

ITEM 4.13

CITY MANAGER'S REPORT APRIL 10, 2023 CITY COUNCIL REGULAR MEETING

ITEM: **APPROVE CONTRACT CHANGE ORDER NO. 3 & NO. 4 WITH CUSHMAN CONTRACTING CORPORATION FOR THE CTF DECHLORINATION FACILITY OF SURFACE WATER DISCHARGE, CIP WW 20-17 AND APPROVE BUDGET AMENDMENT**

RECOMMENDATION: **Adopt Resolution Approving Contract Change Order Nos. 3 and 4 with Cushman Contracting Corporation for the CTF Dechlorination Facility of Surface Water Discharge, CIP WW 20-17 and Approving Budget Amendment**

SUMMARY:

On September 13, 2021, City Council awarded a construction contract to Cushman Contracting Corporation (Cushman) for the construction of the Consolidated Treatment Facility (CTF) Dechlorination Facility (Project) portion of Surface Water Discharge, CIP WW 20-17. At the time of contract execution, the National Pollutant Discharge Elimination System (NPDES) permit for CIP WW 20-17 had not been granted final approval.

Subsequent to contract's execution, the NPDES permit was approved. Consequently, requiring installing additional discharge analyzers than originally proposed in the original bid documents. To address these changes, Cushman submitted a cost for Contract Change Order (CCO) No. 3 for \$313,916.86 for the purchase and installation of the additional analyzers. Cushman also submitted a cost for CCO No. 4 in the amount of \$124,118 as a reconciling change order to settle credits and expenses due to the adjustments in the original bid quantities.

Staff requests Council approve CCO No. 3 for \$313,916.86 and CCO No. 4 for \$124,118 with Cushman. Sufficient funds were not allocated in FY 22/23 for CCO Nos. 3 and 4. Therefore, staff also requests Council approve a budget amendment transferring \$150,000 from the Wastewater Connection Fee Fund (6030) to the CIP Project Fund (6090) to fund the additional work represented by CCO Nos. 3 and 4.

BACKGROUND:

On September 13, 2021, City Council awarded a construction contract to Cushman for \$3,620,000, plus a 10% construction contingency of \$362,200 for a total Project construction budget of \$3,982,000. At the time of contract execution, the City's NPDES permit for Surface Water Discharge, CIP WW 20-17 had not been issued.

**APPROVE CCO NOS. 3 AND 4 WITH CUSHMAN FOR THE CTF
DECHLORINATION FACILITY OF SURFACE WATER DISCHARGE, CIP WW 20-
17 AND APPROVE BUDGET AMENDMENT**

The NPDES permit became effective on February 17, 2022, and required the installation of thirteen (13) additional discharge analyzers and associated appurtenances than initially anticipated in the original bid quantities; Cushman presented the City with a cost of \$313,916.86 (CCO No. 3), to cover the purchase and installation of these extra analyzers. Upon assessment, staff determined that the costs were reasonable and in line with unit costs submitted during the bidding process. Cushman has also submitted a cost for CCO No. 4 in the amount of \$124,118 as a reconciling change order to settle credits and expenses due to the adjustments in the original bid quantities.

CCO Nos. 1 and 2 previously approved for this contract total \$327,291.84. This cost funded necessary revisions to piping and structural work due to the broader requirements of the NPDES permit as issued.

Staff requests City Council approve CCO Nos. 3 and 4 with Cushman for the Project portion of Surface Water Discharge, CIP WW 20-17 and budget amendment.

REASON FOR RECOMMENDATION:

The additional work listed in proposed CCO No. 3 is necessary for the City to comply with the NPDES permit. Proposed CCO No. 4 is necessary to ensure the correct payment to Cushman for cost increases and decreases due to changed quantities of various bid items in the original contract.

FISCAL IMPACT:

The approved contract with Cushman is for \$3,620,000, with a 10% construction contingency in the amount of \$362,000, for a total Project budget of \$3,982,000.

The cost of CCO No. 3 is \$313,916.86, and the cost of CCO No. 4 is \$124,118. Sufficient funds for CCO Nos. 3 and 4 were not allocated to the Project in the FY 2022-2023 budget; therefore, Staff requests City Council approve a budget amendment transferring \$150,000 from the Wastewater Connection Fee Fund (6030) to the CIP Project fund (6090) as detailed below.

