

**CITY MANAGER'S REPORT
MARCH 11, 2019, CITY COUNCIL REGULAR MEETING**

ITEM: APPROVE A REIMBURSEMENT AGREEMENT WITH LIT INDUSTRIAL LIMITED PARTNERSHIP FOR 6" SEWER FORCE MAIN IMPROVEMENTS ON HARLAN ROAD AND STONEBRIDGE LANE

RECOMMENDATION: Adopt a Resolution Approving a Reimbursement Agreement with LIT Industrial Limited Partnership for Design and Construction of a 6" Sewer Force Main in Harlan Road to Stonebridge Lane Associated with the I-5 Logistics Project

SUMMARY:

LN Real Estate, L.L.C., the initial developer for the I-5 Logistics project located at 11800 Harlan Road, was required to construct a 6" diameter sewer force main from 11800 Harlan Road to Stonebridge Lane to accommodate their needs and future flows. These future flows will be contributed by benefiting property owners who connect to the sewer force main from five (5) areas north of 11800 Harlan Road. The project location was bought by LIT Industrial Limited Partnership (LIT) from LN Real Estate, L.L.C., and LIT constructed the sewer force main.

LIT is eligible for partial reimbursement from users who connect to the sewer force main. The proposed reimbursement agreement requires the City to initiate a Capital Facility Fee (CFF) study to ultimately collect appropriate CFF's from those who develop their property and connect to the 6" sewer line.

Staff recommends that City Council adopt a resolution approving the proposed reimbursement agreement to allow the City to initiate the process to establish a fee to reimburse LIT from future developments within the five (5) areas north of 11800 Harlan Road.

BACKGROUND:

On January 22, 2014, the City's Planning Commission approved the developer's site plan for the development of the I-5 Logistics Center project located at 11800 Harlan Road. A condition of the project was to construct an off-site sewer force main from the project site to the Stonebridge subdivision collection system. The sewer main was sized to accommodate the ultimate flows from five (5) areas of benefiting property owners.

MARCH 11, 2019 CITY COUNCIL REGULAR MEETING**REIMBURSEMENT AGREEMENT WITH LIT INDUSTRIAL LIMITED PARTNERSHIP FOR 6" SEWER FORCE MAIN IN HARLAN ROAD AND STONEBRIDGE LANE**

On February 12, 2018, the City Council accepted the sanitary sewer force main improvements for maintenance and authorized staff to release the performance and the labor and material bonds.

The total cost for design and construction of the sewer force main (\$761,586), paid by LIT, are to be shared by five (5) areas of benefitting property owners as shown in Attachment B. Of this total, LIT's fair share is \$96,557 (unreimbursable costs). The remaining \$665,029 is reimbursable as the fair share of the properties listed in Attachment B. Those benefitting property owners will pay their fair share through the Capital Facility Fees (CFF) to be established.

REASON FOR RECOMMENDATION:

Staff recommends that the City Council approve the reimbursement agreement between LIT and the City to begin the process of establishing a mechanism for LIT to be reimbursed by other benefitting property owners.

FISCAL IMPACT:

The developer will deposit the necessary cost to cover the establishment of the CFF. Therefore, there is no fiscal impact at this time.

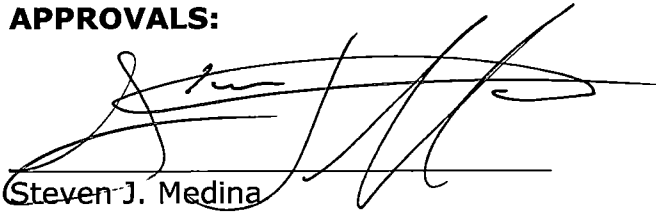
ATTACHMENT:

- A. Resolution of the City Council of the City of Lathrop Approving a Reimbursement Agreement with LIT Industrial Limited Partnership for Design and Construction of 6" Sewer Force Main Improvements on Harlan Road and Stonebridge Lane Associated with the I-5 Logistics Project
- B. Reimbursement Agreement for 6" Sewer Force Main Improvement on Harlan Road and Stonebridge Lane

