



City Council Chamber
390 Towne Centre Drive
Lathrop, California



**CITY OF LATHROP
CITY COUNCIL SPECIAL MEETING
MONDAY, JUNE 25, 2018
6:00 P.M.
COUNCIL CHAMBER, CITY HALL
390 Towne Centre Drive
Lathrop, CA 95330**

AGENDA

1. PRELIMINARY

- 1.1 CALL TO ORDER
- 1.2 ROLL CALL
- 1.3 PLEDGE OF ALLEGIANCE

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless the Mayor, Councilmember, or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately.

- 2.1 **WAIVING OF READING OF ORDINANCES AND RESOLUTIONS**
Waive the Reading of Ordinances and Resolutions on Agenda Unless Otherwise Requested by the Mayor or a Councilmember
- 2.2 **INTERIM SEED MONEY FUNDING AGREEMENT WITH SJAFCA, THE CITIES OF LATHROP, MANTECA, AND STOCKTON, AND THE COUNTY OF SAN JOAQUIN, TO ADVANCE FUNDING TO THE MOSSDALE TRACT PROJECT**
Adopt Resolution, Approving Interim Seed Money Funding Agreement with the San Joaquin Area Flood Control Agency, the Cities of Lathrop, Manteca, Stockton, and the County of San Joaquin, to Advance Funding to the Mossdale Project, Budget Amendment and Ratify the City Managers decision to forward \$50,000 in Levee Impact Fees to San Joaquin Area Flood Control Agency
- 2.3 **SALARY SCHEDULE FOR FISCAL YEAR 2018/19**
Adopt Resolution Approving the City of Lathrop Salary Schedule as of July 1, 2018, in Accordance with California Code of Regulations, Title 2, Section 570.5

3. SCHEDULED ITEMS

- 3.1 APPROVE AGREEMENT WITH THE CITY OF TRACY FOR LAW ENFORCEMENT SERVICES
Adopt a Resolution Approving an Agreement with the City of Tracy for Law Enforcement Services
- 3.2 APPROVE AGREEMENT WITH RIVER ISLANDS DEVELOPMENT FOR THE CONSTRUCTION AND PURCHASE A NEW POLICE BUILDING
Adopt a Resolution Approving an Agreement with River Islands Development for the Construction and Purchase of a New Police Building and All Related Documents
- 3.3 PUBLIC HEARING TO CONSIDER AN ORDINANCE TO AMEND THE LATHROP MUNICIPAL CODE SECTION 15.00.050 RELATED TO THE TIME LIMITS OF A BUILDING PERMIT
Council to Consider the Following:
1. Hold a Public Hearing; and
 2. Introduction and First Reading of an Ordinance amending Lathrop Municipal Code Title 15 Buildings and Construction, Chapter 15.00 Building and Housing Administrative Code, Section 15.00.050 Permits, related to the Time Limits of a Building Permit

4. ADJOURNMENT


Teresa Vargas, CMC
City Clerk

This meeting was called by a majority of the City Council per Government Code Section 54956.

**CITY MANAGER'S REPORT
JUNE 25, 2018, CITY COUNCIL SPECIAL MEETING**

ITEM: **INTERIM SEED MONEY FUNDING AGREEMENT WITH SJAFCA, THE CITIES OF LATHROP, MANTECA, AND STOCKTON, AND THE COUNTY OF SAN JOAQUIN, TO ADVANCE FUNDING TO THE MOSSDALE TRACT PROJECT**

RECOMMENDATION: **Adopt Resolution, Approving Interim Seed Money Funding Agreement with the San Joaquin Area Flood Control Agency, the Cities of Lathrop, Manteca, Stockton, and the County of San Joaquin, to Advance Funding to the Mossdale Project, Budget Amendment and Ratify the City Managers decision to forward \$50,000 in Levee Impact Fees to San Joaquin Area Flood Control Agency**

SUMMARY:

On January 8, 2018, Council approved the Amended and Restated Joint Exercise of Powers Agreement (JEPA) for the San Joaquin Area Flood Control Agency (SJAFCA) to include the City of Lathrop and the City of Manteca as Members of the JEPA. The main purpose for the re-organization of SJAFCA to include the Cities of Lathrop and Manteca is for the Agency to start advancing 200-Year flood control in the Mossdale Tract area (Formerly referred to as Reclamation District 17 area). The SJAFCA Board will need to take a series of actions to create the financial infrastructure to allow SJAFCA to succeed at this task.

As a first task, SJAFCA needs to appropriate funding through the 2018/2019 fiscal year to continue the following ongoing efforts: (1) Urban Flood Risk Reduction Program Feasibility Study, Design and Permitting Agreement with DWR; and (2) Urban Level of Flood Protection Adequate Progress Annual Reporting, Technical Support, and Local Funding Program Implementation for the Mossdale Tract area. SJAFCA estimates these efforts will cost \$1,460,000, and these cost have been divided equally between the County, Stockton, Lathrop and Manteca at \$365,000 each.

Staff recommends that the City Council approve an Interim Seed Money Funding Agreement with the San Joaquin Area Flood Control Agency, the Cities of Lathrop, Manteca, and Stockton, and the County of San Joaquin, to provide up to \$365,000 through June 2019. Staff also recommends that the City Council approve a budget amendment for \$365,000, and ratify the City Manager's decision to forward \$50,000 in Levee Impact Fees to SJAFCA to continue their immediate efforts.

JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING**APPROVE INTERIM SEED MONEY FUNDING AGREEMENT WITH SJAFCA AND MEMBER AGENCIES TO ADVANCE FUNDING TO THE MOSSDALE TRACT PROJECT****BACKGROUND:**

In 2007, the Legislature passed California Senate Bill 5 (SB5), which was later amended by various other bills. SB5 requires the State to develop and adopt a comprehensive Central Valley Flood Protection Plan (CVFPP), which was approved by the Central Valley Flood Protection Board in June 2012.

As amended, SB5 also requires all cities and counties in the Central Valley to incorporate the CVFPP into their respective General Plans by July 2, 2015, and into their zoning ordinances by July 2, 2016. SB5 restricts development beyond July 2, 2016, unless a permitting agency can make a finding of "Adequate Progress" toward providing an Urban Level of Flood Protection (ULOP), which includes protection from a 200-year flood. Lathrop completed these required actions.

The existing RD 17 levees currently do not meet the updated DWR 200-year urban levee design criteria (ULDC) standards adopted in May 2012, and the existing levees are not currently certified to provide 200-year protection. Accordingly, the land use agencies, in coordination with RD 17, are jointly pursuing efforts to achieve ULOP by 2025.

On January 8, 2018, Council approved the Amended and Restated Joint Exercise of Powers Agreement (JEPA) for the San Joaquin Area Flood Control Agency (SJAFCA) to include the City of Lathrop and the City of Manteca as in Members of the JEPA, and appointed two Councilmembers to that Agency. All member agencies approved the JEPA, and the amended SAJFCA held their first formal meeting on January 18, 2018.

The SJAFCA framework provides the foundation for a broader regional flood control agency charged with the provision of enhanced floodplain management and flood protection to the existing 46,500 residents and planned development throughout the Mossdel Tract area. Design, permitting and construction of a \$176 million multi-city project will now be pursued by SJAFCA. However, SJAFCA needs funding to pursue this project.

Member Agencies approvals are as follows:

- Stockton City Council approved the agreement on May 15th
- SJCo approved the agreement on June 12th
- Manteca City Council approved the agreement on June 19th

Interim Seed Money Funding Agreement

This Interim Seed Money Funding Agreement (Agreement) will provide initial funding for the advancement of the Mossdale Tract Area Project (Project) through June of 2019. An immediate loan of \$65,000 is requested by SJAFCA. Additional funding

JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING**APPROVE INTERIM SEED MONEY FUNDING AGREEMENT WITH SJAFCA AND MEMBER AGENCIES TO ADVANCE FUNDING TO THE MOSSDALE TRACT PROJECT**

request by SJAFCA will be made quarterly, but will not exceed the \$365,000 maximum noted in the agreement (Exhibit A of Attachment B).

Both the Cities of Lathrop and Manteca have, prior to the Effective Date of this Agreement, used funds from various sources to initiate development of the Project to achieve ULOP and have previously adopted Interim Levee Impact Fee Programs to collect funds to finance the Project. The Agreement recognizes that early funding as a loan, and commits SJAFCA to repayment of that loan once a permanent funding source makes funds available.

The Interim Seed Money funding is also considered a loan, to be paid back when permanent funds are available, when and if doing so will not hinder advancement and completion of the Project. It is understood that, if SJAFCA is not able to secure permanent funding sources for the entirety of the Project, the loans will be forgiven.

Initial Seed funding is immediately needed to keep the Project advancing and allow both SJAFCA and the member agencies to make a ULOP Finding of Adequate Progress in June 2018 and June 2019. The total Lathrop share of this Agreement is \$365,000 through June 2019. An immediate loan of \$65,000 is requested, and additional funding requests will be made quarterly, but will not exceed the \$365,000 maximum.

The Agreement also includes a commitment for all agencies to transfer to SJAFCA Interim Levee Impact fees we collect. The Agreement calls for all Levee Impact Fees to be split equally between the three Cities and the County, just as the Interim Seed Money is obligated being split equally at \$365,000 per agency. The total City funding of \$365,000 will be reduced by our share (1/4) one-fourth of these Levee Impact Fees.

Advance of Interim Levee Impact Fees

SJAFCA needed to proceed with efforts to prepare the Finding of Adequate Progress for June 2018. Until this Agreement is signed, and the funding is provided to SJAFCA, their progress was halted. In order to avoid this delay, on April 10, 2018, the City Manager authorized the transfer to SJAFCA of \$50,000 in Interim Levee Impact Fee funds collected by Lathrop. Staff is asking that Council ratify that decision to transfer funds prior to the Agreement being approved. The need was urgent, and waiting until the June 25, 2018, Council meeting would have meant a delay in the required Finding of Adequate Progress required by SB5 in June 2018. Once Lathrop approves this Agreement, the city will forward to SJAFCA the balance of \$71,000 in Levee Impact fees we have collected.

As noted above, SJAFCA will use Levee Impact Fees received from the agencies to reduce the funds needed through June 2019. Once received by SJAFCA, the City's balance of Levee Impact Fees of \$71,000 plus the \$50,000 already advanced to SJAFCA, will reduce Lathrop's share by about \$30,000.

JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING

APPROVE INTERIM SEED MONEY FUNDING AGREEMENT WITH SJAFCA AND MEMBER AGENCIES TO ADVANCE FUNDING TO THE MOSSDALE TRACT PROJECT

RECOMMENDATION

It is recommended that the City Council:

1. Approve the Interim Seed Money Funding Agreement
2. Approve a budget amendment of \$365,000 to fund this Agreement
3. Ratify the transfer to SJAFCA of \$50,000 in Interim Levee Impact Fees that occurred prior to the Agreement being approved

FISCAL IMPACT

Initial Seed Funding contribution of \$365,000 is required to keep the project advancing. The City along with all the member agencies have agreed to advance \$65,000 of the Initial Seed Funding requirement as SJAFCA secures financing sources for the overall project. SJAFCA will invoice quarterly for the remainder balance (up to \$300,000) through June 2019. The \$65,000 contribution will be funded through the General Fund Reserves.

In addition, the Levee Impact Fee collected through building permits will be forwarded quarterly to SJAFCA (as stated in the agreement) to continue the progress on the 200-year ULOP flood protection to the Mossdale Tract Area project. The fees collected to date of approximately \$121,000 will be reduced by the \$50,000 advance processed in April 2018. The City will forward the remainder balance in the fund of about \$71,000.

The following appropriation adjustments will be required:

Use of General Fund Reserves and Transfer to Project of **\$365,000** to comply with the agreed contribution to SJAFCA to continue with project:

- Transfer Out: 1010-99-90-990-9010
- Transfer In: 3910-99-00-393-0000
- Professional Services Expense: 3910-80-00-420-0100 SD1413

Appropriation Increase of **\$121,000** to forward Impact Levee Fees collected:

- Professional Services Expense: 2315-50-10-420-01-00

JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING

APPROVE INTERIM SEED MONEY FUNDING AGREEMENT WITH SJAFCA AND MEMBER AGENCIES TO ADVANCE FUNDING TO THE MOSSDALE TRACT PROJECT

ATTACHMENTS:

- A. Resolution Approving Interim Seed Money Funding Agreement with the San Joaquin Area Flood Control Agency, the Cities of Lathrop, Manteca, Stockton, and the County of San Joaquin, to Advance Funding to the Mossdale Tract Project, Budget Amendment and Ratify the City Managers decision to forward \$50,000 in Levee Impact Fees to San Joaquin Area Flood Control Agency
- B. Interim Seed Money Funding Agreement Among the San Joaquin Area Flood Control Agency, the Cities of Lathrop, Manteca, and Stockton, and the County of San Joaquin, to Advance the Mossdale Tract Project

CITY MANAGER'S REPORT
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING
APPROVE INTERIM SEED MONEY FUNDING AGREEMENT WITH SJAFCA, THE
CITIES OF LATHROP, MANTECA, STOCKTON, AND THE COUNTY OF SAN
JOAQUIN, TO ADVANCE FUNDING TO THE MOSSDALE PROJECT

APPROVALS:



Glenn Gebhardt
City Engineer

6/14/18

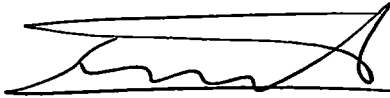
Date

for Vanessa L. Porin.

Cari James
Finance Director

6.19.18

Date



Salvador Navarrete
City Attorney

6-18-18

Date



Stephen J. Salvatore
City Manager

6.21.18

Date

RESOLUTION 18-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP TO APPROVE THE INTERIM SEED MONEY FUNDING AGREEMENT WITH THE SAN JOAQUIN AREA FLOOD CONTROL AGENCY, THE CITIES OF LATHROP, MANTECA, STOCKTON, AND THE COUNTY OF SAN JOAQUIN, TO ADVANCE FUNDING TO THE MOSSDALE TRACT PROJECT, BUDGET AMENDMENT AND RATIFY THE CITY MANAGERS DECISION TO FORWARD \$50,000 IN LEVEE IMPACT FEES TO SAN JOAQUIN AREA FLOOD CONTROL AGENCY

WHEREAS, in 2007, the Legislature passed California Senate Bill 5 (SB5), which was later amended by various other bills. SB5 requires the State to develop and adopt a comprehensive Central Valley Flood Protection Plan (CVFPP), which was approved by the Central Valley Flood Protection Board in June 2012; and

WHEREAS, the existing Reclamation District 17 (RD 17) levees currently do not meet the updated DWR 200-year urban levee design criteria (ULDC) standards adopted in May 2012, and the existing levees are not currently certified to provide 200-year protection; and

WHEREAS, Accordingly, the land use agencies, in coordination with RD 17, are jointly pursuing efforts to achieve Urban Level of Flood Protection (ULOP) by 2025; and

WHEREAS, on January 8, 2018, Council approved the Amended and Restated Joint Exercise of Powers Agreement (JEPA) for the San Joaquin Area Flood Control Agency (SJAFCA) to include the City of Lathrop and the City of Manteca as Members of the JEPA; and

WHEREAS, the SJAFCA framework provides the foundation for a broader regional flood control agency charged with the provision of enhanced floodplain management and flood protection to the existing 46,500 residents and planned development throughout the Mossdale Tract area (Formerly referred to as Reclamation District 17 area). Design, permitting and construction of a \$176 million multi-city project will now be pursued by SJAFCA; and

WHEREAS, this Interim Seed Money Funding Agreement will provide initial funding for the advancement of the Mossdale Tract Area Project (Project) through June of 2019; and

WHEREAS, both the Cities of Lathrop and Manteca have, prior to the Effective Date of this Agreement, used funds from various sources to initiate development of the Project to achieve ULOP and have previously adopted Interim Levee Impact Fee Programs to collect funds to finance the Project; and

WHEREAS, the Interim Seed Money funding is also considered a loan, to be paid back when permanent funds are available, when and if doing so will not hinder advancement and completion of the Project; and

WHEREAS, if SJAFCA is not able to secure permanent funding sources for the entirety of the Project, the loans will be forgiven; and

WHEREAS, the total Lathrop share of this Agreement is \$365,000 through June 2019. An immediate loan of \$65,000 is requested, and additional funding requests will be made quarterly, but will not exceed the \$365,000 maximum.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lathrop hereby approves the following;

1. The Interim Seed Money Funding Agreement, included as Attachment "B" to the June 25, 2018 staff report.
2. Approve a budget amendment of \$365,000 to fund this Agreement
3. Ratify the transfer to SJAFCA of \$50,000 in Interim Levee Impact Fees prior to the Agreement being approved
4. Increase Appropriation 2315-50-10-420-01-00 SD 14-13 \$121,000

The foregoing resolution was passed and adopted this 25th day of June 2018, 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

INTERIM SEED MONEY FUNDING AGREEMENT

**AMONG THE SAN JOAQUIN AREA FLOOD CONTROL AGENCY,
THE CITIES OF LATHROP, MANTECA, AND STOCKTON,
AND THE COUNTY OF SAN JOAQUIN,
TO ADVANCE THE MOSSDALE PROJECT**

This interim Seed Money Funding Agreement (Agreement) is among the San Joaquin Area Flood Control Agency (SJAFCA), the Cities of Lathrop, Manteca, and Stockton, and the County of San Joaquin (the County) to provide initial funding for the advancement of the Mossdale Tract Area Project (the Project) and is made for convenience on this ___ day of _____, 2018.

