of the State of California.
20. **BRANDING** Seller warrants that all materials covered by this Purchase Order are not altered or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act; not an article with may not, under provisions of Section 404 or 505 of said act, be introduced into interstate commerce, and not adulterated or misbranded within the meaning of the pure food and drug laws or the ordinances of any state or city which are applicable to such shipment or delivery, and Seller hereby agrees to indemnify and save the Buyer harmless from and against all claims, charges, action and proceedings brought against Buyer by any lawful government authority or by any person on account of any alleged adulteration or misbranding by Seller of any such material referred to above. Seller does no guarantee against any such material becoming adulterated or misbranded after delivery to Buyer by reason of causes beyond Seller's control.
21. **CONFLICTING TERMS.** In case of a conflict between these terms and conditions and those of a separate written contract signed by both Buyer and Seller, the written contract shall prevail.
22. **REVIEW OF RECORDS.** During the term of the purchase order/agreement and for three years thereafter, City of Lathrop (City) shall have the right to review Seller's records, only for the purposes of verifying claims for payment and compliance with the terms and conditions of the purchase order/agreement for at least three years after final payment.
23. **OFFSETTING BILLS.** City reserves the right to apply offsetting payments for goods and/or services that are due against delinquent utility bills which are due City.
24. **NON-EXCLUSIVE AGREEMENT.** The purchase order is a non-exclusive contract and City reserves the right to purchase same or like materials and/or services from other sources as City deems necessary and appropriate.



Thursday, July 15, 2021

City of Lathrop  
Ken Reed  
Senior Construction Manager  
City of Lathrop  
Office 1-209-941-7363  
Cell 1-209-712-3136

Re: CIP WW 20-17 Recycled Water River Discharge – Material Purchase Order Only

Mr. Reed,

Thank you for giving Teichert Construction the opportunity to provide our services. The price listed below is for material purchase order only. The material listed is a portion of what is needed to complete the project. This material was selected to purchase early because of the estimated lead time which are yet to be determined.

Materials	Quantity	Price	Current Supplier
20" Steel Pipe with Flanges	280 LF	\$ 151,572.00	Jifco
20" Profflex Check Valve	1 EA	\$ 7,043.00	Core and Main
20" Butterfly Valve	1 EA	\$ 6,495.00	Core and Main
Underground Materials for 18" and 20" Pipe, Fittings & Valves	1 LS	\$ 301,562.00	Core and Main
Articulated Blocks	400 SF	\$ 16,230.00	Contech
Turbidity Curtain	1 LS	\$ 22,482.00	Abasco, LLC
Shoreblock	200 SF	\$ 10,223.00	Shorettec
	Total Price	\$ 515,607.00	

Total costs for initial purchase order are \$515,607.00

It is our understanding that the forthcoming City of Lathrop purchase order will be included in the contracted amount for the full project. These costs do not include any potential re-stocking fees if the project is not awarded by The City. Once the Purchase Order is received, Teichert will provide submittals for the material to The City of Lathrop. Once submittals are approved Teichert will place the order with the selected suppliers.

Thank you,

**Raymond Hernandez | Estimator | Teichert Construction, Central Region**  
D ☎ 559.813.3050 M ☎ 559.355-4562 F ☎ 559.813.3055 | ✉ [rhernandez@teichert.com](mailto:rhernandez@teichert.com)





**A. TEICHERT & SON, INC.**

TEICHERT CONSTRUCTION  
265 Val Dervin Parkway  
Stockton, CA 95206

DATE: August 4, 2021

TO: City of Lathrop  
390 Towne Centre Dr.  
Lathrop, CA 95330  
Attn: Ken Reed

RE: CIP WW 20-17 Recycled Water River Discharge - Materials PO

Teichert Job # 11703.00

We enclose herewith

Forward to us immediately  
2 Copies of the following

- Contract Document
- (2) Contract
- (1) EFT Authorization Form
- (1) Small Business Participation Form
- (2) Payment and Performance Bonds
- (1) Insurance Certificate
- (2) T&M Rate Sheets

- Executed
- Approved
- Unapproved

- For approval
- For your signature
- For your use
- For correction

Remarks:

Please find enclosed two (2) signed purchase orders for CIP WW 20-17. Please have the PO executed and return a copy for our records. Should you have any questions or need anything further please feel free to contact me at (209) 670-5794 or via email at bevans@teichert.com.