MARCH 11, 2019 CITY COUNCIL REGULAR MEETING

REIMBURSEMENT AGREEMENT WITH LIT INDUSTRIAL LIMITED PARTNERSHIP FOR 6" SEWER FORCE MAIN IN HARLAN ROAD AND STONEBRIDGE LANE

APPROVALS:




Steven J. Medina
Assistant Engineer

3/6/19
Date



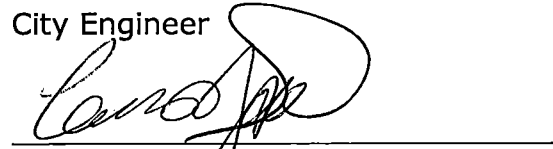
Michael King
Assistant Public Works Director

3-6-19
Date



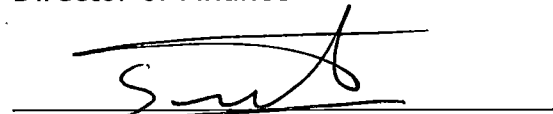
Glenn Gebhardt
City Engineer

3/6/19
Date



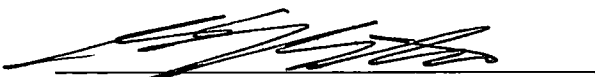
Cari James
Administrative Services &
Director of Finance

3/6/19
Date



Salvador Navarrete
City Attorney

3-6-19
Date



Stephen J. Salvatore
City Manager

3.7.19
Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP
APPROVING A REIMBURSEMENT AGREEMENT WITH LIT INDUSTRIAL
LIMITED PARTNERSHIP FOR DESIGN AND CONSTRUCTION OF A 6" SEWER
FORCE MAIN IMPROVEMENT ON HARLAN ROAD AND STONEBRIDGE LANE**

WHEREAS, on January 22, 2014, the City's Planning Commission approved the LN Real Estate, L.L.C. site plan for the development of the I-5 Logistics project by Resolution No. 14-1; and

WHEREAS, the initial developer of the I-5 Logistics project, LN Real Estate L.L.C. has since been bought by LIT Industrial Limited Partnership (LIT); and

WHEREAS, a condition of the project was to construct an off-site sewer force main from the project site to the Stonebridge subdivision collection system to accommodate their need and future flows from the five (5) areas north of 11800 Harlan Road; and

WHEREAS, LIT is eligible for partial reimbursement from owners of properties that develop and connect to this sewer line; and

WHEREAS, on February 12, 2018, the City Council of the City of Lathrop accepted the 6" sewer force main improvements installed in conjunction with the I-5 Logistics project as shown on the 11800 Harlan Road Force Main plans dated March 18, 2018, by Kier & Wright Civil Engineers and Surveyors, Inc.; and

WHEREAS, staff recommends City Council approve the reimbursement agreement with LIT to allow the City to initiate the process of establishing a mechanism for LIT to be reimbursed by other benefitting property owners;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lathrop does hereby approve the reimbursement agreement with LIT Industrial Limited Partnership for 6" sewer force main improvement on Harlan Road and Stonebridge Lane.

PASSED AND ADOPTED by the City Council of the City of Lathrop this 11th day of March, 2019, by the following vote:

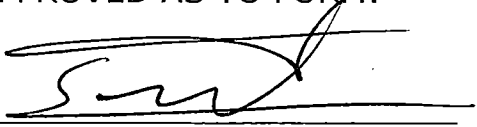
AYES:
NOES:
ABSTAIN:
ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

**REIMBURSEMENT AGREEMENT FOR 6" SEWER FORCE MAIN
IMPROVEMENTS ON HARLAN ROAD AND STONEBRIDGE LANE**

This Reimbursement Agreement for the 6-inch Sewer Force Main Improvements on Harlan Road and Stonebridge Lane ("*Agreement*") is made and entered into this 11th day of March 2019, ("*Effective Date*"), by and between the **City of Lathrop** ("*City*"), a municipal corporation of the State of California ("*City*") and **LIT Industrial Limited Partnership**, a California Corporation, ("*Developer*"). City and Developer may be collectively referred to herein as the "*Parties*" or individually as a "*Party*".