1. Recitals.

A. Whereas, the Mossdale Tract area currently has Federal Emergency Management Agency accreditation for a 100-year level of protection due in part to the continuing efforts of Reclamation District No. 17; and

B. Whereas, the State of California has enacted Senate Bill 5, which requires an Urban Level of Protection (ULOP) for urban and urbanizing areas of the Central Valley, consisting of findings in conjunction with specified land development to ultimately achieve 200-year level of flood protection; and

C. Whereas, the three Cities and the County (collectively, the Lending Agencies) each have land use authority over portions of the Mossdale Tract area and have vested interests in the protection and benefit of their residents to ensure that the Mossdale Tract area achieves ULOP; and

D. Whereas, the Cities of Lathrop and Manteca have, prior to the Effective Date of this Agreement, used funds from various sources to initiate development of the Project to achieve ULOP; and

E. Whereas, the Cities of Lathrop and Manteca have previously adopted Interim Levee Impact Fee Programs to collect funds to finance the Project; and

F. Whereas, the Cities of Lathrop, Manteca, and Stockton, the County, and the San Joaquin County Flood Control and Water Conservation District, have amended and restated the Joint Exercise of Powers Agreement to add the Cities of Lathrop and Manteca, all for the coordinated planning for the control of waters within or flowing into the boundaries of the Joint Powers Agency (JPA), the protection of private and public property, and the creation of a regional voice regarding flood management issues; and

G. Whereas, the Lending Agencies desire for SJAFCA to take over the planning and implementation of the Project, and will loan seed money to SJAFCA based on Section 24 of the JPA for initial Project efforts; and

H. Whereas, SJAFCA can receive funding through loans offered by the Lending Agencies under JPA Section 24 to assume responsibility for the planning and implementation of the Project; and

I. Whereas, the Lending Agencies desire to be repaid for the amounts loaned under this Agreement, and the Cities of Lathrop and Manteca also desire to be reimbursed for certain funds already expended to further the Project, to the extent funds are available in the SJAFCA budget for timely repayment without inhibiting the implementation of the Project.

Now, therefore, in consideration of the promises made herein, the Parties do hereby agree as follows:

2. Advancement of Mossdale Project. In consideration of Lending Agency loans provided under Section 3 below, SJAFCA will advance the Project for the remainder of Fiscal Years 2017-18 and 2018-19. While the Project Scope of Work may be updated during that time period and is ultimately subject to the adopted SJAFCA budget and any contracts approved by the SJAFCA Board to further the Project, the expected Project tasks for which the loaned money will be spent will at least consist of the following activities through the end of Fiscal Year 2018-19:

(A) Project activity budget costs associated with efforts that directly relate to maintaining and supporting Lending Agency ULOP adequate progress findings, including preparation of an annual update to the ULOP Adequate Progress Report to be made publicly available and submitted to the Central Valley Flood Protection Board by SJAFCA for the use of any Lending Agency; and

(B) Development, establishment and administration of funding, crediting, and reimbursement programs for funding ULOP improvements, including:

- (1) Regional Levee Impact Fee Program;
- (2) Assessment District Overlay;
- (3) Enhanced Infrastructure Financing District efforts; and
- (4) Support and coordination activities credited as local cost-share that advance State and Federal funding for the Project.

(C) SJAFCA operating budget consisting of staff and legal support directly expended to advance the Project and a proportional share of allocable overhead costs.

3. Seed Money Loans by Lending Agencies.

A. The Lending Agencies agree to loan to SJAFCA funding in the amounts specified in Sections 3.B. and 3.C. of this Agreement, according to the schedule provided in this Agreement, for SJAFCA to continue developing the Project as provided in Section 2.A.(1-3).

B. Within 30 days of a Lending Agency signing this Agreement, the Lending Agency agrees to make available to SJAFCA an initial loan in the amount of \$65,000 for the remainder of the Fiscal Year 2017-18 budget. Any funding provided to SJAFCA by a Lending Agency to advance the Project prior to the effective date of this Agreement shall count toward the initial obligation under this subsection.

C. On a quarterly basis, beginning in Fiscal Year 2018-19, SJAFCA will provide written notification to the Lending Agencies on SJAFCA's budgetary status regarding the need for additional funds for the Project to be provided via loans from the Lending Agencies in equal amounts. The Lending Agencies agree to provide such additional loans not to exceed a total of \$300,000 per Lending Agency (not including the original loan of \$65,000 per Lending Agency) through the end of Fiscal Year 2018-19. This not to exceed amount of \$300,000 per Lending Agency shall be further reduced by an amount equal to one-fourth of any Interim Levee Impact Fees collected by any of the Lending Agencies and provided to SJAFCA under Section 4 or Regional Levee Impact Fees collected by SJAFCA. For the sake of clarity, the Lending Agencies expressly agree that any such Interim Levee Impact Fees or Regional Levee Impact Fees shall equally offset the obligations of all the Lending Agencies under this subsection.

4. Interim Levee Impact Fees.

A. Within 15 days of a Lending Agency signing this Agreement, the Lending Agency agrees to transfer to SJAFCA any Interim Levee Impact Fees held by that Lending Agency at the time of the signing of the Agreement.

B. All Lending Agencies agree to promptly transfer to SJAFCA any Interim Levee Impact Fees collected by them at any time after the Effective Date of this Agreement. This provision shall not require the transfer funds more often than once in a 30 day period.

5. Effectiveness of Agreement. This Agreement shall be effective as to each Lending Agency upon the signing of the Agreement by SJAFCA and the counter-signing by that Lending Agency. It is anticipated that all four Lending Agencies will sign the Agreement, but the Parties

agree that the Agreement shall be effective as to any Lending Agency that signs the Agreement whether or not all Lending Agencies sign it.

6. Security for and Repayment of the Seed Money Loans.

A. Each loan made by a Lending Agency to SJAFCA under this Agreement shall be unsecured.

B. It is the intention of the Parties that the funds to be raised by SJAFCA under Section 2A(2) of this Agreement, along with potential funding from the State and Federal governments, will be sufficient to implement the Project and repay the Lending Agencies for the loans made under this Agreement, without interest. The Parties also intend for SJAFCA to reimburse the Cities of Lathrop and Manteca for any general, enterprise, or other funds expended by the Cities in furtherance of the Project prior to its transfer to SJAFCA.

C. At its discretion and at any time prior to the June 30, 2029 deadline, SJAFCA may make payments to Lending Agencies for the loans when and if doing so will not hinder advancement and completion of the Project. Unless the loans are forgiven pursuant to subsection 6D below SJAFCA shall repay all loans from Lending Agencies by June 30, 2029.

D. The Lending Agencies agree that the loans provided for under this Agreement will be forgiven if SJAFCA is unable to secure adequate permanent funding sources for the entirety of the Project. The SJAFCA Board shall make any determination that it is unable to secure adequate permanent funding for the entirety of the Project no earlier than January 1, 2021 and no later than December 31, 2023, and shall make any such determination based upon the then-current funding streams and efforts to develop funding streams for SJAFCA. If SJAFCA makes such a determination, it shall promptly provide notice to the Lending Agencies, and upon providing such notice the loan shall be deemed forgiven.

7. Additional Provisions.

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of California, without regard to conflicts of laws principles. Any action to compel arbitration or to enforce an arbitrator's decision pursuant to Section 7.K. shall be brought in San Joaquin Superior Court.

B. Time is of the Essence. For purposes of this Agreement, time is of the essence.

C. Entire Agreement; Amendment. This Agreement constitutes the entire Agreement among the Parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings of the Parties regarding the subject matter

hereof. This Agreement may not be amended except by the mutual written consent of all the Parties.

D. Waiver. Any provision of this Agreement may be waived at any time by the Party entitled to the benefit thereof, but only by a writing signed by such Party stating that it waives such provision. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision nor shall any waiver constitute a continuing waiver.

E. Severability. If any provision of this Agreement is held invalid or unenforceable, the other provisions of this Agreement shall remain in full force and effect provided that the severance of the invalid or unenforceable provisions does not result in a material failure of consideration under this Agreement to any party hereto.

F. Headings. The headings of this Agreement are included for convenience only and shall not affect the construction or interpretation of the Agreement.

G. Counterparts. This Agreement may be executed in one or more counterparts, including facsimile, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to constitute one and the same instrument.

H. Authority. The undersigned certify that they are fully authorized by the Party or Parties whom they represent to enter into the terms and conditions of this Agreement and able to legally bind such Party or Parties hereto.

I. Interpretation. This Agreement shall be deemed to have been prepared equally by all the Parties, and the Agreement and its individual provisions shall not be construed or interpreted more favorably for any one Party on the basis that another Party prepared it.

J. Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (1) on the date delivered by hand; (2) the next business day following the date sent by overnight delivery service or sent by facsimile; or (3) on the third business day after mailing if deposited in the U.S. mail to the following addresses:

- (1) Any notice to be given to the County of San Joaquin should be addressed as follows (or to such other address as County of San Joaquin may specify from time to time):
County of San Joaquin
ATTN: Public Works Director
P.O. 1810
Stockton, CA 95201

(2) Any notice to be given to the City of Lathrop should be addressed as follows (or to such other address as the City of Lathrop may specify from time to time):

Teresa Vargas, City Clerk
390 Towne Centre Drive
Lathrop, CA 95330
Email: tvargas@ci.lathrop.ca.us
Phone: (209) 941-7230

(3) Any notice to be given to the City of Manteca should be addressed as follows (or to such other address as the City of Manteca may specify from time to time):

Lisa Blackmon, City Clerk
1001 W. Center Street
Manteca, CA 95337

Email: lblackmon@ci.manteca.ca.us
Phone: 209.456.8017

(4) Any notice to be given to the City of Stockton should be addressed as follows (or to such other address as the City of Stockton may specify from time to time):

Bret Hunter, City Clerk
425 N. El Dorado Street, 1st Floor
Stockton, CA 95202
Phone: (209) 937-8459
Fax: (209) 937-8447
bret.hunter@stocktonca.gov

(5) Any notice to be given to SJAFCA should be addressed as follows (or to such other address as SJAFCA may specify from time to time):

Executive Director
22 E. Webber Ave., Room 301
Stockton, CA 95202
(209) 937-8211

K. Arbitration. All disputes arising out of this Agreement shall be submitted to final and binding arbitration. A Party seeking to arbitrate a dispute arising out of this Agreement must notify the other Parties to the dispute in writing of its intent to arbitrate any claim for breach or enforcement of any provision of this Agreement within 1 year of discovery of the last event giving rise to the claim for breach or enforcement. Any such timely and properly noticed

claim for breach or enforcement of any provision of this Agreement shall be submitted to binding arbitration through the American Arbitration Association in accordance with the National Rules for Commercial Disputes. Each Party that is a party to the dispute shall, before arbitration commences, pay equal shares of the entire expected cost of the arbitration. At the conclusion of the arbitration, the arbitrator may award the prevailing Party some or all the arbitration costs, but no attorneys' fees incurred in connection with the arbitration, shall be awarded. The decision of the arbitrator shall be final and conclusive, and the Parties waive the right to a trial de novo or appeal excepting only for the purpose of enforcing the arbitrator's decision.

IN WITNESS WHEREOF, the Parties agree to the provisions set forth herein as evidenced by the signature of their authorized representatives below:

Date: _____

COUNTY OF SAN JOAQUIN

Attest and witness:

MIMI DUZENSKI

ROBERT V. ELLIOTT

By: _____
Clerk

by: _____
Chair, Board of Supervisors

Approved as to Form:

By: _____
LAWRENCE P. MEYERS
Deputy County Counsel



Date: _____

CITY OF LATHROP

Attest and witness:

By: _____

by: _____
Mayor

Approved as to Form:

City Attorney

Date: _____

Attest and witness:

Lisa Blackmon
City Clerk

Approved as to Form:

John Brinton
City Attorney

Date: _____

Attest and witness:

By: _____

Approved as to Form:

City Attorney

Date: _____

Attest and witness:

By: _____

Approved as to Form:

General Counsel

CITY OF MANTECA

by: Tim Ogden
City Manager

CITY OF STOCKTON

by: _____
Mayor

SAN JOAQUIN AREA FLOOD CONTROL AGENCY

by: Scott L. Shapiro
Acting Executive Director

ITEM: **SALARY SCHEDULE FOR FISCAL YEAR 2018/19**

RECOMMENDATION: **Adopt Resolution Approving the City of Lathrop Salary Schedule as of July 1, 2018, in Accordance with California Code of Regulations, Title 2, Section 570.5**

SUMMARY:

In June 2016, the Council approved the Memorandum of Understanding (MOU) for both active labor groups: 1. Service Employees International Union (SEIU) and 2. Lathrop Mid-Managers and Confidential Employees Association (LMCEA). As stated in the MOU, represented personnel are subject to a salary increase of 3% due to a Cost of Living Adjustment (COLA) effective on July 1, 2018 and reflected on the first full pay period in July. The MOU is set to expire on June 30, 2019. The COLA adjustment is also applicable to all unrepresented classifications.

Staff recommends Council adopt a resolution approving the City of Lathrop Salary Schedule effective July 1, 2018 in accordance with California Code of Regulations, Title 2, Section 570.5.

BACKGROUND:

In accordance with CalPERS requirements, the City Council must adopt a resolution approving the City of Lathrop Salary Schedule each time a change occurs, even when City Council has already approved the change as part of a multi-year labor agreement as is the case with the two items listed below:

1. SEIU MOU, approved by Council in June 2016, provides a 3.0% increase to salaries due to Cost of Living Adjustment (COLA) effective July 1, 2018.
2. LMCEA MOU, approved by Council in June 2016, provides a 3.0% increase to salaries due to Cost of Living Adjustment (COLA) effective July 1, 2018.
3. Unrepresented classifications, approved by Council in June 2016, provides a 3.0% increase to salaries due to Cost of Living Adjustment (COLA) effective July 1, 2018.

Staff has updated the FY 2018/19 Salary Schedule (Attachment B) to reflect the approved salary changes.

REASON FOR RECOMMENDATION:

As stipulated in the California Code of Regulations, Title 2, Section 570.5, the City is required to adopt the Pay Schedule or Grade Step Table.

COUNCIL GOALS ADVANCED BY THIS AGENDA ITEM:

Feeling of Safety: by complying with fiscal and State requirements.

FISCAL IMPACT:

The fiscal impacts associated with the salary changes have already been incorporated into Year 2 (FY 2018/19) of the approved Biennial Budget.