Thank you,

Brian G. Evans  
Contract Administrator

# ATTACHMENT I

**Recording Requested By:**

RECLAMATION DISTRICT NO. 17

Doc #: 2021-138518  
8/18/21 3:38 PM  
Steve J. Bestolarides  
San Joaquin County Recorders

**When Recorded Return To:**

RECLAMATION DISTRICT NO. 17  
c/o NOMELLINI, GRILLI & McDANIEL  
LAW OFFICE  
P. O. Box 1461  
STOCKTON, CA 95201

PUBLIC ENTITY FILING FEE WAIVED PER GOVT. CODE § 6103

APN 241-020-58 -- 18151 Inland Passage Way, Lathrop, CA95330

## PERMIT AGREEMENT LATHROP RECYCLED WATER RIVER DISCHARGE OUTFALL

**PARTIES:**

RECLAMATION DISTRICT NO. 17 (RD 17)  
CITY OF LATHROP (Permittee)

**AFFECTED PROPERTY:**

Levee along right (east) bank of San Joaquin River, City of Lathrop, County of San Joaquin;  
Latitude 37 47.714 N, Longitude 121 18.423 W; Section 4, Township 2 S, Range 6 E, MDB&M.

**AGREEMENT:**

Permission is hereby granted by RD 17 to Permittee and its successors and assigns to construct, and maintain, a recycled water discharge outfall structure (Lathrop Recycled Water River Discharge, Inland Passage Way, Lathrop CA) with a single 20 inch diameter steel pipe crossing the RD 17 levee as per the 100% plans titled Lathrop Recycled Water River Discharge Inland Passage Way Lathrop, CA CIP WW 20-17, approved 6-3-2021 (also referred to as, the "approved project").

This permission is granted upon the following conditions, the failure of which shall cause this permit to terminate at the election of RD 17.

1. Permittee shall obtain the necessary easements and rights of way from the landowners upon whose land the approved project and improvements will be located.
2. Permittee shall upon completion of the approved project submit to RD 17 a survey signed and stamped by an appropriately qualified professional showing the profile and horizontal location of all new pipelines in the area of work (the "premises") and within 500 feet of the centerline of the RD 17 levee.

3. Permittee shall notify RD 17 Engineer Chris Neudeck or Jeff Mueller with Kjeldsen, Sinnock & Neudeck, Inc., 711 North Pershing Avenue, Stockton, California 95203, (209) 946-0268, one (1) week before initiating any construction or maintenance activity in the San Joaquin River or on or near the RD 17 levees or dredger cuts and when there is no activity for a period of five (5) working days, then twenty-four (24) hours prior to resumption of operations.

4. Permittee shall retain at Permittee's sole cost and expense a California registered Geotechnical Engineer to provide oversight of all work in the waterway or on or near the RD 17 levees and any and all water seepage, soil stability problems and changes in levee crown elevation shall be immediately reported to the RD 17 Engineer. A representative of the Geotechnical Engineer with control over the work shall be onsite continuously during the course of construction of all borings, excavations and pile driving within 300 feet of the centerline of the RD 17 levees.

5. In the event the RD 17 Engineer deems the safety of the RD 17 levee is being jeopardized by the approved project, he may order all or any portion of the work stopped, in which case Permittee agrees to immediately comply with the order.

6. Permittee's approved project activities shall not interfere with access along the levee crown road.

7. Indemnification and Insurance, etc.:

Permittee agrees to fully indemnify, defend and save harmless RD 17 including its governing boards, trustees, owners, partners, officers, agents, employees and contractors, herein collectively referred to as RD 17, against any and all loss, damage, liability, claim, demand, litigation, expense, including reasonable attorney's fees, resulting from injury or harm to any person or property arising out of Permittee's approved project facilities and operations permitted hereby excepting only such injury or harm caused by sole negligence or active negligence or willful misconduct of RD 17.

Permittee shall secure the naming of RD 17 as additional insured as to claims arising out of Permittee's approved project facilities and operations on the liability policies and to the limits which shall not be less than Twenty Million Dollars (\$20,000,000.00) per occurrence as required by Permittee of its contractors only during the period of the contractor's work within 300 feet of the center line of the RD 17 levee. Additionally, Contractor shall at all times during the construction period of the approved project until City Council acceptance, maintain comprehensive general liability insurance including coverage for all damages arising out of Permittee's approved project facilities and operations with limits of a minimum of Twenty Million Dollars (\$20,000,000.00) per occurrence but not less than Contractor's actual underlying and "excess" policy limits, to insure Permittee's obligations for personal injury and property damage as provided herein. All liability insurance shall be provided by California admitted carriers with a B+ or better rating. Certificates of said insurance shall be provided to RD 17 upon issuance and all renewals of said policies. Said certificates shall provide for thirty (30) days prior notice to RD 17 of termination of the insurance.