RECITALS

WHEREAS, on January 22, 2014, the Planning Commission of the City of Lathrop approved the Site Plan Review (SPR-14-4) which established the conditions for the construction of a warehouse distribution facility at 11800 Harlan Road; and

WHEREAS, the Site Plan Review approval was subject to Public Works Condition of Approval No. 5, "Applicant shall construct an off-site sewer from their property to the Stonebridge Subdivision collection system. The applicant shall size sewer to accommodate the ultimate flows for the surrounding areas. Applicant is eligible for partial reimbursement from users who connect to this line. The applicant shall enter into a reimbursement agreement with the City. The sewer system shall be constructed prior to any occupancy being granted."; and

WHEREAS, pursuant of Lathrop Municipal Code 13.16.190, this Reimbursement Agreement establishes a mechanism to reimburse the Developer for a proportionate share of the incurred cost of oversizing the construction improvements to the 6-inch municipal sewer line extension from 11800 Harlan Road to Stonebridge Lane. Such proportionate share shall be based on area of the land or lands of the future users, the wastewater generation factor as described in Section 5 - Sewer System Standards, City Standards 2014, and the wastewater generation of future users.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and understandings hereinafter set forth, City and Developer hereby set forth their agreement as follows:

AGREEMENT

1. Recitals. The recitals set forth above are true and correct and made a part of this Agreement.
2. Project. The project consists of the construction of a 6-inch municipal sewer line extension from 11800 Harlan Road to Stonebridge Lane as approved by the City Engineer (the "Project"). Developer has designed, funded, and constructed the Project in conformance with City Standards.
3. Reimbursement
 - (a) The Developer has completed the Project. City Council has accepted the improvements, and Developer is eligible to be reimbursed for a portion of the Actual Costs as described in (b) below.

REIMBURSEMENT AGREEMENT FOR 6-INCH SEWER FORCE MAIN IN HARLAN ROAD AND STONEBRIDGE LANE

(b) “Actual Costs” includes those design costs, construction costs, and other costs for a total of \$761,586 as detailed in Exhibit A attached hereto.

(c) The Developer’s unreimbursable expenses associated with the off-site improvements are defined as those expenses associated with 11800 Harlan Road. Specifically, the percent total flow of the wastewater generated multiplied by the Actual Costs calculated as \$96,557 based on parcel area and City wastewater generation factors (“Unreimbursable Sewer Line Expense” as detailed in Exhibit A).

(d) The Developer shall have the right to reimbursement for sums contributed by the Developer based on the Actual Costs minus the Unreimbursable Sewer Line Expense $\$761,586 - \$96,557 = \$665,029$

(e) Lathrop Municipal Code 13.16.19 states:

Where an applicant for sewer service is so located that it is necessary to construct or cause to be constructed a new main, service line, pump, lift station or other sewer facilities, or to expand or replace such facilities, the applicant shall be responsible for such work. The city may require that such work be oversized in order to provide for future use by others of such work, and, in the event the city so requires, the cost of such oversizing shall be determined, and the city may require future users of such facilities to reimburse the original builder for a proportionate share of the cost of such oversizing. Such proportionate share shall be based on frontage of the land or lands of the future user, will be collected at the time of connection to the works, and reimbursed to the original builder within thirty (30) days of collection. In no event shall the city be liable for reimbursement to the original builder unless and until such reimbursement is collected from the new users. In no event shall the city be liable for failure to make such collection. No such collection or reimbursement will be made after ten (10) years from the date of completion of the original work or works.

(f) Lathrop Municipal Code 3.20.040 states:

The fees imposed by the city pursuant to this title shall be used to pay for the cost of providing specified public facilities, as described in implementing resolutions. As described in each implementing resolution, the specified public facilities will be categorized into separate and distinct sets of public facilities based upon the type of public facility to be provided, the geographical area served by the public facility, or other identifying features. Each separate set of specified public facilities described in an implementing resolution shall be referred to in this title as a “public facility category.”

(g) Based on the above, the City shall establish a Capital Facilities Fee (CFF), with all costs to establish the CFF to be paid by the Developer and included in “Actual Costs”, to collect reimbursement from developers of properties benefited by the Project for a period of ten (10) years. The aforementioned ten (10) year period shall begin on the effective date of CFF.