ATTACHMENTS:

- A. Resolution Approving the City of Lathrop Salary Schedule as of July 1, 2018, in Accordance with California Code of Regulations, Title 2, Section 570.5
- B. Salary Schedule, Effective July 1, 2018

**CITY MANAGER'S REPORT
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING
SALARY SCHEDULE FOR FISCAL YEAR 2018/19**

APPROVALS:

Vanessa R. Portillo

Vanessa Portillo
Deputy Finance Director

6-18-18

Date

Cari James

Cari James
Finance Director

6/14/18

Date

Salvador Navarrete

Salvador Navarrete
City Attorney

6-19-18

Date

Stephen J. Salvatore

Stephen J Salvatore
City Manager

6-19-18

Date

RESOLUTION NO. 18-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP
APPROVING THE CITY OF LATHROP SALARY SCHEDULE AS OF JULY 1,
2018, IN ACCORDANCE WITH CALIFORNIA CODE OF REGULATIONS, TITLE
2, SECTION 570.5**

WHEREAS, the City of Lathrop has prepared and submitted to the City Council a budget for the fiscal year commencing July 1, 2018; and

WHEREAS, the City Council approved on June 2016 a Memorandum of Understanding (MOU) agreement with the Service Employees International Union (SEIU); and

WHEREAS, the City Council approved on June 2016 a Memorandum of Understanding (MOU) agreement with the Lathrop Mid-Managers and Confidential Employees Association (LMCEA); and

WHEREAS, a three (3) percent salary increase due to a Cost of Living Adjustment (COLA) factor was approved for represented and unrepresented personnel effective on July 1, 2018 and reflected on the first full pay period of July 2018;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lathrop does hereby approve the updated Salary Schedule, Effective July 1, 2018 (Attachment B), in accordance with as of July 1, 2018, in accordance with the California Code of Regulations, Title 2, Section 570.5

The foregoing resolution was passed and adopted this 25th day of June 2018, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

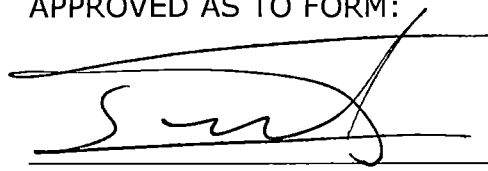
ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

CITY OF LATHROP
SALARY SCHEDULE
Effective 7/1/2018

ATTACHMENT "B"

POSITION TITLE	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	
Accountant	Hourly	29.44	30.91	32.46	34.08	35.79
	Bi-Weekly	2,355.34	2,473.11	2,596.77	2,726.61	2,862.94
	Monthly	4,710.69	4,946.22	5,193.53	5,453.21	5,725.87
	Annually	61,238.94	64,300.89	67,515.94	70,891.73	74,436.32
Accountant II	Hourly	32.50	34.12	35.83	37.62	39.50
	Bi-Weekly	2,599.88	2,729.87	2,866.37	3,009.69	3,160.17
	Monthly	5,199.76	5,459.75	5,732.74	6,019.37	6,320.34
	Annually	67,596.88	70,976.72	74,525.56	78,251.84	82,164.43
Accounting Manager	Hourly	53.25	55.92	58.71	61.65	64.73
	Bi-Weekly	4,260.19	4,473.20	4,696.86	4,931.70	5,178.29
	Monthly	8,520.38	8,946.40	9,393.72	9,863.41	10,356.58
	Annually	110,764.99	116,303.24	122,118.40	128,224.32	134,635.54
Accounting Specialist I	Hourly	20.84	21.88	22.97	24.12	25.33
	Bi-Weekly	1,666.96	1,750.31	1,837.82	1,929.71	2,026.20
	Monthly	3,333.92	3,500.62	3,675.65	3,859.43	4,052.40
	Annually	43,340.96	45,508.01	47,783.41	50,172.58	52,681.21
Accounting Specialist II	Hourly	23.00	24.15	25.36	26.63	27.96
	Bi-Weekly	1,840.00	1,932.00	2,028.60	2,130.03	2,236.53
	Monthly	3,680.00	3,864.00	4,057.20	4,260.06	4,473.06
	Annually	47,840.00	50,232.00	52,743.60	55,380.78	58,149.82
Accounting Technician	Hourly	27.34	28.71	30.14	31.65	33.23
	Bi-Weekly	2,187.18	2,296.54	2,411.37	2,531.94	2,658.54
	Monthly	4,374.37	4,593.09	4,822.74	5,063.88	5,317.07
	Annually	56,866.78	59,710.12	62,695.63	65,830.41	69,121.93
Administrative Assistant I	Hourly	22.44	23.56	24.74	25.98	27.27
	Bi-Weekly	1,795.12	1,884.88	1,979.12	2,078.08	2,181.98
	Monthly	3,590.24	3,769.75	3,958.24	4,156.15	4,363.96
	Annually	46,673.12	49,006.78	51,457.11	54,029.97	56,731.47
Administrative Assistant II	Hourly	24.77	26.01	27.31	28.67	30.11
	Bi-Weekly	1,981.47	2,080.55	2,184.57	2,293.80	2,408.49
	Monthly	3,962.94	4,161.09	4,369.15	4,587.60	4,816.98
	Annually	51,518.27	54,094.19	56,798.89	59,638.84	62,620.78
Animal Services Assistant	Hourly	20.33	21.34	22.41	23.53	24.71
	Bi-Weekly	1,626.28	1,707.59	1,792.97	1,882.62	1,976.75
	Monthly	3,252.56	3,415.19	3,585.95	3,765.24	3,953.51
	Annually	42,283.28	44,397.44	46,617.32	48,948.18	51,395.59
Animal Services Officer	Hourly	25.39	26.66	27.99	29.39	30.86
	Bi-Weekly	2,031.03	2,132.58	2,239.21	2,351.17	2,468.73
	Monthly	4,062.06	4,265.17	4,478.43	4,702.35	4,937.46
	Annually	52,806.83	55,447.17	58,219.53	61,130.51	64,187.03
Animal Services Manager	Hourly	39.60	41.58	43.65	45.84	48.13
	Bi-Weekly	3,167.69	3,326.07	3,492.38	3,666.99	3,850.34
	Monthly	6,335.38	6,652.14	6,984.75	7,333.99	7,700.69
	Annually	82,359.89	86,477.88	90,801.78	95,341.87	100,108.96
Assistant Chief Building Official	Hourly	49.45	51.92	54.52	57.24	60.11
	Bi-Weekly	3,956.01	4,153.81	4,361.50	4,579.57	4,808.55
	Monthly	7,912.02	8,307.62	8,723.00	9,159.15	9,617.10
	Annually	102,856.21	107,999.02	113,398.97	119,068.92	125,022.36
Assistant City Attorney	Hourly	54.58	57.31	60.18	63.19	66.35
	Bi-Weekly	4,366.69	4,585.02	4,814.27	5,054.99	5,307.74
	Monthly	8,733.38	9,170.04	9,628.55	10,109.97	10,615.47
	Annually	113,533.89	119,210.58	125,171.11	131,429.67	138,001.15
Assistant City Manager	Hourly	77.13	80.98	85.03	89.28	93.75
	Bi-Weekly	6,170.03	6,478.53	6,802.46	7,142.58	7,499.71
	Monthly	12,340.06	12,957.07	13,604.92	14,285.17	14,999.42
	Annually	160,420.83	168,441.87	176,863.97	185,707.17	194,992.52
Assistant Director of Community Development	Hourly	58.78	61.72	64.81	68.05	71.45
	Bi-Weekly	4,702.46	4,937.58	5,184.46	5,443.68	5,715.86
	Monthly	9,404.91	9,875.16	10,368.92	10,887.36	11,431.73
	Annually	122,263.86	128,377.05	134,795.90	141,535.70	148,612.48
Assistant Engineer	Hourly	39.60	41.58	43.65	45.84	48.13
	Bi-Weekly	3,167.69	3,326.07	3,492.38	3,666.99	3,850.34
	Monthly	6,335.38	6,652.14	6,984.75	7,333.99	7,700.69
	Annually	82,359.89	86,477.88	90,801.78	95,341.87	100,108.96
Assistant Planner	Hourly	31.71	33.29	34.96	36.70	38.54

CITY OF LATHROP
SALARY SCHEDULE
Effective 7/1/2018

ATTACHMENT "B"

	Bi-Weekly	2,536.46	2,663.29	2,796.45	2,936.27	3,083.09
	Monthly	5,072.93	5,326.57	5,592.90	5,872.55	6,166.18
	Annualy	65,948.06	69,245.47	72,707.74	76,343.13	80,160.28
Assistant Public Works Director	Hourly	61.76	64.84	68.09	71.49	75.07
	Bi-Weekly	4,940.52	5,187.55	5,446.92	5,719.27	6,005.23
	Monthly	9,881.04	10,375.09	10,893.85	11,438.54	12,010.47
	Annualy	128,453.52	134,876.20	141,620.01	148,701.01	156,136.06
Associate Engineer	Hourly	45.92	48.22	50.63	53.16	55.82
	Bi-Weekly	3,673.56	3,857.24	4,050.10	4,252.60	4,465.24
	Monthly	7,347.12	7,714.48	8,100.20	8,505.21	8,930.47
	Annualy	95,512.56	100,288.19	105,302.60	110,567.73	116,096.11
Associate Planner	Hourly	34.14	35.85	37.64	39.53	41.50
	Bi-Weekly	2,731.49	2,868.06	3,011.47	3,162.04	3,320.14
	Monthly	5,462.98	5,736.12	6,022.93	6,324.08	6,640.28
	Annualy	71,018.69	74,569.62	78,298.10	82,213.01	86,323.66
Budget Manager	Hourly	40.59	42.62	44.75	46.98	49.33
	Bi-Weekly	3,246.89	3,409.23	3,579.69	3,758.68	3,946.61
	Monthly	6,493.78	6,818.46	7,159.39	7,517.36	7,893.23
	Annualy	84,419.09	88,640.04	93,072.04	97,725.65	102,611.93
Building Inspector I	Hourly	29.44	30.91	32.46	34.08	35.79
	Bi-Weekly	2,355.34	2,473.11	2,596.77	2,726.61	2,862.94
	Monthly	4,710.69	4,946.22	5,193.53	5,453.21	5,725.87
	Annualy	61,238.94	64,300.89	67,515.94	70,891.73	74,436.32
Building Inspector II	Hourly	31.71	33.29	34.96	36.70	38.54
	Bi-Weekly	2,536.46	2,663.29	2,796.45	2,936.27	3,083.09
	Monthly	5,072.93	5,326.57	5,592.90	5,872.55	6,166.18
	Annualy	65,948.06	69,245.47	72,707.74	76,343.13	80,160.28
Building Inspector III	Hourly	35.00	36.75	38.58	40.51	42.54
	Bi-Weekly	2,799.78	2,939.76	3,086.75	3,241.09	3,403.15
	Monthly	5,599.55	5,879.53	6,173.51	6,482.18	6,806.29
	Annualy	72,794.18	76,433.88	80,255.58	84,268.36	88,481.78
Chief Building Official	Hourly	54.58	57.31	60.18	63.19	66.35
	Bi-Weekly	4,366.69	4,585.02	4,814.27	5,054.99	5,307.74
	Monthly	8,733.38	9,170.04	9,628.55	10,109.97	10,615.47
	Annualy	113,533.89	119,210.58	125,171.11	131,429.67	138,001.15
Chief Planning Official	Hourly	58.78	61.72	64.81	68.05	71.45
	Bi-Weekly	4,702.46	4,937.58	5,184.46	5,443.68	5,715.86
	Monthly	9,404.91	9,875.16	10,368.92	10,887.36	11,431.73
	Annualy	122,263.86	128,377.05	134,795.90	141,535.70	148,612.48
Chief Utility Operator	Hourly	35.00	36.75	38.58	40.51	42.54
	Bi-Weekly	2,799.78	2,939.76	3,086.75	3,241.09	3,403.15
	Monthly	5,599.55	5,879.53	6,173.51	6,482.18	6,806.29
	Annualy	72,794.18	76,433.88	80,255.58	84,268.36	88,481.78
City Attorney	<i>Per Contract</i>					
	Annualy	198,117.00				
City Clerk	Hourly	50.69	53.22	55.88	58.68	61.61
	Bi-Weekly	4,054.93	4,257.67	4,470.56	4,694.09	4,928.79
	Monthly	8,109.86	8,515.35	8,941.12	9,388.17	9,857.58
	Annualy	105,428.13	110,699.53	116,234.51	122,046.24	128,148.55
City Engineer	Hourly	73.41	77.08	80.93	84.98	89.23
	Bi-Weekly	5,872.74	6,166.37	6,474.69	6,798.43	7,138.35
	Monthly	11,745.47	12,332.75	12,949.38	13,596.85	14,276.69
	Annualy	152,691.14	160,325.69	168,341.98	176,759.08	185,597.03
City Manager	<i>Per Contract</i>					
	Annualy	210,592.00				
Code Compliance Officer I	Hourly	29.44	30.91	32.46	34.08	35.79
	Bi-Weekly	2,355.34	2,473.11	2,596.77	2,726.61	2,862.94
	Monthly	4,710.69	4,946.22	5,193.53	5,453.21	5,725.87
	Annualy	61,238.94	64,300.89	67,515.94	70,891.73	74,436.32
Code Compliance Officer II	Hourly	31.71	33.29	34.96	36.70	38.54
	Bi-Weekly	2,536.46	2,663.29	2,796.45	2,936.27	3,083.09
	Monthly	5,072.93	5,326.57	5,592.90	5,872.55	6,166.18

**CITY OF LATHROP
SALARY SCHEDULE**

ATTACHMENT "B"