Increase Transfer Out 6030-9900-990-9010		\$150,000
Increase Transfer In 6090-9900-393-0000	WW 20-17	\$150,000
Increase Appropriation 6090-8000-420-12-00	WW 20-17	\$150,000

**APPROVE CCO NOS. 3 AND 4 WITH CUSHMAN FOR THE CTF
DECHLORINATION FACILITY OF SURFACE WATER DISCHARGE, CIP WW 20-
17 AND APPROVE BUDGET AMENDMENT**

ATTACHMENTS:

- A. Resolution Approving Contract Change Order Nos. 3 and 4 with Cushman Contracting Corporation for CTF Dechlorination Facility (Project) portion of Surface Water Discharge, CIP WW 20-17 and Approving Budget Amendment
- B. Contract Change Order No. 3 with Cushman Contracting Corporation for CTF Dechlorination Facility (Project) portion of Surface Water Discharge, CIP WW 20-17
- C. Contract Change Order No. 4 (Balancing CCO) with Cushman Contracting Corporation for CTF Dechlorination Facility (Project) portion of Surface Water Discharge, CIP WW 20-17

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APRIL 10, 2023 CITY COUNCIL REGULAR MEETING
APPROVE CCO NOS. 3 AND 4 WITH CUSHMAN FOR THE CTF
DECHLORINATION FACILITY OF SURFACE WATER DISCHARGE, CIP WW 20-
17 AND APPROVE BUDGET AMENDMENT

APPROVALS



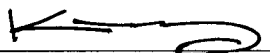
Steven Hollenbeak
Assistant Engineer

3.28.23
Date



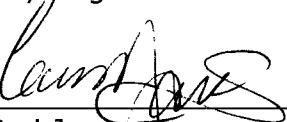
Ken Reed
Senior Construction Manager

3-28-23
Date

 FOR

Brad Taylor
City Engineer

3.30.2023
Date




Cari James
Finance Director

3/30/2023
Date



Michael King
Assistant City Manager

3.28.2023
Date



Salvador Navarrete
City Attorney

3.29.2023
Date



Stephen J. Salvatore
City Manager

4.4.23
Date

RESOLUTION NO. 23 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING CONTRACT CHANGE ORDER NOS. 3 AND 4 WITH CUSHMAN CONTRACTING CORPORATION FOR THE CTF DECHLORINATION FACILITY OF SURFACE WATER DISCHARGE, CIP WW 20-17 AND APPROVING BUDGET AMENDMENT

WHEREAS, on September 13, 2021, City Council awarded a construction contract to Cushman Contracting Corporation (Cushman) for the construction of the Consolidated Treatment Facility (CTF) Dechlorination Facility (Project) portion of Surface Water Discharge, CIP WW 20-17; and

WHEREAS, the awarded contract between the City of Lathrop and Cushman was for \$3,620,000 plus a 10% construction contingency of \$362,000 for a total project budget of \$3,982,000; and

WHEREAS, the installation of additional discharge analyzers is required for the City to comply with the Project's National Pollutant Discharge Elimination System permit; and

WHEREAS, Cushman has submitted a cost of \$313,916.86 for CCO No. 3 to install the discharge analyzers; and

WHEREAS, Cushman has also submitted a cost of \$124,118 for CCO No. 4 as a Balancing Change Order for the Project; and

WHEREAS, staff requests City Council approve CCO No. 3 with Cushman for \$313,916.86; and

WHEREAS, staff requests City Council approve CCO No. 4 with Cushman for \$124,118; and

WHEREAS, sufficient funding for this project was included in the FY 22/23 budget; however, sufficient funds were not allocated to the Project; therefore, staff request City Council approve a budget amendment transferring \$150,000 from the Wastewater Connection Fee Fund (6030) to the CIP Project Fund (6090) as follows:

Increase Transfer Out		
6030-9900-990-9010		\$150,000
Increase Transfer In		
6090-9900-393-0000	WW 20-17	\$150,000
Increase Appropriation		
6090-8000-420-12-00	WW 20-17	\$150,000

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of Lathrop does hereby approve Contract Change Order No. 3 with Cushman Contracting Corporation for \$313,916.86 for the CTF Dechlorination Facility Project of Surface Water Discharge, CIP WW 20-17; and

BE IT FURTHER RESOLVED, the City Council of the City of Lathrop does hereby approve Contract Change Order No. 4 with Cushman Contracting Corporation for \$124,118 for the CTF Dechlorination Facility Project of Surface Water Discharge, CIP WW 20-17; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lathrop also approves a budget amendment transferring \$150,000 from the Wastewater Connection Fee Fund (6030) to the CIP Project Fund (6090) as detailed above.