REIMBURSEMENT AGREEMENT FOR 6-INCH SEWER FORCE MAIN IN HARLAN ROAD AND STONEBRIDGE LANE

4. City to Use Best Efforts to Perform Agreement. City agrees to use its best efforts, and take all reasonable and necessary actions, to provide reimbursement fees as mentioned in reimbursement item 3(g) above.
5. Counterparts. This Agreement may be executed in counterparts, and each fully executed counterpart will be considered an original document.
6. Partial Invalidity. If any term or provision of this Agreement shall be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement will not be affected thereby, and each remaining term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.
7. Waivers. No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision contained herein. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which will be extended by a period of time equal to the period of the delay.
8. Successors and Assigns. This Agreement is binding upon and insures to the benefit of the permitted successors and assigns of the parties hereto.
9. Entire Agreement. This Agreement constitutes the entire contract between the parties hereto with respect to the subject matter hereof and may not be modified except by an instrument in writing signed by the party to be charged.
10. Time is of the Essence. City and Developer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof.
11. Construction and Survival of Provisions. This Agreement has been prepared jointly by the parties and their professional advisors. City and Developer and their respective advisors believe that this Agreement is the product of all their efforts that expresses their agreement and that it should not be interpreted in favor of or against either Developer or City. The parties further agree that this Agreement will be constructed to effectuate the normal and reasonable expectations of a sophisticated City and Developer.
12. Governing Law. The parties hereto expressly agree that this Agreement will be governed by, interpreted under, and constructed and enforced in accordance with the laws of the State of California.
13. No Recordation. No memorandum or other document relating to this Agreement shall be recorded without the prior written consent of City.

REIMBURSEMENT AGREEMENT FOR 6-INCH SEWER FORCE MAIN IN HARLAN ROAD AND STONEBRIDGE LANE

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the Effective Date.

DEVELOPER

LIT Industrial Limited Partnership, a California Corporation

By: _____ Date: _____
Name: _____
Title: _____

CITY

CITY OF LATHROP, a municipal corporation in the County of San Joaquin, State of California

By: _____ Date: _____
Stephen J. Salvatore
City Manager

APPROVED AS TO FORM:


By:  _____ Date: 3-5-19
Salvador Navarrete
City Attorney

Exhibit A: Harlan Sanitary Sewer Force Main Fair Share Reimbursement

Force Main Cost

\$ 726,508.00	Cost taken from United Construction Change Order #8, RCO #6 provided by Seefried Properties.
\$ 30,000.00	Design Cost Provided by Seefried Properties
\$ 5,078.00	Cost to establish CFF
\$ 761,586.00	Actual Total
\$ 96,557.23	Unreimbursable
\$ 665,029	Reimbursable

Cost Spread Method

Cost will be divided into fair share reimbursements determined by parcel area and City wastewater generation factors for the parcels listed below or any subdivision thereof. The force main was designed to convey the flows from five(5) areas north of 11800 Harlan Road as shown in the Sewer Study Area Map included here in Exhibit A. Wastewater Generation Factors are from Section 5 - Sewer System Standards, City Standards 2014. The unreimbursable amount is based on I-5 Logistics parcel size and generation factor.