Effective 7/1/2018

	Annually	65,948.06	69,245.47	72,707.74	76,343.13	80,160.28
Code Compliance Officer III	Hourly	35.00	36.75	38.58	40.51	42.54
	Bi-Weekly	2,799.78	2,939.76	3,086.75	3,241.09	3,403.15
	Monthly	5,599.55	5,879.53	6,173.51	6,482.18	6,806.29
	Annually	72,794.18	76,433.88	80,255.58	84,268.36	88,481.78
Code Compliance Supervisor	Hourly	42.64	44.77	47.01	49.36	51.83
	Bi-Weekly	3,411.26	3,581.82	3,760.91	3,948.96	4,146.40
	Monthly	6,822.51	7,163.64	7,521.82	7,897.91	8,292.81
	Annually	88,692.66	93,127.29	97,783.65	102,672.84	107,806.48
Construction Inspector I	Hourly	30.18	31.69	33.27	34.93	36.68
	Bi-Weekly	2,414.25	2,534.96	2,661.71	2,794.79	2,934.53
	Monthly	4,828.50	5,069.92	5,323.42	5,589.59	5,869.07
	Annually	62,770.45	65,908.97	69,204.42	72,664.64	76,297.87
Construction Inspector II	Hourly	33.31	34.98	36.73	38.56	40.49
	Bi-Weekly	2,664.86	2,798.11	2,938.01	3,084.91	3,239.16
	Monthly	5,329.73	5,596.21	5,876.03	6,169.83	6,478.32
	Annually	69,286.46	72,750.79	76,388.33	80,207.74	84,218.13
Crime and Intelligence Analyst	Hourly	28.72	30.16	31.67	33.25	34.91
	Bi-Weekly	2,297.92	2,412.82	2,533.46	2,660.13	2,793.14
	Monthly	4,595.84	4,825.63	5,066.91	5,320.26	5,586.27
	Annually	59,745.92	62,733.22	65,869.88	69,163.37	72,621.54
Deputy Finance Director	Hourly	55.95	58.75	61.68	64.77	68.01
	Bi-Weekly	4,475.87	4,699.67	4,934.65	5,181.38	5,440.45
	Monthly	8,951.74	9,399.33	9,869.30	10,362.76	10,880.90
	Annually	116,372.67	122,191.31	128,300.87	134,715.91	141,451.71
Deputy City Manager/Director of Public Works	Hourly	69.87	73.37	77.03	80.89	84.93
	Bi-Weekly	5,589.75	5,869.24	6,162.70	6,470.84	6,794.38
	Monthly	11,179.50	11,738.48	12,325.40	12,941.67	13,588.76
	Annually	145,333.55	152,600.23	160,230.24	168,241.75	176,653.84
Director of Administrative Services	Hourly	68.17	71.58	75.15	78.91	82.86
	Bi-Weekly	5,453.40	5,726.07	6,012.37	6,312.99	6,628.64
	Monthly	10,906.80	11,452.14	12,024.75	12,625.98	13,257.28
	Annually	141,788.40	148,877.82	156,321.71	164,137.80	172,344.69
Director of Community Development	Hourly	71.62	75.20	78.96	82.91	87.05
	Bi-Weekly	5,729.49	6,015.96	6,316.76	6,632.60	6,964.23
	Monthly	11,458.98	12,031.92	12,633.52	13,265.20	13,928.46
	Annually	148,966.69	156,415.02	164,235.77	172,447.56	181,069.94
Director of Finance	Hourly	69.87	73.37	77.03	80.89	84.93
	Bi-Weekly	5,589.75	5,869.24	6,162.70	6,470.84	6,794.38
	Monthly	11,179.50	11,738.48	12,325.40	12,941.67	13,588.76
	Annually	145,333.55	152,600.23	160,230.24	168,241.75	176,653.84
Director of Human Resources	Hourly	63.30	66.47	69.79	73.28	76.94
	Bi-Weekly	5,064.04	5,317.24	5,583.10	5,862.26	6,155.37
	Monthly	10,128.08	10,634.48	11,166.21	11,724.52	12,310.74
	Annually	131,665.04	138,248.29	145,160.71	152,418.74	160,039.68
Director of Parks and Recreation	Hourly	66.50	69.83	73.32	76.99	80.84
	Bi-Weekly	5,320.39	5,586.41	5,865.73	6,159.02	6,466.97
	Monthly	10,640.78	11,172.82	11,731.46	12,318.04	12,933.94
	Annually	138,330.19	145,246.70	152,509.04	160,134.49	168,141.21
Director of Public Works	Hourly	71.62	75.20	78.96	82.91	87.05
	Bi-Weekly	5,729.49	6,015.96	6,316.76	6,632.60	6,964.23
	Monthly	11,458.98	12,031.92	12,633.52	13,265.20	13,928.46
	Annually	148,966.69	156,415.02	164,235.77	172,447.56	181,069.94
Economic Development Administrator	Hourly	57.35	60.21	63.23	66.39	69.71
	Bi-Weekly	4,587.77	4,817.16	5,058.01	5,310.91	5,576.46
	Monthly	9,175.54	9,634.31	10,116.03	10,621.83	11,152.92
	Annually	119,281.97	125,246.07	131,508.37	138,083.79	144,987.98
Engineering Technician I	Hourly	28.02	29.42	30.90	32.44	34.06
	Bi-Weekly	2,241.86	2,353.95	2,471.65	2,595.23	2,724.99
	Monthly	4,483.71	4,707.90	4,943.29	5,190.46	5,449.98
	Annually	58,288.26	61,202.67	64,262.80	67,475.94	70,849.74
Engineering Technician II	Hourly	30.93	32.48	34.10	35.81	37.60
	Bi-Weekly	2,474.59	2,598.32	2,728.24	2,864.65	3,007.88
	Monthly	4,949.18	5,196.64	5,456.48	5,729.30	6,015.76
	Annually	64,339.39	67,556.36	70,934.18	74,480.89	78,204.93
Executive Assistant	Hourly	30.93	32.48	34.10	35.81	37.60

**CITY OF LATHROP
SALARY SCHEDULE**

ATTACHMENT "B"

Effective 7/1/2018

	Bi-Weekly	2,474.59	2,598.32	2,728.24	2,864.65	3,007.88
	Monthly	4,949.18	5,196.64	5,456.48	5,729.30	6,015.76
	Annualy	64,339.39	67,556.36	70,934.18	74,480.89	78,204.93
Executive Assistant to City Manager	Hourly	35.87	37.67	39.55	41.53	43.60
	Bi-Weekly	2,869.78	3,013.27	3,163.94	3,322.13	3,488.24
	Monthly	5,739.57	6,026.55	6,327.87	6,644.27	6,976.48
	Annualy	74,614.38	78,345.10	82,262.36	86,375.48	90,694.25
Facility Supervisor	Hourly	13.69	14.38	15.10	15.85	16.65
	Bi-Weekly	1,095.52	1,150.30	1,207.81	1,268.20	1,331.61
	Monthly	2,191.04	2,300.59	2,415.62	2,536.40	2,663.22
	Annualy	28,483.52	29,907.70	31,403.08	32,973.23	34,621.90
GIS Specialist I	Hourly	30.18	31.69	33.27	34.93	36.68
	Bi-Weekly	2,414.25	2,534.96	2,661.71	2,794.79	2,934.53
	Monthly	4,828.50	5,069.92	5,323.42	5,589.59	5,869.07
	Annualy	62,770.45	65,908.97	69,204.42	72,664.64	76,297.87
GIS Specialist II	Hourly	33.31	34.98	36.73	38.56	40.49
	Bi-Weekly	2,664.86	2,798.11	2,938.01	3,084.91	3,239.16
	Monthly	5,329.73	5,596.21	5,876.03	6,169.83	6,478.32
	Annualy	69,286.46	72,750.79	76,388.33	80,207.74	84,218.13
Human Resources Manager	Hourly	35.87	37.67	39.55	41.53	43.60
	Bi-Weekly	2,869.78	3,013.27	3,163.94	3,322.13	3,488.24
	Monthly	5,739.57	6,026.55	6,327.87	6,644.27	6,976.48
	Annualy	74,614.38	78,345.10	82,262.36	86,375.48	90,694.25
Information Technology Analyst	Hourly	35.00	36.75	38.58	40.51	42.54
	Bi-Weekly	2,799.78	2,939.76	3,086.75	3,241.09	3,403.15
	Monthly	5,599.55	5,879.53	6,173.51	6,482.18	6,806.29
	Annualy	72,794.18	76,433.88	80,255.58	84,268.36	88,481.78
Information Technology Manager	Hourly	51.95	54.55	57.28	60.14	63.15
	Bi-Weekly	4,156.30	4,364.12	4,582.33	4,811.44	5,052.01
	Monthly	8,312.61	8,728.24	9,164.65	9,622.88	10,104.03
	Annualy	108,063.90	113,467.10	119,140.45	125,097.48	131,352.35
Information Technology Technician	Hourly	24.16	25.37	26.64	27.97	29.37
	Bi-Weekly	1,933.14	2,029.80	2,131.29	2,237.86	2,349.75
	Monthly	3,866.29	4,059.60	4,262.58	4,475.71	4,699.50
	Annualy	50,261.74	52,774.83	55,413.57	58,184.25	61,093.46
Junior Engineer	Hourly	34.14	35.85	37.64	39.53	41.50
	Bi-Weekly	2,731.49	2,868.06	3,011.47	3,162.04	3,320.14
	Monthly	5,462.98	5,736.12	6,022.93	6,324.08	6,640.28
	Annualy	71,018.69	74,569.62	78,298.10	82,213.01	86,323.66
Legal Assistant	Hourly	33.31	34.98	36.73	38.56	40.49
	Bi-Weekly	2,664.86	2,798.11	2,938.01	3,084.91	3,239.16
	Monthly	5,329.73	5,596.21	5,876.03	6,169.83	6,478.32
	Annualy	69,286.46	72,750.79	76,388.33	80,207.74	84,218.13
Legal Secretary	Hourly	30.18	31.69	33.27	34.93	36.68
	Bi-Weekly	2,414.25	2,534.96	2,661.71	2,794.79	2,934.53
	Monthly	4,828.50	5,069.92	5,323.42	5,589.59	5,869.07
	Annualy	62,770.45	65,908.97	69,204.42	72,664.64	76,297.87
Maintenance Services Supervisor	Hourly	35.00	36.75	38.58	40.51	42.54
	Bi-Weekly	2,799.78	2,939.76	3,086.75	3,241.09	3,403.15
	Monthly	5,599.55	5,879.53	6,173.51	6,482.18	6,806.29
	Annualy	72,794.18	76,433.88	80,255.58	84,268.36	88,481.78
Maintenance Worker I	Hourly	20.84	21.88	22.97	24.12	25.33
	Bi-Weekly	1,666.96	1,750.31	1,837.82	1,929.71	2,026.20
	Monthly	3,333.92	3,500.62	3,675.65	3,859.43	4,052.40
	Annualy	43,340.96	45,508.01	47,783.41	50,172.58	52,681.21
Maintenance Worker II	Hourly	23.00	24.15	25.36	26.63	27.96
	Bi-Weekly	1,840.00	1,932.00	2,028.60	2,130.03	2,236.53
	Monthly	3,680.00	3,864.00	4,057.20	4,260.06	4,473.06
	Annualy	47,840.00	50,232.00	52,743.60	55,380.78	58,149.82
Management Analyst I - Confidential	Hourly	32.50	34.12	35.83	37.62	39.50
	Bi-Weekly	2,599.88	2,729.87	2,866.37	3,009.69	3,160.17
	Monthly	5,199.76	5,459.75	5,732.74	6,019.37	6,320.34
	Annualy	67,596.88	70,976.72	74,525.56	78,251.84	82,164.43
Management Analyst II - Confidential	Hourly	35.87	37.67	39.55	41.53	43.60
	Bi-Weekly	2,869.78	3,013.27	3,163.94	3,322.13	3,488.24
	Monthly	5,739.57	6,026.55	6,327.87	6,644.27	6,976.48

CITY OF LATHROP
SALARY SCHEDULE
Effective 7/1/2018

ATTACHMENT "B"

	Annually	74,614.38	78,345.10	82,262.36	86,375.48	90,694.25
Office Assistant I	Hourly	17.97	18.87	19.81	20.80	21.84
	Bi-Weekly	1,437.41	1,509.28	1,584.74	1,663.98	1,747.18
	Monthly	2,874.82	3,018.56	3,169.48	3,327.96	3,494.36
	Annually	37,372.61	39,241.24	41,203.30	43,263.47	45,426.64
Office Assistant II	Hourly	19.35	20.32	21.33	22.40	23.52
	Bi-Weekly	1,547.94	1,625.34	1,706.61	1,791.94	1,881.54
	Monthly	3,095.89	3,250.68	3,413.22	3,583.88	3,763.07
	Annually	40,246.54	42,258.87	44,371.81	46,590.41	48,919.93
Parks & Recreation Administrator	Hourly	39.60	41.58	43.65	45.84	48.13
	Bi-Weekly	3,167.69	3,326.07	3,492.38	3,666.99	3,850.34
	Monthly	6,335.38	6,652.14	6,984.75	7,333.99	7,700.69
	Annually	82,359.89	86,477.88	90,801.78	95,341.87	100,108.96
Parks & Recreation Supervisor	Hourly	33.31	34.98	36.73	38.56	40.49
	Bi-Weekly	2,664.86	2,798.11	2,938.01	3,084.91	3,239.16
	Monthly	5,329.73	5,596.21	5,876.03	6,169.83	6,478.32
	Annually	69,286.46	72,750.79	76,388.33	80,207.74	84,218.13
Parks and Recreation Superintendent	Hourly	47.07	49.42	51.89	54.49	57.21
	Bi-Weekly	3,765.41	3,953.68	4,151.36	4,358.93	4,576.88
	Monthly	7,530.82	7,907.36	8,302.72	8,717.86	9,153.75
	Annually	97,900.61	102,795.64	107,935.42	113,332.19	118,998.80
Parks Project Manager	Hourly	53.25	55.92	58.71	61.65	64.73
	Bi-Weekly	4,260.19	4,473.20	4,696.86	4,931.70	5,178.29
	Monthly	8,520.38	8,946.40	9,393.72	9,863.41	10,356.58
	Annually	110,764.99	116,303.24	122,118.40	128,224.32	134,635.54
Permit Center Manager	Hourly	53.25	55.92	58.71	61.65	64.73
	Bi-Weekly	4,260.19	4,473.20	4,696.86	4,931.70	5,178.29
	Monthly	8,520.38	8,946.40	9,393.72	9,863.41	10,356.58
	Annually	110,764.99	116,303.24	122,118.40	128,224.32	134,635.54
Permit Technician	Hourly	26.02	27.32	28.69	30.12	31.63
	Bi-Weekly	2,081.78	2,185.86	2,295.16	2,409.92	2,530.41
	Monthly	4,163.55	4,371.73	4,590.32	4,819.83	5,060.82
	Annually	54,126.18	56,832.48	59,674.11	62,657.81	65,790.71
Plans Examiner	Hourly	39.60	41.58	43.65	45.84	48.13
	Bi-Weekly	3,167.69	3,326.07	3,492.38	3,666.99	3,850.34
	Monthly	6,335.38	6,652.14	6,984.75	7,333.99	7,700.69
	Annually	82,359.89	86,477.88	90,801.78	95,341.87	100,108.96
Police Services Manager	Hourly	36.77	38.61	40.54	42.56	44.69
	Bi-Weekly	2,941.51	3,088.59	3,243.02	3,405.17	3,575.43
	Monthly	5,883.02	6,177.18	6,486.03	6,810.34	7,150.85
	Annually	76,479.31	80,303.28	84,318.44	88,534.36	92,961.08
Principal Engineer	Hourly	58.78	61.72	64.81	68.05	71.45
	Bi-Weekly	4,702.46	4,937.58	5,184.46	5,443.68	5,715.86
	Monthly	9,404.91	9,875.16	10,368.92	10,887.36	11,431.73
	Annually	122,263.86	128,377.05	134,795.90	141,535.70	148,612.48
Principal Planner	Hourly	48.24	50.66	53.19	55.85	58.64
	Bi-Weekly	3,859.54	4,052.51	4,255.14	4,467.90	4,691.29
	Monthly	7,719.07	8,105.03	8,510.28	8,935.79	9,382.58
	Annually	100,347.94	105,365.33	110,633.60	116,165.28	121,973.54
Programmer Analyst	Hourly	42.64	44.77	47.01	49.36	51.83
	Bi-Weekly	3,411.26	3,581.82	3,760.91	3,948.96	4,146.40
	Monthly	6,822.51	7,163.64	7,521.82	7,897.91	8,292.81
	Annually	88,692.66	93,127.29	97,783.65	102,672.84	107,806.48
Project Manager	Hourly	53.25	55.92	58.71	61.65	64.73
	Bi-Weekly	4,260.19	4,473.20	4,696.86	4,931.70	5,178.29
	Monthly	8,520.38	8,946.40	9,393.72	9,863.41	10,356.58
	Annually	110,764.99	116,303.24	122,118.40	128,224.32	134,635.54
Recreation Coordinator	Hourly	24.77	26.01	27.31	28.67	30.11
	Bi-Weekly	1,981.47	2,080.55	2,184.57	2,293.80	2,408.49
	Monthly	3,962.94	4,161.09	4,369.15	4,587.60	4,816.98
	Annually	51,518.27	54,094.19	56,798.89	59,638.84	62,620.78
Recreation Leader	Hourly	11.81	12.40	13.02	13.67	14.35
	Bi-Weekly	944.65	991.88	1,041.47	1,093.55	1,148.23
	Monthly	1,889.30	1,983.76	2,082.95	2,187.10	2,296.45
	Annually	24,560.85	25,788.89	27,078.33	28,432.25	29,853.86
Recreation Specialist	Hourly	20.33	21.34	22.41	23.53	24.71

**CITY OF LATHROP
SALARY SCHEDULE**

ATTACHMENT "B"