Permittee shall maintain comprehensive general liability insurance including coverage for all damages arising out of Permittee's facilities and operations with limits of a minimum of Ten Million Dollars (\$10,000,000.00) per occurrence but not less than Permittee's actual underlying and "excess" policy limits, to insure Permittee's obligations for personal injury and property damage as provided herein. All liability insurance shall be provided by California admitted carriers with a B+ or better rating and shall name RD 17 as an additional insured. Certificates of said insurance shall be provided to RD 17 upon issuance and all renewals of said policies. Said certificates shall provide for thirty (30) days prior notice to RD 17 of termination of the insurance.

8. Assumption of Risk:

Permittee acknowledges that the premises could be flooded from many causes, including without limitation, the following:

- a. Levee overtopping and levee failure due to natural causes such as winds, tides, barometric pressure changes, rainfall, rainfall runoff, earthquakes, levee settlement and rodents.
- b. Levee overtopping and levee failure due to man-related causes including negligence of the landowner, any Reclamation District and any other governmental agency such as inadequate or improper levee maintenance, flood fighting and/or patrol, dredging, water releases, obstructing water flows and water diversions.
- c. Failure of the drainage system due to natural or man-related causes, including negligence of owner, any reclamation district, and any governmental agency.
- d. Failure to construct, repair, maintain or operate levees, drainage or irrigation facilities or other facilities whether due to limited funding or otherwise.

City hereby expressly assumes the risk of damage to property and the related direct and indirect losses to Permittee, its contractors, employees and agents arising out of the above and hereby waives the right, including the right on the part of any insurer through subrogation, to make any claim pertaining to the same as against RD 17 and the landowners within RD 17. City agrees to hold RD 17 and the landowners within RD 17 free and harmless from and indemnify them for inverse condemnation of and for damages to property belonging to Permittee or used in connection with Permittee's operations including, without limitation, damage to equipment, improvements, site preparation, bridges, pipelines, valves and appurtenances caused by flooding due to the causes set forth above. The parties intend that this indemnity shall extend as broadly as legally permitted and shall apply except as arises from the sole negligence or active negligence or willful misconduct of the indemnified party.

9. Permittee shall within thirty (30) days of invoice, reimburse RD 17 for its reasonable out-of-pocket engineering and legal costs incurred in reviewing, preparing and processing this permit.

10. Permittee does hereby agree that at all times during and after the construction of the proposed improvements that Permittee shall, upon written demand by RD 17 perform at Permittee's own cost and expense and within the reasonable time limits set by RD 17 all rehabilitation, maintenance or repair work reasonably ordered to be performed by RD 17 which arises as a result of Permittee's approved project. Customary levee maintenance and improvement work shall not be a requirement of this paragraph unless the work is required as a result of Permittee's approved project improvements or unless the work area is within twenty-five (25) feet of Permittee's improvements; provided, however, Permittee shall within thirty (30) days of invoice reimburse RD 17 for any increased cost of performing levee maintenance and improvement work due to the presence of Permittee's approved project.

11. Permittee shall within ninety (90) days of completion of the construction contemplated hereby supply RD 17 with approved "as-built" drawings of the approved project construction.

12. This permit shall be subject to termination by the Board of Trustees of RD 17 upon failure of Permittee to adhere to the terms and conditions provided herein for a period of thirty (30) days after written notice (or such additional time as may reasonably be required to cure such failure as long as cure is commenced within thirty (30) days) and shall automatically terminate upon non-use of the permitted facility for the permitted purpose for a period of thirty-six (36) months. Upon any termination, City shall remove all structures including pipelines permitted hereby from the RD 17 levees in accordance with the reasonable requirements of RD 17 and the Central Valley Flood Protection Board.