Current Parcel Listing and Fair Share Amount

APN	Address	Area (acre)	General Plan Land Use Classification	Wastewater Generation Factor (gpd/acre)	¹ Wastewater Generation (gpd)	² Percent (%) of Total Wasterwater Generation	³ Fair Share Cost
Area 1							
19602004	134 ROTH	RD 1.01	Freeway Commercial	1,200	1,212	0.4%	\$ 3,116
19602005	11333 S HARLAN	RD 0.42	Freeway Commercial	1,200	504	0.2%	\$ 1,296
19602006	11338 S HARLAN	RD 1.66	Freeway Commercial	1,200	1,992	0.7%	\$ 5,121
19602007	11299 S HARLAN	RD 0.42	Freeway Commercial	1,200	504	0.2%	\$ 1,296
19602008	11378 S HARLAN	RD 1.72	Freeway Commercial	1,200	2,064	0.7%	\$ 5,306
19602009	11401 S HARLAN	RD 0.59	Freeway Commercial	1,200	711	0.2%	\$ 1,828
19602010	11432 S HARLAN	RD 3.87	Freeway Commercial	1,200	4,644	1.6%	\$ 11,939
19602011	11525 S HARLAN	RD 0.41	Freeway Commercial	1,200	492	0.2%	\$ 1,265
19602012	11500 S HARLAN	RD 3.66	Freeway Commercial	1,200	4,392	1.5%	\$ 11,292
19602013	11550 S HARLAN	RD 3.97	Freeway Commercial	1,200	4,764	1.6%	\$ 12,248
19602014	11616 S HARLAN	RD 3.43	Freeway Commercial	1,200	4,116	1.4%	\$ 10,582
19602015	11674 S HARLAN	RD 0.42	Freeway Commercial	1,200	504	0.2%	\$ 1,296
19602016	11672 S HARLAN	RD 3.88	Freeway Commercial	1,200	4,656	1.6%	\$ 11,970
19602018	11265 S HARLAN	RD 0.64	Freeway Commercial	1,200	773	0.3%	\$ 1,986
19602020	116 ROTH	RD 1.88	Freeway Commercial	1,200	2,252	0.8%	\$ 5,789
19603001	250 ROTH	RD 9.52	Limited Industrial	900	8,568	2.9%	\$ 22,028
19603002	342 ROTH	RD 15.41	Limited Industrial	900	13,869	4.7%	\$ 35,657

Exhibit A: Harlan Sanitary Sewer Force Main Fair Share Reimbursement

APN	Address	Area (acre)	General Plan Land Use Classification	Wastewater Generation Factor (gpd/acre)	¹ Wastewater Generation (gpd)	² Percent (%) of Total Wasterwater Generation	³ Fair Share Cost
							Unreimbursable
19603003	11800 HARLAN RD	41.73	Limited Industrial	900	37,557	12.7%	-\$96,557.2
<i>Subtotal</i>		94.64			93,573	18.9%	\$ 144,015.37
Area 2							
19125009	11401 S MANTHEY RD	6.84	Freeway Commercial	1,200	8,208	2.8%	\$ 21,102
19125010	11555 S MANTHEY RD	0.08	Freeway Commercial	1,200	97	0.03%	\$ 249
19125014	11293 S MANTHEY RD	11.40	Freeway Commercial	1,200	13,680	4.6%	\$ 35,171
<i>Subtotal</i>		18.32			21,985	7.4%	\$ 56,522
Area 3							
19333017	11145 S HARLAN RD	1.18	Freeway Commercial	1,200	1,416	0.5%	\$ 3,640
19333028	10842 S HARLAN RD	28.24	Freeway Commercial	1,200	33,888	11.4%	\$ 87,124
19333030	10998 S HARLAN (Pilot) RD	8.76	Freeway Commercial	1,200	10,512	3.5%	\$ 27,026
19333030	10998 S HARLAN (Beneto) RD	14.88	Freeway Commercial	1,200	17,856	6.0%	\$ 45,907
19333031	10980 S HARLAN RD	1.97	Freeway Commercial	1,200	2,364	0.8%	\$ 6,078
<i>Subtotal</i>		55.03			66,036	22.3%	\$ 169,775