Effective 7/1/2018

	Bi-Weekly	1,626.28	1,707.59	1,792.97	1,882.62	1,976.75
	Monthly	3,252.56	3,415.19	3,585.95	3,765.24	3,953.51
	Annually	42,283.28	44,397.44	46,617.32	48,948.18	51,395.59
Senior Accountant	Hourly	40.59	42.62	44.75	46.98	49.33
	Bi-Weekly	3,246.89	3,409.23	3,579.69	3,758.68	3,946.61
	Monthly	6,493.78	6,818.46	7,159.39	7,517.36	7,893.23
	Annually	84,419.09	88,640.04	93,072.04	97,725.65	102,611.93
Senior Accounting Technician	Hourly	31.71	33.29	34.96	36.70	38.54
	Bi-Weekly	2,536.46	2,663.29	2,796.45	2,936.27	3,083.09
	Monthly	5,072.93	5,326.57	5,592.90	5,872.55	6,166.18
	Annually	65,948.06	69,245.47	72,707.74	76,343.13	80,160.28
Senior Administrative Assistant	Hourly	28.72	30.16	31.67	33.25	34.91
	Bi-Weekly	2,297.92	2,412.82	2,533.46	2,660.13	2,793.14
	Monthly	4,595.84	4,825.63	5,066.91	5,320.26	5,586.27
	Annually	59,745.92	62,733.22	65,869.88	69,163.37	72,621.54
Senior Animal Services Officer	Hourly	28.02	29.42	30.90	32.44	34.06
	Bi-Weekly	2,241.86	2,353.95	2,471.65	2,595.23	2,724.99
	Monthly	4,483.71	4,707.90	4,943.29	5,190.46	5,449.98
	Annually	58,288.26	61,202.67	64,262.80	67,475.94	70,849.74
Senior Building Inspector	Hourly	38.63	40.56	42.59	44.72	46.96
	Bi-Weekly	3,090.44	3,244.96	3,407.21	3,577.57	3,756.45
	Monthly	6,180.88	6,489.92	6,814.42	7,155.14	7,512.90
	Annually	80,351.44	84,369.01	88,587.46	93,016.84	97,667.68
Senior Center Recreation Coordinator	Hourly	20.84	21.88	22.97	24.12	25.33
	Bi-Weekly	1,666.96	1,750.31	1,837.82	1,929.71	2,026.20
	Monthly	3,333.92	3,500.62	3,675.65	3,859.43	4,052.40
	Annually	43,340.96	45,508.01	47,783.41	50,172.58	52,681.21
Senior Civil Engineer	Hourly	50.69	53.22	55.88	58.68	61.61
	Bi-Weekly	4,054.93	4,257.67	4,470.56	4,694.09	4,928.79
	Monthly	8,109.86	8,515.35	8,941.12	9,388.17	9,857.58
	Annually	105,428.13	110,699.53	116,234.51	122,046.24	128,148.55
Senior Construction Inspector	Hourly	36.77	38.61	40.54	42.56	44.69
	Bi-Weekly	2,941.51	3,088.59	3,243.02	3,405.17	3,575.43
	Monthly	5,883.02	6,177.18	6,486.03	6,810.34	7,150.85
	Annually	76,479.31	80,303.28	84,318.44	88,534.36	92,961.08
Senior Construction Manager	Hourly	60.25	63.26	66.43	69.75	73.23
	Bi-Weekly	4,820.04	5,061.04	5,314.09	5,579.80	5,858.79
	Monthly	9,640.08	10,122.08	10,628.19	11,159.60	11,717.58
	Annually	125,321.04	131,587.09	138,166.45	145,074.77	152,328.51
Senior Engineer	Hourly	50.69	53.22	55.88	58.68	61.61
	Bi-Weekly	4,054.93	4,257.67	4,470.56	4,694.09	4,928.79
	Monthly	8,109.86	8,515.35	8,941.12	9,388.17	9,857.58
	Annually	105,428.13	110,699.53	116,234.51	122,046.24	128,148.55
Senior Engineering Technician	Hourly	34.14	35.85	37.64	39.53	41.50
	Bi-Weekly	2,731.49	2,868.06	3,011.47	3,162.04	3,320.14
	Monthly	5,462.98	5,736.12	6,022.93	6,324.08	6,640.28
	Annually	71,018.69	74,569.62	78,298.10	82,213.01	86,323.66
Senior Facility Attendant	Hourly	14.75	15.48	16.26	17.07	17.92
	Bi-Weekly	1,179.75	1,238.74	1,300.68	1,365.71	1,434.00
	Monthly	2,359.50	2,477.48	2,601.35	2,731.42	2,867.99
	Annually	30,673.55	32,207.23	33,817.59	35,508.47	37,283.89
Senior Maintenance Worker	Hourly	26.67	28.01	29.41	30.88	32.42
	Bi-Weekly	2,133.84	2,240.53	2,352.56	2,470.19	2,593.70
	Monthly	4,267.68	4,481.06	4,705.12	4,940.37	5,187.39
	Annually	55,479.84	58,253.83	61,166.52	64,224.85	67,436.09
Senior Management Analyst	Hourly	42.64	44.77	47.01	49.36	51.83
	Bi-Weekly	3,411.26	3,581.82	3,760.91	3,948.96	4,146.40
	Monthly	6,822.51	7,163.64	7,521.82	7,897.91	8,292.81
	Annually	88,692.66	93,127.29	97,783.65	102,672.84	107,806.48
Senior Planner	Hourly	42.64	44.77	47.01	49.36	51.83
	Bi-Weekly	3,411.26	3,581.82	3,760.91	3,948.96	4,146.40
	Monthly	6,822.51	7,163.64	7,521.82	7,897.91	8,292.81
	Annually	88,692.66	93,127.29	97,783.65	102,672.84	107,806.48
Senior Recreation Leader	Hourly	14.75	15.48	16.26	17.07	17.92
	Bi-Weekly	1,179.75	1,238.74	1,300.68	1,365.71	1,434.00
	Monthly	2,359.50	2,477.48	2,601.35	2,731.42	2,867.99

CITY OF LATHROP
SALARY SCHEDULE
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ATTACHMENT "B"

	Annually	30,673.55	32,207.23	33,817.59	35,508.47	37,283.89
Solid Waste Coordinator	Hourly	26.67	28.01	29.41	30.88	32.42
	Bi-Weekly	2,133.84	2,240.53	2,352.56	2,470.19	2,593.70
	Monthly	4,267.68	4,481.06	4,705.12	4,940.37	5,187.39
	Annually	55,479.84	58,253.83	61,166.52	64,224.85	67,436.09
Special Districts Manager	Hourly	42.64	44.77	47.01	49.36	51.83
	Bi-Weekly	3,411.26	3,581.82	3,760.91	3,948.96	4,146.40
	Monthly	6,822.51	7,163.64	7,521.82	7,897.91	8,292.81
	Annually	88,692.66	93,127.29	97,783.65	102,672.84	107,806.48
Utility Maintenance Supervisor	Hourly	36.77	38.61	40.54	42.56	44.69
	Bi-Weekly	2,941.51	3,088.59	3,243.02	3,405.17	3,575.43
	Monthly	5,883.02	6,177.18	6,486.03	6,810.34	7,150.85
	Annually	76,479.31	80,303.28	84,318.44	88,534.36	92,961.08
Utility and Streets Maintenance Superintendent	Hourly	53.25	55.92	58.71	61.65	64.73
	Bi-Weekly	4,260.19	4,473.20	4,696.86	4,931.70	5,178.29
	Monthly	8,520.38	8,946.40	9,393.72	9,863.41	10,356.58
	Annually	110,764.99	116,303.24	122,118.40	128,224.32	134,635.54
Utility Operator I	Hourly	22.44	23.56	24.74	25.98	27.27
	Bi-Weekly	1,795.12	1,884.88	1,979.12	2,078.08	2,181.98
	Monthly	3,590.24	3,769.75	3,958.24	4,156.15	4,363.96
	Annually	46,673.12	49,006.78	51,457.11	54,029.97	56,731.47
Utility Operator II	Hourly	24.77	26.01	27.31	28.67	30.11
	Bi-Weekly	1,981.47	2,080.55	2,184.57	2,293.80	2,408.49
	Monthly	3,962.94	4,161.09	4,369.15	4,587.60	4,816.98
	Annually	51,518.27	54,094.19	56,798.89	59,638.84	62,620.78
Utility Operator III	Hourly	35.00	36.75	38.58	40.51	42.54
	Bi-Weekly	2,799.78	2,939.76	3,086.75	3,241.09	3,403.15
	Monthly	5,599.55	5,879.53	6,173.51	6,482.18	6,806.29
	Annually	72,794.18	76,433.88	80,255.58	84,268.36	88,481.78
Wastewater Treatment Plant Supervisor	Hourly	37.69	39.57	41.55	43.63	45.81
	Bi-Weekly	3,015.06	3,165.81	3,324.10	3,490.30	3,664.82
	Monthly	6,030.11	6,331.62	6,648.20	6,980.61	7,329.64
	Annually	78,391.46	82,311.03	86,426.58	90,747.91	95,285.30
Water Meter Reader I	Hourly	20.84	21.88	22.97	24.12	25.33
	Bi-Weekly	1,666.96	1,750.31	1,837.82	1,929.71	2,026.20
	Monthly	3,333.92	3,500.62	3,675.65	3,859.43	4,052.40
	Annually	43,340.96	45,508.01	47,783.41	50,172.58	52,681.21
Water Meter Reader II	Hourly	23.00	24.15	25.36	26.63	27.96
	Bi-Weekly	1,840.00	1,932.00	2,028.60	2,130.03	2,236.53
	Monthly	3,680.00	3,864.00	4,057.20	4,260.06	4,473.06
	Annually	47,840.00	50,232.00	52,743.60	55,380.78	58,149.82

**CITY MANAGER'S REPORT
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING****ITEM: APPROVE AGREEMENT WITH THE CITY OF TRACY
FOR LAW ENFORCEMENT SERVICES****RECOMMENDATION: Adopt a Resolution Approving an Agreement with
the City of Tracy for Law Enforcement Services**

SUMMARY:

The City of Lathrop has contracted law enforcement services through an agreement with the San Joaquin County Sheriff's Office (SJCSO) since 1990. The current agreement was approved by the City Council on April 17, 2017 and expires on June 30, 2022. For 28 years, the men and women of the Sheriff's Office have performed well and have met Lathrop's desire for community based policing. However, in recent years, mainly the past 5 years, the cost of service has escalated 50% to over \$7 million annually. As a result, City Council requested options for law enforcement services that would provide equivalent or improved service at a reduced cost.

In August of 2017, Lathrop contracted with Municipal Resource Group (MRG) to perform a review of the City's law enforcement service options that considered potential modifications of the SJCSO agreement, contracting with neighboring agencies such as Manteca/Tracy or forming our own department. In December of 2017, MRG presented the findings which identified the most realistic option for meeting the Council's objectives was a potential agreement with the City of Tracy. Working with the cities' staff and Tracy law enforcement personnel, MRG developed a detailed service plan that included staffing and costs with defined service levels. The plan was presented to both Lathrop and Tracy Councils in April of 2018 and after careful evaluation; the Councils authorized their respective staffs to draft an agreement for law enforcement services between the two cities for Council consideration.

ACTION:

The service agreement has been prepared. Staff recommends that City Council approve the attached resolution (Attachment "A") approving the service agreement (Attachment "B") between the City of Lathrop and Tracy to provide Law Enforcement Services.

REASON FOR RECOMMENDATION:

The service agreement with Tracy meets the objectives outlined by the Lathrop City Council for service plan levels at or above current levels; cost reduction (achieved through substantially lower pension and startup costs); and, takes a significant step onto a platform that easily facilitates a low cost transition to our own police department in the future.

BACKGROUND:

The City of Lathrop has contracted law enforcement services through an agreement with the San Joaquin County Sheriff's Office (SJCSO) since 1990. The current agreement was approved by the City Council on April 17, 2017 and expires on June 30, 2022 however either party may terminate the contract upon 180 day written notices. Cost of service over the past 5 years has risen 50% to over \$7 million annually. The high cost of county service is attributed in large part to the rising costs of the 1937 pension act rates that are calculated as part of the officer's cost.

COUNTY PENSIONS VS. TRACY

For example, the pension cost for;

- A Co. Captain is ~\$155,000/yr vs. Tracy ~\$30,000 CalPERS
- A Co. Lt. is ~\$128,000/yr vs. Tracy ~\$27,000 CalPERS
- A Co. Sgt. is ~\$109,000/yr vs. Tracy ~\$22,000 CalPERS
- A Co. Patrol is ~\$77,000/yr vs. Tracy ~\$18,000 CalPERS

The pension costs are substantially different when comparing the two retirement systems.

The comparison of salary/benefits is relatively the same;

- A Co. Captain is ~\$208,000/yr vs. Tracy ~\$191,000
- A Co. Lt. is ~\$174,000/yr vs. Tracy ~\$176,000
- A Co. Sgt. is ~\$154,000/yr vs. Tracy ~\$146,000
- A Co. Patrol is ~\$120,000/yr vs. Tracy ~\$125,000

Therefore, by adding the salary/benefits/pension of the officers, the County officer costs are substantially higher;

- **A Co. Capt. costs ~\$142,000 more than Tracy**
- **A Co. Lt. costs ~\$99,000 more than Tracy**
- **A Co. Sgt. costs ~\$95,000 more than Tracy**
- **A Co. Patrol costs ~\$54,000 more than Tracy**

If we anticipate a service plan that includes 28 officers (1 Captain, 1 Lieutenant, 4 Sergeant, and 22 Officers) the additional cost, largely driven by pensions, amounts to roughly.

\$1,809,000 in additional cost under County system

COUNTY STARTUP COST VS. TRACY

The County charges \$294,000 in startup costs for each new officer regardless of whether it is a new recruit, academy grad or a lateral from another agency. The charge is amortized over 15 years however if the contract is terminated for any reason, the full amount is due and payable. When adding officers to the force, this dramatically inflates the financial obligation owed on the contract.

For example, if we add a new officer under the County agreement Lathrop will pay;

- Officer - Salary/benefits/pension of \$197,000 + \$294,000 startup
Or, \$491,000 total initial cost/officer

The City of Tracy's startup costs are as follows;

- New Recruit – salary/benefits/pension of \$143,000 + \$160,000 startup
(Includes equipment +12 months training and orientation)
Or, \$303,000 total initial cost/officer
- Academy Grad - salary/benefits/pension of \$143,000 + \$84,000 startup
(Includes equipment +6 months training and orientation)
Or, \$227,000 total initial cost/officer
- Lateral Officer - salary/benefits/pension of \$143,000 + \$48,000 startup
(Includes equipment +3 months training and orientation)
Or, \$191,000 total initial cost/officer

As evidenced above, startup charges as the force grows significantly increases cost. There are other factors driving the county agreement cost higher such as overhead calculated for the Sheriff, Information Technology and County Administration that amount to more than \$400,000/year.

SERVICE PLAN COST

In summary, a side by side comparison of similar service plans with 28 officers (2 officers on the Tracy side being non-sworn Community Service Officers) is roughly \$2.5 million cheaper on the Tracy plan vs. the County plan.

COUNTY \$8.5M VS. TRACY \$6M

10 YEAR PROJECTIONS

San Joaquin County cost projections for salaries, insurance and retirement are based on the past 5 years and Tracy's are based on historical numbers and a new actuarial for pensions and projected out 10 years.



Note: The Tracy's officer costs used in the chart above were all calculated at top step of the salary range. Realistically, not all officers are at the top step; therefore, the Tracy projection is conservative.

ESTIMATED TRANSITION COSTS – COUNTY TO TRACY

	Estimated Overlap Costs	Building & Equipment	Total Transition Cost
Hiring Costs	\$672,775		
Officer Overlap Costs (1)	\$3,327,466		
Other Costs	\$96,000		
Total	\$4,096,241		
Lathrop Owned Equipment		\$522,725	
Dispatch & Records Equipment & Software (2)		\$579,107	
4850 Allocation (Worker's Compensation) (3)		\$200,000	
Total		\$1,301,832	
Total Transition Costs			\$5,398,073

LATHROP/TRACY AGREEMENT – SUMMARY OF TERMS

- Service plan would consist of 28 positions (26 sworn & 2 non-sworn)
- The level of service shall be determined by the City of Lathrop in consultation with the City of Tracy and subject to the City of Lathrop budget authority.
- The Lathrop Service Plan would be structured as a Community Based Police Force and would include but not be limited to programs such as Neighborhood & Business Watch, DARE/MADD, Youth & Senior Citizens Academy, Police Volunteer, Holiday Season Events and an enhanced focus on youth, both at school and in community activities.
- Service agreement termination – permitted after 3 years, either party may terminate contract with at least 24 months' notice.
- Replicates the current services provided by SJCSO and allows further additions at lower costs.
- City of Tracy would provide law enforcement services under State and City of Lathrop codes and ordinances.
- The Tracy Police Chief will present three candidates for Captain to be interviewed by the Lathrop City Manager and one member of the Lathrop City Council. Once selected, the Tracy Police Chief and the Lathrop City Manager shall jointly agree on the appointment of the City of Lathrop Police Captain.
- City of Lathrop would pay cost of service incurred by the City of Tracy.
- The Lathrop Police Department would begin services in Lathrop on July 1, 2019.