The foregoing resolution was passed and adopted this 10th day of April, 2023, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

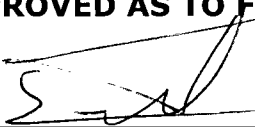
ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

Teresa Vargas, City Clerk

APPROVED AS TO FORM:



Salvador Navarrete, City Attorney

CHANGE ORDER NO. 3

LCTF Dechlorination Facility
CIP WW 20-17

City of Lathrop

CONTRACT CHANGE ORDER NO. 3
LCTF DECLORINATION FACILITY, CIP WW 20-17

Contractor: Cushman Contracting Corporation
Address: P.O. Box 147
Goleta, CA 93116
Change Order Date: April 10, 2023
Notice to Proceed Date: November 4, 2021
Contract Execution Date: September 13, 2021

This contract change order augments or changes the following:

1) ADDITIONS TO CONTRACT

Pursuant to the provisions of the Contract Specifications and proposal attached as Exhibit A, you are hereby directed to make the herein described changes to the plans and specifications, and scope of work contracted for within the terms of the agreement between the **City of Lathrop** and **Cushman Contracting Corporation** dated **September 13, 2021**.

I. **CHANGES IN THE SPECIFICATIONS**

A. None

II. **ADDITION(S)/SUBTRACTION(S) TO CONTRACT**

NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL
1	Electrical Scope of Work Revisions	1	LS	\$313,916.86	\$313,916.86
TOTAL ADDITIONAL COST FROM THIS CHANGE ORDER					\$313,916.86
ADDITIONAL COST FROM CHANGE ORDER #1					\$129,444.75
ADDITIONAL COST FROM CHANGE ORDER #2					\$197,847.09
ORIGINAL CONTRACT AMOUNT					\$3,620,000.00
REVISED CONTRACT AMOUNT AFTER CHANGE ORDER #3					\$4,261,208.70

(END OF CHANGES)

DESCRIPTION OF WORK

The NPDES permit became effective on February 17, 2022, and required the installation of thirteen (13) additional discharge analyzers and associated appurtenances than initially anticipated in the original bid quantities. The contractor shall provide all labor, material, equipment and shall perform all incidental tasks as necessary to complete the change order.

TIME OF COMPLETION

No increase to the time frame of the original contract.

CHANGE ORDER NO. 3

**LCTF Dechlorination Facility
CIP WW 20-17**

City of Lathrop

RELEASE AND WAIVER

Acceptance of this Contract Change Order constitutes a full and final resolution of all pending disputes between City and Contractor regarding scope of work and payment for work. Contractor accepts this Contract Change Order as full payment for all work performed to date and hereafter to be performed, up to and including Contract Change Order No. 3. Contractor releases and discharges City from any and all claims, demands, damages, actions and causes of actions and causes of action for injuries, damages or losses, whether known or unknown, foreseen or unforeseen, arising directly from Contractor's work on this contract. Contractor expressly waives the provisions of California Civil Code, Section 1542, which reads as follows:

A general release does not extend to claims which the Creditor does not know or suspect to exist in his favor at time of executing the release, which if known by him must have materially affected his settlement with the debtor.

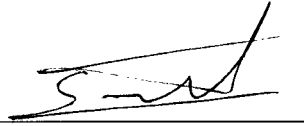
(END OF SECTION)

CHANGE ORDER NO. 3

LCTF Dechlorination Facility
CIP WW 20-17

City of Lathrop

Approved As
To Form:



Salvador Navarrete
City Attorney
City of Lathrop

3.29.2023

Date

Recommended
By:

Michael King
Assistant City Manager
City of Lathrop

Date

Approved By:
Reso #

Stephen J. Salvatore
City Manager
City of Lathrop

Date

Accepted By
Contractor:

Cushman Contracting Corporation

Date

Print Name and Title

PROPOSED CHANGE ORDER NO. 3

Item #	Item Description	Unit of Measure	Estimated Qty	Contract unit price	Item Bid total
PCO 10	Provide Blue-White Chemical Feed Pumps instead of Watson Marlow RFP 10	LS	1.00	\$2,192.00	\$2,192.00
PCO 11.1	Provide E&H instead of Siemens Flow meter RFP 11	LS	1.00	\$13,902.71	\$13,902.71
PCO 12	Hach Analyzer Material Escalation	LS	1.00	\$5,838.20	\$5,838.20
PCO 15	Delta 3, 3.5, 3.6 Analyzer Changes	LS	1.00	\$0.00	\$48,788.67
PCO 16	Electrical Feed Proposal Revisions (Transformer)	LS	1.00	\$0.00	\$18,355.06
PCO 19	Floating Curtain Revision to replace Bid Item # 14 & #16	LS	1.00		\$126,343.97
PCO 21	Add Auto Composite Samplers per Delta 3.7	LS	1.00		\$71,586.43
PCO 23.1	Re Test of De Chlorination Basin	LS	1.00		\$9,837.73
PCO 24.1	Replace existing ARV at Plant Influent line (Per Paul's Request)	LS	1.00		\$10,334.66
PCO 25	Repair Existing ARV	LS	1.00		\$869.28
PCO 29	Install Owner furnished Air Compressor	LS	1.00		\$3,461.98
PCO 30	Install new Sump at Pumps	LS	1.00		\$2,406.17
	CCO 3 Total Cost				\$313,916.86