Exhibit A: Harlan Sanitary Sewer Force Main Fair Share Reimbursement

APN	Address	Area (acre)	General Plan Land Use Classification	Wastewater Generation Factor (gpd/acre)	¹ Wastewater Generation (gpd)	² Percent (%) of Total Wastewater Generation	³ Fair Share Cost
Area 4							
19332008	707 ROTH RD	8.85	Limited Industrial	900	7,965	2.7%	\$ 20,478
19332012	755 ROTH RD	8.93	Limited Industrial	900	8,037	2.7%	\$ 20,663
19332013	719 ROTH RD	1.62	Limited Industrial	900	1,458	0.5%	\$ 3,748
19332016	865 ROTH RD	7.37	Limited Industrial	900	6,633	2.2%	\$ 17,053
19332017	889 ROTH RD	3	Limited Industrial	900	2,700	0.9%	\$ 6,942
19332018	801 ROTH RD	9.74	Limited Industrial	900	8,766	3.0%	\$ 22,537
19332019	11160 S MCKINLEY AV	0.54	Limited Industrial	900	486	0.2%	\$ 1,249
19332020	11156 S MCKINLEY AV	2.74	Limited Industrial	900	2,466	0.8%	\$ 6,340
19332021	437 ROTH RD	1.22	Limited Industrial	900	1,098	0.4%	\$ 2,823
19332022	11200 S MCKINLEY AV	0.87	Limited Industrial	900	783	0.3%	\$ 2,013
19332024	11288 S MCKINLEY AV	2.86	Limited Industrial	900	2,574	0.9%	\$ 6,618
19338001	11285 S VALLEJO CT	4	Limited Industrial	900	3,600	1.2%	\$ 9,255
19338002	11191 S VALLEJO CT	4.09	Limited Industrial	900	3,681	1.2%	\$ 9,464
19338003	11180 S VALLEJO CT	4.09	Limited Industrial	900	3,681	1.2%	\$ 9,464
19338004	11290 S VALLEJO CT	4.02	Limited Industrial	900	3,618	1.2%	\$ 9,302
19338005	11150 S VALLEJO CT	1.95	Limited Industrial	900	1,755	0.6%	\$ 4,512
<i>Subtotal</i>		<i>65.89</i>			<i>59,301</i>	<i>20.0%</i>	<i>\$ 152,460</i>
Area 5							
19333011	11199 S MANTHEY RD	0.77	Freeway Commercial	1,200	924	0.3%	\$ 2,376
19333015	10623 S MANTHEY RD	0.52	Freeway Commercial	1,200	624	0.2%	\$ 1,604
19333016	11140 S MANTHEY RD	0.16	Freeway Commercial	1,200	192	0.1%	\$ 494
19333019	10749 S MANTHEY RD	9.22	Freeway Commercial	1,200	11,064	3.7%	\$ 28,445
19333021	11161 S MANTHEY RD	0.97	Freeway Commercial	1,200	1,164	0.4%	\$ 2,993
19333022	11100 S MANTHEY RD	0.50	Freeway Commercial	1,200	600	0.2%	\$ 1,543
19333034	10910 S MANTHEY RD	1.76	Freeway Commercial	1,200	2,112	0.7%	\$ 5,430
19333035	10950 S MANTHEY RD	2.49	Freeway Commercial	1,200	2,988	1.0%	\$ 7,682
19333036	0 BRIGGS/MANTHEY RD	27.60	Freeway Commercial	1,200	33,120	11.2%	\$ 85,150
19333037	124 W BRIGGS RD	1.07	Freeway Commercial	1,200	1,284	0.4%	\$ 3,301
19333038	58 W BRIGGS RD	1.05	Freeway Commercial	1,200	1,260	0.4%	\$ 3,239
<i>Subtotal</i>		<i>46.11</i>			<i>55,332</i>	<i>18.7%</i>	<i>\$ 142,256</i>
							Reimbursable

Exhibit A: Harlan Sanitary Sewer Force Main Fair Share Reimbursement

APN	Address	Area (acre)	General Plan Land Use Classification	Wastewater Generation Factor (gpd/acre)	¹ Wastewater Generation (gpd)	² Percent (%) of Total Wasterwater Generation	³ Fair Share Cost
Total					296,227	87.3%	\$ 665,029