FISCAL IMPACT:

Both cities have worked together to develop accurate estimates of all the costs associated with this project. The basic goal of the fiscal analysis has been to insure that the full costs of services is accurately calculated so that the City of Tracy does not experience cost or service implications for providing service to Lathrop.

Tracy Police services cost are projected to be \$2.5 million less in the first year than the current agreement with SJCSO. In addition, over 10 years the savings are estimated to be \$24.6 million.

Due to long recruitment and training lead times, some positions will need to be hired 12 months in advance of the start date in order to ensure the staff members are fully trained by July 1, 2019. The initial start-up costs is estimated to be \$5.4 million.

ATTACHMENTS:

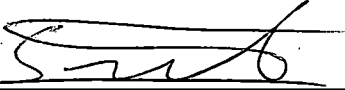
- A. Resolution Approving a Contract with the City of Tracy for Law Enforcement Services
- B. Municipal Law Enforcement Services Agreement Between the City of Tracy and the City of Lathrop

CITY MANAGER'S REPORT **Page 7**
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING
LAW ENFORCEMENT SERVICES CONTRACT WITH THE CITY OF TRACY

APPROVALS:

for Vanessa R. Patton
Cari James
Director of Finance

6.21.2018
Date


Salvador Navarrete
City Attorney

6-21-18
Date


Stephen Salvatore
City Manager

6.21.18
Date

RESOLUTION NO. 18-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP
APPROVING A CONTRACT BETWEEN THE CITY OF LATHROP AND THE CITY
OF TRACY FOR LAW ENFORCEMENT SERVICES**

WHEREAS, the City of Lathrop proposes to provide police services to its residents and businesses through a contract with the City of Tracy; and

WHEREAS, the City of Tracy has provided a Service Contract for Council consideration (Attachment B); and

WHEREAS, the City of Tracy Law Enforcement Service Contract proposes the following:

- Service plan would consist of 28 positions (26 sworn & 2 non-sworn)
- The level of service shall be determined by the City of Lathrop in consultation with the City of Tracy and subject to the City of Lathrop budget authority.
- The Lathrop Service Plan would be structured as a Community Based Police Force and would include but not be limited to programs such as Neighborhood & Business Watch, DARE/MADD, Youth & Senior Citizens Academy, Police Volunteer, Holiday Season Events and an enhanced focus on youth, both at school and in community activities.
- Service agreement termination – permitted after 3 years, either party may terminate contract with at least 24 months' notice.
- Replicates the current services provided by SJCSO and allows further additions at lower costs.
- City of Tracy would provide law enforcement services under State and City of Lathrop codes and ordinances.
- The Tracy Police Chief will present three candidates for Captain to be interviewed by the Lathrop City Manager and one member of the Lathrop City Council. Once selected, the Tracy Police Chief and the Lathrop City Manager shall jointly agree on the appointment of the City of Lathrop Police Captain.
- City of Lathrop would pay cost of service incurred by the City of Tracy.
- The Lathrop Police Department would begin services in Lathrop on July 1, 2019.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lathrop hereby approves the Service Contract for law enforcement services between the City of Lathrop and the City of Tracy;

The foregoing resolution was passed and adopted this 25th day of June, 2018, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:


ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

ATTACHMENT B

MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND THE CITY OF LATHROP TABLE OF CONTENTS

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EXHIBITS

1. First Year Service Plan
2. First Year Staffing Plan
3. Start-up Cost Budget
4. Annual Cost Budget

**MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT BETWEEN
THE CITY OF TRACY AND THE CITY OF LATHROP**

This **MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT** (“**AGREEMENT**”), dated for purposes of reference only, _____ 2018, is made by and between the **CITY OF TRACY**, a general law city, hereinafter referred to as “**TRACY**”, and the **CITY OF LATHROP**, a general law city, hereinafter referred to as “**LATHROP**”. **TRACY** and **LATHROP** are collectively referred to as “**Parties**.”

RECITALS

WHEREAS **LATHROP** is desirous of contracting with **TRACY** for the performance of the general law enforcement functions described herein by the **TRACY** Police Department, and

WHEREAS **TRACY** is agreeable to rendering such services on the terms and conditions set forth in this Agreement, and

WHEREAS This Agreement is entered into pursuant to California Government Code Sections 55631-55634 and Section 54980 et seq.

THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1.0 CONTRACT AUTHORIZATION

1.1 **TRACY** agrees to provide general law enforcement services, through the **TRACY** Police Department, within the incorporated limits of **LATHROP** to the extent and in the manner hereinafter set forth (“**Lathrop Police Services**”). The **Lathrop Police Services** are described in the First Year Service Exhibit attached as Exhibit 1.

1.2 Except as otherwise specifically set forth in this Agreement, such services shall only encompass duties and functions of the type coming within the jurisdiction of and customarily rendered by a city police department under the municipal code of **LATHROP** and the statutes of the State of California.

2.0 ADMINISTRATION OF PERSONNEL

2.1 During the term of this Agreement, the Chief of Police for the **TRACY** Police Department (“the **Tracy Chief**”) shall serve as the administrative head for all services rendered by **TRACY** pursuant to this Agreement and their designee shall serve as Chief of Police of **LATHROP** (“the **Lathrop Chief**”) and shall perform the functions of the Chief of Police for **LATHROP** as defined in section 3.5.1. **LATHROP** City Manager and the **Tracy Chief** will mutually agree on the appointment of a City of **Lathrop** Police Chief of which will be selected from the **Tracy** Police Department command staff level personnel, subject to compliance

with the TRACY Personnel Rules and existing Tracy Police Managers Association Memoranda of Understanding. The Lathrop Chief shall report to the LATHROP City Manager as any other designated Department Head employed by LATHROP regarding day to day business and operational issues related to Lathrop Police Services.

Additionally, it is understood that LATHROP will expect the Lathrop Chief or their designee to attend LATHROP City Council or other LATHROP directed meetings taking place during or after regular business and/or scheduled work times. In such an event, it is understood that the Lathrop Chief and/or their designee will adjust their work schedules accordingly. The Lathrop Chief shall report to the Tracy Chief on all employment and personnel related matters.

- 2.2 During the term of this Agreement, the LATHROP City Manager shall maintain a working knowledge of the Peace Officer's Bill of Rights (POBR) and TRACY's Memoranda of Understandings (MOUs) for the various represented labor groups assigned to perform the Lathrop Police Services. The LATHROP City Manager shall defer to TRACY on any issue of concern regarding the POBR or TRACY MOUs.
- 2.3 No officer, employee, or department of TRACY shall perform for LATHROP, services or functions which are outside the scope of their duties for TRACY as specifically related to the terms and conditions of this Agreement.
- 2.4 The services performed by the TRACY Police Department for LATHROP under this Agreement shall include the planning, organization, scheduling, direction, supervision, development and adherence to standards of performance relating to municipal law enforcement services. The discipline of officers and other matters incidental to the performance of such services and the control of personnel so employed shall remain with TRACY. The Tracy Chief shall retain exclusive authority over the activities of TRACY personnel assigned to LATHROP.
- 2.5 In the event of a dispute between the Parties regarding the extent and scope of the duties and functions to be rendered hereunder, or the minimum level or manner of performance of such service, LATHROP and TRACY agree to meet and confer prior to any final determination by TRACY.

LATHROP may request a review of performance of any TRACY personnel performing Lathrop Police Services. The Lathrop Chief, in consultation with the Tracy Chief or their designee and the LATHROP City Manager or designated representative, will conduct such review consistent with the applicable MOU and Police Officers Bill of Rights. Upon completion of the review, direction, additional training, and/or transfer of TRACY personnel will be implemented as deemed necessary by the Tracy Chief.

The management, direction, supervision and discipline of TRACY personnel, the standards of performance, and all other matters incidental to the performance of

services, shall be performed by, and be the responsibility of, TRACY through the Tracy Chief in Tracy Chief's sole but reasonable judgment and in accordance with the provisions of applicable MOUs. The Tracy Chief shall be the appointing authority for all personnel provided to LATHROP and shall have complete discretion as to the assignment of all individual TRACY personnel under this Agreement. Should LATHROP have an issue with any individual TRACY personnel assigned to LATHROP, the Tracy Chief and LATHROP City Manager shall meet and confer regarding any such issue.

Should the Lathrop Chief be the subject of a review of their job performance, the Tracy Chief or their designee will consult with the LATHROP City Manager or designated representative and LATHROP will be afforded the opportunity to provide input. The Tracy Chief will, at all times, endeavor to provide personnel agreeable to LATHROP; however the Tracy Chief retains final authority regarding selection and retention of TRACY personnel assigned to LATHROP.

- 2.6** All LATHROP employees who work in conjunction with the TRACY Police Department pursuant to this Agreement shall remain employees of LATHROP and shall not have any claim or right to employment, civil service protection, salary, or benefits or claims of any kind from TRACY based on this Agreement.
- 2.7** LATHROP shall not be called upon to assume any liability for the direct payment of any Police Department salaries, wages, or other compensation to any TRACY personnel performing services pursuant to this Agreement. Except as herein otherwise specified, LATHROP shall not be liable for compensation or indemnity to any TRACY employee or agent of TRACY for injury or sickness arising out of their employment as a contract employee of LATHROP, unless specifically caused by negligence on the part of LATHROP.
- 2.8** As part of its compliance with all applicable laws and regulations relating to employee hiring, TRACY agrees that TRACY Personnel Rules and Regulations, including those prohibiting discrimination on the basis of race, gender, sex, age or any other prohibited basis shall remain in effect. The Parties agree that TRACY and its employee associations have in existence MOUs that may change from time to time over the life of this Agreement. Both parties will endeavor to comply with all contractual obligations in said MOUs, to the extent they are impacted by the services and requirements of this Agreement. TRACY will inform LATHROP of executed changes to MOUs that will affect LATHROP services.
- 2.9** TRACY shall negotiate and administer all labor relations and personnel rules and procedures between TRACY and its employees rendering services under this Agreement.
- 2.10** If TRACY's provision of services is interrupted by strikes, boycotts or forces beyond TRACY's control, payment demand shall be prorated, TRACY will exert

reasonable effort to continue the provision of services. LATHROP may contract for law enforcement services from another agency during any such interruption. All employees employed by TRACY to perform services pursuant to the Agreement shall be and remain TRACY employees.

3.0 DEPLOYMENT OF PERSONNEL

- 3.1** General law enforcement services performed hereunder may include, if requested by LATHROP in writing, supplemental security support, supplemental sworn officer support, and supplemental professional civilian support staff upon approval of the Tracy Chief or their designee.
- 3.2** All persons employed in the performance of such services and functions for general law enforcement, including, but not limited to, sworn personnel, supplemental security support, supplemental sworn officer support, and supplemental professional civilian support staff shall be employees of TRACY, and not be employed by LATHROP, unless mutually agreed upon.
- 3.3** Services performed hereunder and specifically requested by LATHROP shall be developed in conjunction with the Tracy Chief. The Subsequent Year Staffing Plan is attached as Exhibit 2.
- 3.4** The amount and grade of staff assigned to LATHROP by TRACY for the provision of services under this Agreement will be determined by the Tracy Chief and subject to approval by the LATHROP City Manager. Any increase to minimum staffing level or budget increases will be subject to approval by LATHROP City Council. The Tracy Chief shall approve all staff selections, including assignments. The Tracy Chief will, at all times, endeavor to provide personnel agreeable to LATHROP as detailed in sections 2.5.
- 3.5** The method of selection, number of candidates for consideration, and management and supervision of TRACY personnel assigned to LATHROP shall be solely at the discretion of the Tracy Chief, subject to section 2.5 and the following:
 - 3.5.1** LATHROP POLICE CHIEF: Personnel with rank of Captain may serve in the role of "Lathrop Chief". The title of "Lathrop Chief" shall be ceremonial in nature as all lawful duties of a duly authorized law enforcement executive rest with the Tracy Chief. The "Lathrop Chief" carries only the level of authority and responsibilities of a Tracy Captain as defined in the TRACY Police Captain job description.

The Tracy Chief will endeavor to provide a list of at least three (3) qualified internal candidates for the Lathrop Chief position to the LATHROP City Manager for consideration. The Tracy Chief, one LATHROP elected official and LATHROP City Manager will meet and interview the candidates then mutually agree on the selection of the LATHROP Chief.

- 3.5.2** LIEUTENANT: A Lieutenant shall be appointed by the TRACY Chief to serve LATHROP. The Lieutenant may serve the role as Administrative Lieutenant or Watch Commander, consistent with the duties associated with those roles within the Tracy Police Department. The Tracy Chief will, at all times, endeavor to provide personnel agreeable to LATHROP.
- 3.5.3** SERGEANT: Sergeants shall be selected and retained for this assignment, consistent with the duties associated with those roles within the TRACY Police Department and the Shift Selection policy within the Tracy Police Officers Association MOU.
- 3.5.4** Special Assignments (e.g. School Resource Officer, Community Service Officer, Investigator, Canine Officer, Motor Unit Officer, etc.): Special Assignments shall be appointed to serve LATHROP when requested by LATHROP. Special Assignments shall be selected and retained for this assignment consistent with the duties associated with those roles within the TRACY Police Department. Personnel assigned to LATHROP for special assignments shall remain in said assignment for a duration consistent with the MOU for the assigned personnel. This provision shall not limit the ability of the Tracy Chief to transfer personnel due to normal attrition or the application of Tracy Personnel Rules, Regulations and MOUs. This provision shall not limit the number of personnel transferred to and from LATHROP. Normal attrition is defined as promotion, termination, retirement, or those transfers that are mutually agreeable to both the TRACY Police Department and LATHROP. The method of selection and number of candidates to be considered for these assignments shall be solely at the discretion of the Tracy Chief.
- 3.6** Should LATHROP request a change in the Service Plan or Staffing Level, an amendment to this Agreement shall be signed and authorized by LATHROP and approved by the TRACY City Manager or his designee (which authority is delegated to the TRACY City Manager by the City Council of TRACY as a signatory to this Agreement) as an amendment to the level of service subject to the following:
- 3.6.1** Increases in staffing may occur within a reasonable time period following a request by LATHROP for such increase. The Parties agree that any increase in staffing must be accommodated by a commensurate increase in payment to TRACY. Staffing increases will be made at a time agreeable to the Tracy Chief and LATHROP. It is recognized this increase may be extended for purposes of adding and training applicable staff, including recruits enrolled in police academies.
- 3.6.2** Decreases in staffing may occur when LATHROP requests such decrease, subject to the approval of TRACY. Staffing decreases will be made at a time agreeable to the Tracy Chief and LATHROP and shall be implemented in a manner consistent with all applicable TRACY personnel rules and

regulations, policies and procedures and MOU's. Minimum staffing levels to be maintained in the event of decreases in workforce shall be mutually agreed upon. In the event of a recession or significant reduction in operating revenue, the Parties agree to meet and confer regarding decreases in staffing, but at no time will minimum staffing be fixed at a level below that which the TRACY Chief determines to be unsafe for either the public or staff.

3.6.3 Unless otherwise mutually agreeable between TRACY and LATHROP, increases/decreases in staffing will not be effective prior to 180 days after a written agreement to said effect is fully executed by both parties.

3.7 LATHROP is not limited to the foregoing services, but may also request any other service in the field of police services or related fields within the legal power of the Tracy Chief to provide upon written approval of the LATHROP City Manager and approval of the Tracy Chief or his designee.