13. If and in the event that in the sole discretion of the Board of Trustees of RD 17, work needs to be performed on the levee, banks, slopes or other RD 17 facilities in the immediate area of Permittee's approved project works, then and in that event City hereby gives to RD 17, its agents, employees or contractors, the right and permission to repair or remove and replace any and all works and any appurtenances thereto reasonably necessary to the performance of such work, provided that RD 17 will not excavate within twenty-five (25) feet of the approved project without first giving notification to the City and providing the City a reasonable opportunity to perform the necessary work at its own expense. City agrees that in the event the work is needed to address an emergency, the notification may be oral or by telephone, fax or e-mail; City's election to perform or not perform the work must be immediate; and if City elects to perform the work the performance must be immediate. City does hereby hold RD 17, its governing board, agents, employees and contractors, harmless from any and all liability arising out of or by reason of said proposed works, including, without limitation, any and all liability arising out of Permittee's proposed works having been approved, constructed, undertaken, damaged or removed as aforesaid. City shall within thirty (30) days from date of written demand by RD 17 reimburse RD 17 for (1) all costs and expenses incurred in the repair or removal and replacement of said works or any appurtenances thereto by RD 17 as per the above, including reasonable attorney's fees and interest and (2) for all costs and expenses incurred by RD 17 in performing levee, bank, slope, and waterway rehabilitation, maintenance or repair work which is reasonably necessary and caused by the presence of the proposed works. In the event enforcement action is required, the prevailing party shall be entitled to recover, in addition to such costs and expenses, the costs of suit together with reasonable attorney's fees to be fixed by the Court.



14. City agrees that to the extent its easements and improvements benefit from the operations of RD 17 that it will be subject to annual benefit type assessments and fees and charges.

15. All covenants of Permittee herein shall also be deemed conditions of this permit.

16. The terms and conditions herein shall bind the heirs, assigns, executors, administrators and transferees of Permittee and shall run with the permit. Permittee agrees as a condition of any transfer to obtain from the transferee its written agreement to comply with the terms of this agreement. Permittee shall notify RD 17 of the name and address of any transferee and provide to RD 17 a copy of said transferee's agreement within ten (10) days of the transfer.

17. Unless changed by written notice to RD 17, the mailing address for all notices to Permittee shall be: City of Lathrop, Attn: City Manager, 390 Towne Centre Drive, Lathrop, CA 95330.

18. This permit shall not be valid until an original which is fully signed and acknowledged in recordable form by all named parties is returned to RD 17, in care of Nomellini, Grilli & McDaniel Professional Law Corporations, P.O. Box 1461, Stockton, California 95201, telephone (209) 465-5883, fax (209) 465-3956.

19. Permittee agrees to execute any and all additional documents reasonably necessary to secure the recordation of this agreement or a memorandum thereof in the County of San Joaquin, State of California.

20. Time is of the essence in this permit.

21. No discharge shall be made from the facilities permitted hereby if such discharge will increase peak flood flows in the San Joaquin River.


22. No excavations shall take place within 500 feet of the landside toe of the levee without the prior written approval of the Reclamation District Engineer.

24. This permit is conditioned upon and shall not become effective until an encroachment permit for the project is granted by the Central Valley Flood Protection Board.

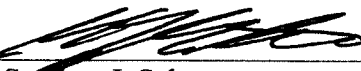
25. Rip-rap shall be installed to 200-year Flood Elevation = 28.0' (NAVD88).

[SIGNATURES ON THE FOLLOWING PAGE.]

**RD 17:**  
RECLAMATION DISTRICT NO. 17

By:  7-19-2021  
Dante John Nomellini Date  
Secretary and Counsel

**PERMITTEE:**  
CITY OF LATHROP

By:  8-16-21  
Stephen J. Salvatore Date  
City Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF SAN JOAQUIN )

On July 19, 2021 before me, JEAN MARIE URBANI, Notary Public, personally appeared Dante John Nomellini, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.



Jean Marie Urbani

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF SAN JOAQUIN )

On \_\_\_\_\_, 2021 before me, \_\_\_\_\_, Notary Public, personally appeared Stephen J. Salvatore, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

\_\_\_\_\_

**CALIFORNIA ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

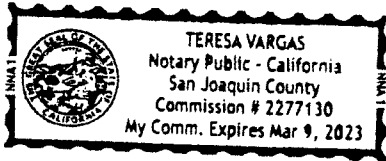
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }  
County of San Joaquin County }

On August 17, 2021 before me, Teresa Vargas, Notary Public  
*Date Here Insert Name and Title of the Officer*

personally appeared Stephen J. Salvatore  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Teresa Vargas*  
*Signature of Notary Public*

Place Notary Seal and/or Stamp Above

**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Permit Agreement Lathrop Recycled Water Discharge  
Document Date: 8/16/2021 Number of Pages: 8 *Outfall*

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_  
 Corporate Officer – Title(s): \_\_\_\_\_  Corporate Officer – Title(s): \_\_\_\_\_  
 Partner –  Limited  General  Partner –  Limited  General  
 Individual  Attorney in Fact  Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  Trustee  Guardian or Conservator  
 Other: City Manager  Other: \_\_\_\_\_  
Signer is Representing: City of Lathrop Signer is Representing: \_\_\_\_\_