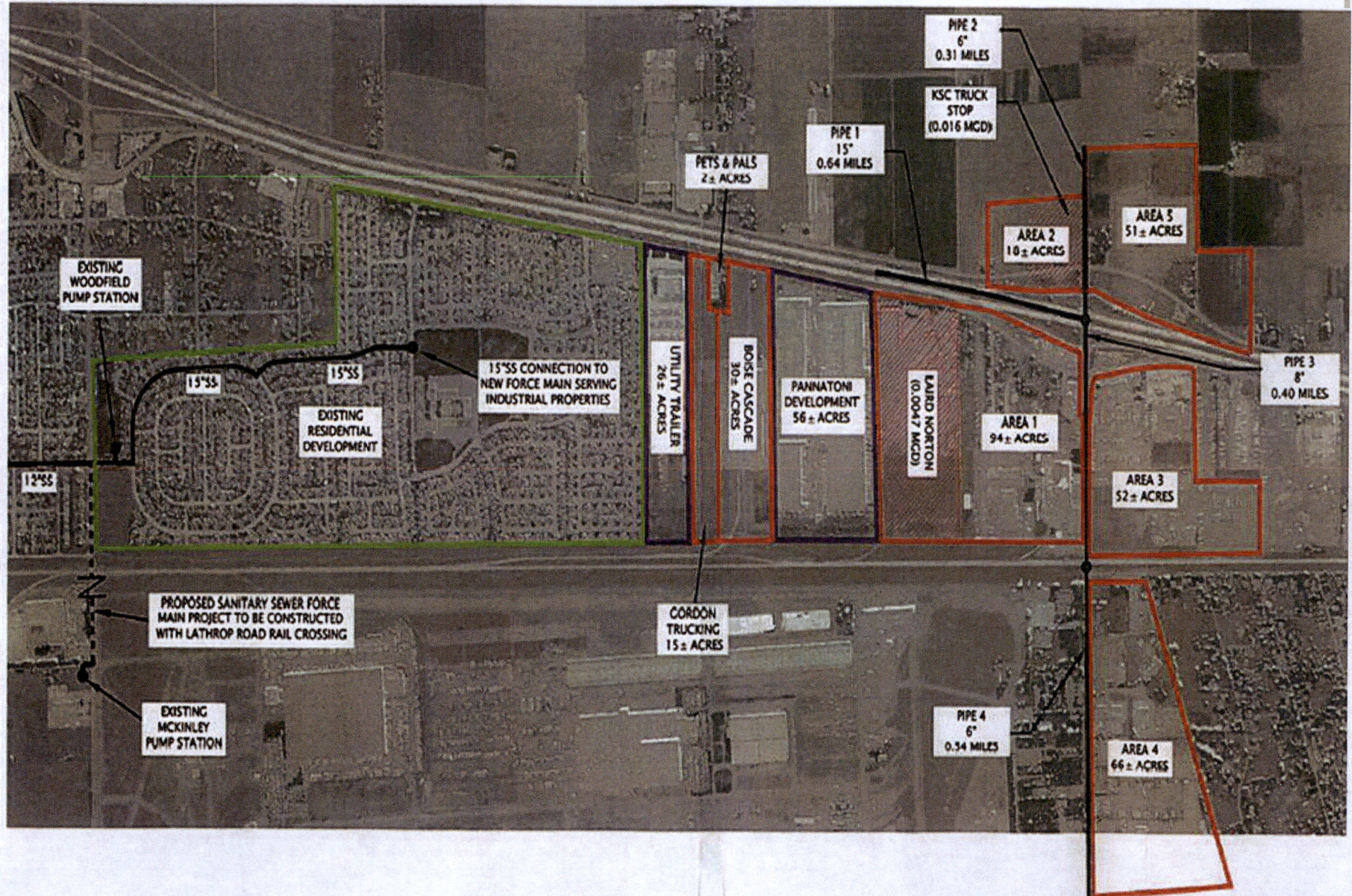
Sample Calculations

¹Wastewater Generation (gpd) = Area (acre) x Wastewater Generation Factor (gpd/acre) = 1.01 acres x 1200 gpd/acre = 1,212 gpd

²Percent (%) of Total Wastewater Generation = Wastewater Generation (gpd) ÷ Total Wastewater Generation = (1212 gpd ÷ 296,227 gpd) x 100 = 0.4%

³Fair Share Cost = Percent (%) of Total Wastewater Generation x Reimbursable = 0.4% x \$ 661,000.00 = \$ 2,704

Areas Corresponding to Exhibit A: Harlan Sanitary Sewer Force Main Fair Share Reimbursement



KISER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
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 Portland, Oregon 97208
 Phone: 503.241.1100
 Fax: 503.241.1101

CALIFORNIA
SEWER STUDY AREAS
 OF
 NORTH LATHROP
 FOR
 THE
 CITY OF LATHROP