3.8 LATHROP shall have the right to request alternate work schedules including but not limited to 12, or more, hour work shifts for Patrol Officers. LATHROP understands changes in the work schedule are subject to negotiation between TRACY and the affected TRACY employee associations.

3.9 No code enforcement or animal control services shall be performed under this Agreement, with the exception of citations issued incidental to a police contact.

During the initial startup period scheduled for July, 2019 the minimum staffing levels shall be at least 20 officers for the Lathrop Division, if the desired minimum staffing level of 26 officers is not obtained at that time. This short term staffing level will account for street patrol positions, including field supervisors, K9 officers, community service officers, and does not include detectives or other agreed upon positions.

Minimum staffing levels shall result in the scheduling of at least 26 officers and two non-sworn community service officers for the Lathrop Division. The minimum positions include: 1/2 Deputy Chief (starting FY 2020/21), 1 Captain, 1 Lieutenant, 4 Sergeants, 2 Corporals, 2 K9 Officers, 2 Motor Officers, 2 Detectives, 2 School Resource Officers, 2 Community Service Officers and 10 Officers.

3.10 In the event an officer is unable to perform all the duties of a peace officer due to workplace injury incurred as a result of work performed as staff of the Lathrop Division, LATHROP shall pay all 4850 time, overtime and/or replacement officer time for that injured officer.

4.0 PERFORMANCE OF CONTRACT

- 4.1** For the purpose of performing said functions, TRACY shall furnish and supply all necessary labor, supervision, communication facilities, and supplies necessary to maintain the agreed upon level of service to be rendered.
- 4.2** Notwithstanding the foregoing, LATHROP at its discretion may provide additional resources for TRACY to utilize in performance of the services as requested by TRACY.
- 4.3** LATHROP shall supply TRACY with a local office for maintaining a law enforcement headquarters, or Police Department substation, within the LATHROP City boundaries. LATHROP shall furnish, at its own cost and expense, all necessary office space, furniture, furnishings, office supplies, administrative support, janitorial service, telephone, internet, light, water, sewer and other utilities. It is understood that personnel supplied by LATHROP to provide administrative support and janitorial support shall be required to pass a background check conducted by or approved by TRACY. LATHROP shall provide TRACY police personnel with work space suitable for twenty-four hours per day seven day per week operations. LATHROP shall seek input from TRACY on the design and construction of such work space. LATHROP shall have final discretion on the design and construction of the work space.
- 4.4** Notwithstanding the foregoing, LATHROP shall provide all fixed assets as set forth in Exhibit 3, which is incorporated herein by this reference. LATHROP shall directly lease and/or purchase any and all additional fixed assets, which are necessary for the performance of the law enforcement services under this Agreement. Fixed assets are defined as items with a purchase cost of five thousand dollars (\$5,000.00) or more and a service life of greater than one year.
- 4.4.1** Vehicles utilized by TRACY in connection with the performance of services under this Agreement shall be marked so as to designate such as LATHROP vehicles with LATHROP logos. TRACY insignia and logos may also be displayed on LATHROP vehicles. LATHROP logos shall be approved in advance by LATHROP City Manager and the Tracy Chief.
- 4.5** Notwithstanding the foregoing, it is mutually agreed that in all instances where special supplies, stationery, notices, logos, forms, and the like must be issued in the name of the said LATHROP, the same shall be supplied by the LATHROP at its own cost and expense.
- 4.6** Start-up costs consisting of pre-employment costs, salaries and benefits of trainees and field training officers, peace officer training academy costs, and on the job training costs incurred by the hiring of officers or replacement officers for the staff assigned to LATHROP, equipment purchases or leases, facility modifications and other costs identified in the Start-up Cost Budget (Exhibit 3) shall be payable by LATHROP to TRACY. The Start-up Cost Budget shall only include direct costs incurred by TRACY and are currently budgeted at Five Million Five Hundred Thousand Dollars (\$5,500,000.00). A deposit of Seven Hundred and Fifty

Thousand Dollars (\$750,000.00) shall be provided by LATHROP to TRACY within 15 days of the execution of this Agreement toward start-up costs. Start-up costs shall not be amortized. Monthly invoices shall be submitted by TRACY to LATHROP for costs incurred during the start-up period.

4.7 LATHROP shall pay for Information Technologies (IT) support provided by and directed by TRACY for desktop, printers/copiers, phone system, file server and networking equipment up to the LATHROP owned firewall as well as all computers and equipment for these functions.

4.7.1 TRACY will be responsible for networking between TRACY and the office housing the Lathrop Police Services including the equipment up to the TRACY network point of presence.

4.7.2 TRACY will provide e-mail, internet services, cellular phone service and access to Police Department law enforcement specific applications as deemed appropriate by the Tracy Chief. TRACY will work with LATHROP to ensure that all required applications are installed and working properly on LATHROP owned desktops and other communication devices.

4.7.3 Access to law enforcement data, data residing on TRACY Police Department systems and related data residing on TRACY servers is confidential. All LATHROP employees who may have access to confidential law enforcement data shall maintain the Criminal Offender Record Information system and the California Law Enforcement Telecommunication System certification. Any release of data to any entity outside of the TRACY Police Department or Lathrop Police Services must be pre-authorized by the Tracy Chief or their designee.

LATHROP shall provide a server that TRACY staff will use for storing law enforcement data. All data that resides on the LATHROP provided server will be considered, to the degree allowable by applicable law, confidential information of the TRACY Police Department. When a LATHROP employee working with TRACY on Lathrop Police Services separates from employment, LATHROP will notify, by e-mail LATHROP and TRACY Information Technologies departments. LATHROP and TRACY shall suspend the account as indicated by the date of separation. Any data related to the separated employee that is housed on LATHROP owned servers as well as LATHROP file server will be archived within 30 days to DVD.

4.7.4 Data center access at the Lathrop Police Services facility shall be controlled via an automated system. Access to the data center shall be permitted on a twenty-four hour seven day basis to designated LATHROP IT Staff, designated TRACY Police Department IT staff and/or designated TRACY network staff. Access to the data center shall be logged and maintained via an automated system for a minimum of 12 months. Requests for access to the security logs shall be in writing to the designated LATHROP contact

and are explicitly authorized for the LATHROP Chief or their designee and the Tracy Chief or their designee. The requests shall be fulfilled within 5 business days. In the event that the LATHROP City Manager or their designee requests security logs related to TRACY employees, the Tracy Chief or their designee shall be notified of the request and provided a copy of the logs.

- 4.7.5 No unauthorized hardware or software shall be used on any of the Lathrop Police Services facility computer systems or networking equipment. Authorization shall be provided by the TRACY Chief or their designee.
- 4.7.6 LATHROP IT staff shall work with TRACY IT staff on any required new or updated software or hardware installations.
- 4.7.7 LATHROP shall provide other services as may be required (e.g. access to fuel filling, maintenance of LATHROP owned real estate facilities) that may be necessary to ensure safe and efficient operations.
- 4.7.8 TRACY will maintain custody reports and records it creates while performing services under this Agreement. LATHROP may review these records upon request, unless prohibited by law. LATHROP shall pay for the cost of producing the records and/or reports. Upon reasonable notice, either party will have the right to inspect all public records maintained by the other party relevant to this Agreement, to the extent permitted by law.

5.0 INDEMNIFICATION

- 5.1 LATHROP, its officers and employees, by this Agreement, shall not assume any liability for the direct payment of any claims, settlements or judgments resulting or arising solely from any negligent or wrongful act or omission of TRACY, its officers and employees in performing the services or functions provided for in this Agreement. TRACY shall hold LATHROP, its officers and employees harmless, and indemnify and defend LATHROP, its officers and employees, against the direct payment of any and all costs, expenses, claims, suits and liability for bodily or personal injury to or death of any person and for injury to or loss of any property resulting from or arising out of any negligent or wrongful acts or omissions of TRACY, its officers and employees, in performing or in failing to perform any work, services or functions provided for, referred to in or in any way connected with services or functions to be performed under this Agreement.
- 5.2 TRACY, its officers and employees, by this Agreement, shall not assume any liability for the direct payment of any claims, settlements or judgments resulting or arising solely from any negligent or wrongful act or omission of LATHROP, its officers and employees, nor for any dangerous condition of the streets or property of LATHROP, and LATHROP shall hold TRACY, its officers and employees, harmless, and indemnify and defend TRACY, its officers and employees, against

any and all costs, expenses, claims, suits and liability for bodily and personal injury to or death of any person and for injury to or loss of any property resulting therefrom or arising out of with any negligent or wrongful acts or omissions of LATHROP, its officers and employees, in performing or authorizing the performance of or in failing to perform or authorize the performance of any work, services or functions provided for, referred to in or in any way connected with services or functions to be performed under this Agreement.

- 5.3** The Parties agree to provide one another prompt notice of any claims or lawsuits arising out the performance of services under this Agreement. All notices required to be given pursuant to this Agreement shall be in writing and shall be delivered by hand or certified mail, postage prepaid, return receipt requested, to the following addresses:

To LATHROP at:
OFFICE of the CITY MANAGER
Lathrop City Hall
390 Towne Centre Drive
Lathrop, CA 95330

To TRACY at:
OFFICE of the CITY MANAGER
Tracy City Hall
333 Civic Center Plaza
Tracy, CA 95376

- 5.4** DEFENSE OF ORDINANCES.

To the extent that the Lathrop Police Services are required to enforce ordinances of the LATHROP, LATHROP agrees to defend and/or indemnify TRACY against any action contesting the Constitutionality, conflict with state law, legality or procedural propriety of said ordinances and/or codes of LATHROP.

6.0 TERM OF CONTRACT

- 6.1** Unless sooner terminated as provided for herein, this Agreement shall be effective July 1, 2018 and shall remain in effect until June 30, 2028. This term includes a twelve (12) month start-up period prior to the commencement of services. The Service Commencement Date shall be 210 calendar days from the date that written notice is provided by TRACY to LATHROP. The Service Commencement Date shall be no later than January 1, 2020.
- 6.2** At the option of LATHROP and with the consent of TRACY, this Agreement may be renewed for successive periods of two (2) years at a time extending beyond the June 30, 2028 termination date noted in 6.1. The Party seeking to extend the Agreement shall provide the other Party with written notice of its intent to renew at least twenty-four (24) months before expiration of Agreement.

7.0 RIGHT TO TERMINATION

- 7.1** Parties agree this Agreement may not be terminated during the first five (5) years following the Service Commencement Date. After the initial three (3) years, either party may, with or without cause, give written notice to the other of its intent to terminate the Agreement. Said written notice shall be given at least twenty four (24) months prior to the date specified for such termination.
- 7.2** In the event of a termination, each party shall fully discharge all obligations owed to the other party accruing prior to the date of such termination, and each party shall be released from all obligations that would otherwise accrue subsequent to the date of termination; provided, however, that all rights and obligations pursuant to sections 5.1-5.3 shall survive termination and expiration of this Agreement until such time as applicable statutes of limitation have expired on all potential claims for services rendered under this Agreement.

8.0 COMPENSATION

- 8.1** LATHROP shall pay monthly for the services provided by TRACY under the terms of this Agreement. The annual cost categories are described in Exhibit 4 which provides an estimated Annual Budget. Charges include:
- a) Police personnel expenses as allocated in the approved annual budget as reported by the Finance Director of TRACY monthly in the Tracy Chief-Lathrop Police Services budget in support of Lathrop Police Services;
 - b) Support Service costs incurred by other divisions of the TRACY Police Department in support of Lathrop Police Services as detailed in section 8.1.3 below;
 - c) Direct non-TRACY Police Department costs attributable to Lathrop Police Services as calculated by the TRACY Finance Director.
 - d) All other annual costs incorporated into this Agreement for services as set forth in Exhibit4.
- 8.1.1** Personnel Billing Rate. Personnel billing rates are calculated annually by TRACY and shall be used to determine costs for services provided by TRACY employees assigned to Lathrop Police Services. The billing rate shall include salary and fringe benefits consistent with TRACY costs for non-Lathrop Police Services.
- 8.1.2** Pension Rate Charges. Pension obligations of staff performing Lathrop Police Services shall be fully captured in the Personnel Billing Rates. Personnel Billing Rates for start-up cost expenses and in the first year of service beginning on the Service Commencement Date shall include only the Normal Cost as defined by Bartel Associates or another actuarial firm acceptable to the TRACY City Manager and the LATHROP City Manager. Personnel costs in second year of service and all subsequent years shall be

determined by Bartel Associates or another actuarial firm acceptable to the TRACY City Manager and the LATHROP City Manager. Any differential existing between the actuarial pension obligations, which includes funded and unfunded obligations, and actual paid shall be paid or reimbursed at the termination of this Agreement.

- 8.1.3** Personnel. TRACY will provide the agreed number of personnel allocated to the Lathrop Police Services budget during the annual budget cycle. LATHROP shall pay for the cost of said personnel on a monthly basis by paying actual payroll cost as invoiced by TRACY in accordance with the Section 9 Payment Procedures. The agreed number of personnel shall be set forth in the Subsequent Year Staffing Plan (Exhibit 2).
- 8.1.4** Support Services. TRACY will provide necessary support services for staff assigned to LATHROP, including communications, records, case management, and evidence room services. The cost of Communication Center Services shall be allocated based upon the proportional calls for service for LATHROP. LATHROP shall pay for the proportional cost of service on a monthly basis by paying actual payroll cost as invoiced by TRACY.
- 8.1.5** Extra Staff. Extra personnel may be needed from time to time. For example, unusual crimes, investigation circumstances, emergencies, urgent situations, planned LATHROP sponsored functions and/or special events, may require extra staffing. During these situations, the assignment of extra staff shall be determined by the Tracy Chief in order to preserve staff and public safety. The costs for these services will be billed based upon hours performed for LATHROP. LATHROP shall pay for the cost of said personnel on a monthly basis by paying actual payroll cost as invoiced by TRACY.
- 8.1.6** Non-Staff support. The costs of other services, equipment, vehicles, or other fixed assets are set forth in the Annual Cost Budget (Exhibit4). LATHROP shall pay for the cost of said personnel on a monthly basis by paying actual payroll cost as invoiced by TRACY.
- 8.2** TRACY agrees that relevant financial records shall be made available to LATHROP to audit and examine if LATHROP requests such audit and examination, in writing, to the Tracy Chief or their representative. Said records shall be made available for audit and inspection not later than thirty (30) calendar days after receiving the request. Any such audit performed by LATHROP shall be performed by a firm mutually agreed upon by both TRACY Finance Director and the LATHROP Finance Director. If such audit or examination is performed by LATHROP staff, all methodology of review shall be mutually agreed upon by TRACY Finance Director and the LATHROP Finance Director.

- 8.3** TRACY agrees to provide LATHROP with a Proposed Service Plan and Annual Cost Budget for Lathrop Police Services no later than January 1st of each year. The Service Plan shall include:
- a. Staffing Level
 - b. Dispatch / Communications service provided
 - c. Training Requirements
 - d. Vehicle Requirements
 - e. Equipment and Technology Requirements
 - f. Other services necessary to execute the Lathrop Police Services

The Annual Cost Budget shall be in a format consistent with Exhibit 4 or in an alternate format acceptable to the TRACY Finance Director and the LATHROP Finance Director.

Between January 1st and February 15th of each year LATHROP and TRACY staff shall meet to finalize the subsequent fiscal year Service Plan and Annual Cost Budget. LATHROP and TRACY shall present the proposed budget to their respective City Councils for consideration by April 1st of each year.

- 8.4** In the event of any delay in the adoption of an annual Service Plan and estimated cost pursuant to this provision, TRACY is authorized to continue providing services in accordance with the previously adopted Service Plan and LATHROP agrees to pay all expenses incurred.
- 8.5** Any required changes to the level of service during the budget year shall require the mutual agreement of the parties and written approval by the LATHROP City Manager.
- 8.6** Any increases to any of the above staff and non-staff costs shall be paid by LATHROP.
- 8.7** With respect to maintenance and provisioning of vehicles, LATHROP shall be responsible for the repair and/or maintenance of LATHROP vehicles. LATHROP shall maintain all vehicles according to the standards mutually agreed upon between the Parties. TRACY will require an annual inspection of maintenance and repair records for all vehicles utilized by TRACY personnel for LATHROP. Said records inspection will be performed by TRACY Fleet Services Division personnel. Vehicles not passing said a reasonable records inspection shall be repaired and/or replaced as necessary and updated records provided for further review. All vehicles must be reasonably maintained and/or repaired to the satisfaction of TRACY. If deemed necessary by TRACY, any physical inspections of vehicles by TRACY Fleet Services staff shall be performed at additional cost to LATHROP at the applicable rates (including salary and benefits) for said TRACY staff.