CHANGE ORDER NO. 4

LCTF Dechlorination Facility
CIP WW 20-17

City of Lathrop

CONTRACT CHANGE ORDER NO. 4 – BALANCING CHANGE ORDER
LCTF DECLORINATION FACILITY, CIP WW 20-17**Contractor:** Cushman Contracting Corporation**Address:** P.O. Box 147
Goleta, CA 93116**Change Order Date:** April 10, 2023**Notice to Proceed Date:** November 4, 2021**Contract Execution Date:** September 13, 2021

This contract change order augments or changes the following:

- 1) Bid Schedule of LCTF DECLORINATION FACILITY, CIP WW 20-17: Bid Item Balancing Change Order

Pursuant to the provisions of the Contract Specifications, you are hereby directed to make the herein described changes to the plans and specifications, and scope of work contracted for within the terms of the agreement between the **City of Lathrop** and **Cushman Contracting Corporation** dated **September 13, 2021**.

I. CHANGES IN THE SPECIFICATIONS

- A. None

II. ADDITION(S)/SUBTRACTION(S) TO CONTRACT

BID ITEM	DESCRIPTION	CONTRACT QTY	UNIT PRICE	FINAL QTY	ADJUSTMENT
7	16" - 24 " DIP w/ Fittings Installed	250.00	\$927.00	246.00	\$(3,708.00)
8	16" - 24 "C905 PVC w/ Fittings Installed	700.00	\$588.00	816.00	\$68,208.00
9	12" sch40 PVC Highline Installed	150.00	\$350.00	191.00	\$14,350.00
10	Relocate 6" C900 RW Pipe Installed	80.00	\$585.00	100.00	\$11,700.00
11	6" Schedule 80 Drain Pipe Installed	80.00	\$550.00	106.00	\$14,300.00
13	Buried Service Butterfly Valves w/stems	1.00	\$33,600.00	4.00	\$100,800.00
14	Cross Roads Basin A Liner Replacement	8000.00	\$7.50	0.00	\$(60,000.00)
15	PCC Paving	1600.00	\$19.50	4624.00	\$58,968.00
16	Storm Drain Grading	1.00	\$80,500.00	0.00	\$(80,500.00)
SUBTOTAL					\$124,118.00
TOTAL ADDITIONAL COST FROM THIS CHANGE ORDER					\$124,118.00
ADDITIONAL COST FROM CHANGE ORDER #1					\$129,444.75
ADDITIONAL COST FROM CHANGE ORDER #2					\$197,847.09
ADDITIONAL COST FROM CHANGE ORDER #3					\$313,916.86
ORIGINAL CONTRACT AMOUNT					\$3,620,000.00
REVISED CONTRACT AMOUNT AFTER CHANGE ORDER #4					\$4,385,326.70

(END OF CHANGES)

CHANGE ORDER NO. 4

**LCTF Dechlorination Facility
CIP WW 20-17**

City of Lathrop

DESCRIPTION OF WORK

See additions and subtractions to contract. Increases/decreases in bid quantities that occurred during construction and are not otherwise accounted for in previous change orders. The contractor shall provide all labor, material, equipment and shall perform all incidental tasks as necessary to complete the change order.

TIME OF COMPLETION

No increase to the time frame of the original contract.

RELEASE AND WAIVER

Acceptance of this Contract Change Order constitutes a full and final resolution of all pending disputes between City and Contractor regarding scope of work and payment for work. Contractor accepts this Contract Change Order as full payment for all work performed to date and hereafter to be performed, up to and including Contract Change Order No. 4. Contractor releases and discharges City from any and all claims, demands, damages, actions and causes of actions and causes of action for injuries, damages or losses, whether known or unknown, foreseen or unforeseen, arising directly from Contractor's work on this contract. Contractor expressly waives the provisions of California Civil Code, Section 1542, which reads as follows:

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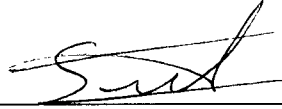
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CHANGE ORDER NO. 4

LCTF Dechlorination Facility
CIP WW 20-17

City of Lathrop

Approved As
To Form:



Salvador Navarrete
City Attorney
City of Lathrop

3-29-2023
Date

Recommended
By:

Michael King
Assistant City Manager
City of Lathrop

Date

Approved By:
Reso #

Stephen J. Salvatore
City Manager
City of Lathrop

Date

Accepted By
Contractor:

Cushman Contracting Corporation

Date

Print Name and Title