9.0 PAYMENT PROCEDURES

- 9.1** TRACY shall submit to LATHROP within thirty (30) days after the close of each calendar month a summarized invoice which includes actual staff costs incurred and actual costs for capital outlay items for said month, and LATHROP shall pay TRACY for all amounts within thirty (30) days after date of said invoice.
- 9.2** If such payment is not delivered to the TRACY office that is described on said invoice within fifteen (15) days after the date of the said invoice, TRACY is entitled to recover interest thereon. For all disputed amounts, LATHROP shall provide TRACY with written notice of the dispute including the invoice date, amount, and reasons for the dispute within fourteen (14) days after receipt of the said invoice. The parties shall memorialize the resolution of the dispute in writing. For any disputed amounts, interest shall accrue if payment is not received within thirty (30) days after the dispute resolution is memorialized. In the event that invoices remain outstanding for over one hundred and twenty (120) days, TRACY may, in its sole discretion, require a deposit from LATHROP in the amount of three (3) months estimated payments. Failure to make said deposit shall be a breach of this Agreement.
- 9.3** Costs to be paid by LATHROP to TRACY shall be adjusted annually based upon increases in salary and benefits and the level of service agreed to in the annual budget process.
- 9.4** Any reimbursement received by TRACY from any non-TRACY funding source for services charged to LATHROP (e.g. parking citation revenue) shall be credited to LATHROP, subject to a reasonable processing fee agreed upon between the Parties.
- 9.5** All net asset forfeiture monies generated within LATHROP, excluding Federal, will be dispersed to LATHROP by TRACY. LATHROP agrees to keep the funds in a separate asset forfeiture account and to utilize the asset forfeiture money only for law enforcement purposes and within the guidelines established for the expenditure of asset forfeiture money. Federal asset forfeiture monies generated within LATHROP shall be held by TRACY in the established fund and TRACY shall provide statements upon request as to any expenditures and the ending balance of the Federal asset forfeiture fund.

10.0 ENTIRE AGREEMENT

This Agreement shall constitute the complete and exclusive statement of the parties that supersedes all previous agreements, written or oral, and all communications between the parties relating to the subject matter hereof. All changes or amendments to this Agreement must be in writing and mutually executed by authorized personnel on behalf of LATHROP and TRACY.

11.0 DISPUTE RESOLUTION

The Parties agree that that they will endeavor to resolve any and all disputes informally and in good faith. In the event that the parties are unable to resolve a dispute informally, the parties agree that the dispute must be submitted to mediation before a neutral mediator agreed upon by both

parties. In the event that mediation is unable to resolve the dispute, the aggrieved party may initiate litigation only in the San Joaquin Superior Court. Both parties agree that any dispute shall only be heard by the Court without a jury.

12.0 AMENDMENTS

This Agreement may only be amended in writing by an amendment authorized by TRACY City Council and LATHROP City Council.

13.0 GENERAL PROVISIONS

- 13.1** There shall be no assignment of this Agreement by either party.
- 13.2** The Parties understand, agree and acknowledge that (i) this Agreement has been freely negotiated by both Parties; and (ii) in any controversy, dispute or contest over the meaning, interpretation, validity, or enforceability of this Agreement or any of its terms or conditions, there shall not be any inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Agreement or any portion thereof.
- 13.3** The Parties agree to cooperate in the execution of additional documents or agreements necessary to carry out this Agreement. The Tracy City Manager, or their designee, and Lathrop City Manager, or their designee, are authorized to execute any such additional documents or agreements.
- 13.4** The Parties shall comply with Federal, state and local laws in regards to nondiscrimination in employment. All nondiscrimination rules and regulations required by law are deemed incorporated by reference. The Parties shall comply with all Federal and state equal opportunity laws.
- 13.5** The Parties agree to abide by the State of California Law Enforcement Mutual Aid Plan.
- 13.6** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
- 13.7** If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the parties' intent under this Agreement.
- 13.8** Paragraph headings as used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

- 13.9** All exhibits referred to herein are attached hereto and are by this reference incorporated herein.
- 13.10** The Parties agree that the provisions of this Agreement are not intended to directly benefit, and shall not be enforceable by, any person or entity not a party to this Agreement.
- 13.11** This Agreement shall be binding upon and all inure to the benefit of the successors of the Parties. The Parties may not assign any right or obligation hereunder without written consent of both Parties.
- 13.12** Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.
- 13.13** This Agreement is made under the Constitution and laws of the State of California.
- 13.14** In the event any provision of this Agreement is determined to be illegal or invalid for any reason, all other provisions and sections of this Agreement shall remain in full force and effect unless and until otherwise determined. The illegality of any provision of this Agreement shall in no way affect the legality and enforceability of any other provisions of this Agreement.

**MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT BETWEEN
THE CITY OF TRACY AND THE CITY OF LATHROP**

WITNESS WHEREOF, the parties have caused this AGREEMENT to be subscribed on its behalf by its respective authorized officers.

Dated at Tracy, California, this ____ day of _____, 2018.

City of TRACY

By: _____
Mayor Robert Rickman

ATTEST:

By: _____
Adrienne Richardson, City Clerk

APPROVED AS TO FORM:

By: _____
Thomas Watson, City Attorney

City of LATHROP

By: _____
Mayor Sonny Dhaliwal

ATTEST:

By: _____
Teresa Vargas, City Clerk

APPROVED AS TO FORM:

By: _____
Salvador Navarrete, City Attorney

Lathrop-Tracy Police Services Description

The City of Tracy will provide full service municipal police services to the City of Lathrop. The services will encompass general law enforcement and public safety functions normally provided in cities within California. The services include the enforcement of State statutes and City codes and ordinances. The Lathrop Police Department's principal responsibility will be protecting life and property while preserving the public peace. The Community Policing philosophy, which encompasses partnerships and problem solving, will be one of the primary values of the Department.

Officers will respond to calls for service, investigate crimes, make necessary and appropriate arrests, seek prosecution of criminal acts, and engage in crime prevention strategies with community stakeholders. Traffic safety, which includes education and enforcement, will be a high priority. Community outreach will focus on youth, cultural, and neighborhood groups.

These services consist of, but are not limited to:

- Patrol, including Canine Officers and Field Training Officers
- Traffic Safety, including Motor Officers
- Investigations including on-site detectives and supplemental detectives for major or specialized cases
- Crime Scene Investigation
- School Resource Officers
- Community Services Officers (Non-sworn)
- Community Policing: partnering with community groups to address issues
- Specialized Services, such as SWAT, Critical Incident management and negotiations
- Crime Prevention
- Crime Analysis
- Police Administrative functions

In addition, the City Tracy will provide all typical law enforcement support services including:

- Dispatch: 911 and non-emergency calls
- Police Records: processing reports and citations, and public information
- Property and Evidence services
- Provision and maintenance of officer related equipment

To provide the service levels described above requires approximately twenty-six (26) Peace Officer positions, two Community Services Officers, and a still undetermined number of other support and specialized positions. It is anticipated that the majority of the new staff would be lateral hires from other departments. The new contract services will be branded as the Lathrop Police Department with unique uniform patches, business cards, and vehicle markings.

There will be extensive emphasis on community engagement prior to the initiation of service and during the first year that will continue into future years. The activities will cultivate positive relationships among community members and police staff. One of the primary areas of focus will be with youth both at school and in community based activities. Other areas of focus will be with neighborhood and business groups and the faith-based community. There are a number of strategies that will be utilized including:

- Chiefs Community Advisory Board
- Town Hall Meetings
- Neighborhood & Business Watch
- Coffee with a Cop
- School Resource Officers
- Participation in youth sports activities
- Partnering with community, fraternal, and faith based groups
- Police Department open house and Safety Fair
- Traffic safety events
- Holiday Season community event; i.e., shop with a cop or food drive
- Police volunteer program

Law enforcement services provided to the City of Lathrop will be closely coordinated with the Lathrop City Manager and his staff. Specific issue areas will be identified for concentrated attention as needed. The Lathrop Police Chief will attend City Council meetings representing his or her Department and respond to community inquiries as needed. The Department will also coordinate with other community serving agencies including the Lathrop Manteca Fire District, the Manteca Unified School District. The Chief will meet with community leaders, special task forces and other ad hoc committees and groups as needed. These activities will insure a congruent and responsive relationship with the community and its leaders.

The Police Department will emphasize that each officer and staff member recognize that daily activities and contacts with community members are essential to establishing an atmosphere of trust and transparency with the community they serve. Each contact is an opportunity to create a positive impression, enhance community relations, and gain a partner in public safety. These actions support the Lathrop-Tracy Police Department's mission of being; *A Professional Organization Entrusted by Our Community to Ensure a Safe and Prosperous Environment While Enhancing The Quality of Life.*

**Staff Positions and Annual Cost (with FY 2017-18 salary/benefit rates) - Tracy / Lathrop Police Services
Exhibit 2**

Permanent Staff Positions

<u>Tracy Police Department Sworn</u>	<u># of Positions</u>
Captain	1.0
Lieutenant	1.0
Sergeant	4.0
Corporal (FTO)	2.0
K9 Officer	2.0
Officer	10.0
Motors	2.0
Detectives	2.0
School Resource Officer	2.0
Professional Standards Officer (portion of 1 position)	0.23
Total PD Sworn costs	26.2

<u>Tracy Police Department Non-Sworn</u>	<u># of Positions</u>
Community Services Officer	2.0
Training Officer (portion of 1 position)	0.23
Rangemaster (portion of 1 position)	0.23
Dispatcher	4.0
Records Assistant	1.00
Information Systems Technician II	1.0
Total PD Non-Sworn Costs	8.46

Total Tracy Annual Labor Costs paid by Lathrop

(a) Includes salary (Step E), PERS Normal Cost only, Workers Comp., Social Security, Medicare and health insurance (max. contribution).

<u>Lathrop staffing</u>	<u># of Positions</u>
Police Office Manager	1.0
Sr. Administrative Assistant	1.0
Management Analyst	1.0
	3.0

Labor Charges only when Services are Provided

SWAT
Crime Scene Investigations
Supplemental Detectives
Hostage Negotiations
Special investigations (large narcotics)
Directed enforcement unit (gangs)
Traffic fatalities
Animal services support

**Startup Cost Budget (with FY 2017-18 salary/benefit rates) - Tracy / Lathrop Police Services
Exhibit 3**

<u>Cost Category</u>	<u>Annual Salary</u>				<u>Estimated Startup Cost</u>
	<u># of Positions</u>	<u>+ Benefit Cost of Position</u>	<u># of months</u>	<u>% of year</u>	

STAFF COSTS (Budgeted Positions)

Tracy Police Department Sworn

Captain	1	\$ 221,362	8	67%	\$ 147,575
Lieutenant	1	\$ 203,234	3	25%	\$ 50,808
Sergeant	4	\$ 167,956	1	8%	\$ 55,985
Corporal (FTO)	2	\$ 155,327	10	83%	\$ 258,879
K9 Officer	2	\$ 151,032	3	25%	\$ 75,516
Officers (6 Recruits Academy)	6	\$ 143,257	12	100%	\$ 779,543
Officers (4 Recruits Post Academy)	4	\$ 143,257	6	50%	\$ 286,514
Officers (8 Recruits Lateral Transfer)	8	\$ 143,257	9	75%	\$ 859,543
Officers (8 Recruits Lateral Transfer)	8	\$ 143,257	6	50%	\$ 573,029
Motors	2	\$ 147,580	0	0%	\$ -
Detectives	2	\$ 148,287	0	0%	\$ -
School Resource Officer	2	\$ 148,287	0	0%	\$ -
Professional Standards Officer (portion)	0.23	\$ 154,799	0	0%	\$ -
Training Officer (portion)	0.23	\$ 140,689	0	0%	\$ -
Rangemaster (portion)	0.23	\$ 138,955	0	0%	\$ -
Total PD Sworn costs					\$ 3,087,392

Tracy Police Department Non-Sworn

Community Services Officer	2	\$ 97,378	3	25%	\$ 48,689
Dispatcher	4	\$ 117,558	4	33%	\$ 156,744
Records Assistant	1	\$ 98,875	3	25%	\$ 24,719
Information Systems Technician II	1	\$ 119,070	1	8%	\$ 9,923
Total PD Non-Sworn Costs					\$ 240,074

<u>Staff On-boarding Costs</u>	<u># of Exams</u>	<u>One time cost</u>		
Police Academy Tuition				\$ 30,000
Trainee ammunition costs				\$ 9,000
Incentive program				\$ 75,000
Referral program				\$ 24,000
Background, Psyche and Medical	40	\$ 3,200		\$ 128,000
Total Other Department Costs				\$ 266,000

Total City of Tracy Startup Staff Cost Estimate **\$ 3,593,466**

NON-STAFF STARTUP COSTS

Services and Supplies / Maintenance

Vehicle maintenance / gas	\$ 15,000
Maintenance of vehicles	\$ 31,000
Services and Supplies	\$ 25,000

Officer Gear

New Officer gear (26 x \$8,798.51)	\$ 228,761
New CSO gear (2 x \$3,998.14)	\$ 7,996
New Motor Officer gear (2 x \$16,259.00 equipment only)	\$ 32,518
K9 Officer gear (includes one Tahoe)	\$ 46,000

<u>Cost Category</u>	<u>Annual Salary</u>				<u>Estimated Startup Cost</u>
	<u># of Positions</u>	<u>+ Benefit Cost of Position</u>	<u># of months</u>	<u>% of year</u>	

<u>Training</u>					
Promotional training Corporal (2 x \$2,400)					\$ 4,800
Promotional training Sergeant (4 x \$2,400)					\$ 9,600
Promotional training Lieutenant (1 x \$3,600)					\$ 3,600
Spec Assign. Training Detective					\$ 4,800
Spec Assign. Training SRO					\$ 1,200
Spec Assign. Training Traffic					\$ 2,400
Spec Assign. Training Accident recon.					\$ 2,400
Spec Assign. Training Vehicle insp.					\$ 1,200

<u>CAPITAL / EQUIPMENT COSTS</u>					
<u>Field / Car retrofit costs</u>					
In Unit and Portable Radio purchase (\$4,500 for 29 radios)					\$ 130,500
Predictive Policing software					\$ 16,725
Vehicle retrofit costs (\$8,500 for 18 vehicles)					\$ 153,000

<u>IT Equipment for Lathrop Facility</u>					
Building IT related equipment					\$ 250,000

<u>Dispatch</u>					
911 Viper Call Taking Positions					\$ 50,000
Dispatch Workstation Furniture					\$ 30,000
Antenna, repeater and line kit install					\$ 70,000
Radio Dispatch Consoles and Air Phone					\$ 130,000
CAD System Install, training, software					\$ 76,107
Dispatch Center Expansion					\$ 223,000

<u>Records</u>					
Work station					\$ 15,000

<u>TRACY PUBLIC WORKS FACILITIES IMPROVEMENTS</u>					
PD Building improvements if temp. staffing location (e.g. lockers)					\$ 25,000

<u>Other</u>					
Bodycam docking stations					\$ 7,500
4850 Allocation					\$ 200,000

<u>CONSULTANT COSTS</u>					
CPS - marketing and outreach					\$ 22,500
Promotional exams (3 x \$13,000)					\$ 39,000

<u>REIMBURSEMENTS / GRANTS</u>					
State 911 reimbursement					\$ (50,000)
Total Non-Staff Startup Cost Estimate					\$ 1,804,607
Total Staff + Non-Staff Startup Cost Estimate					\$ 5,398,073

Annual Cost Budget (with FY 2017-18 salary/benefit rates) - Tracy / Lathrop Police Services
Exhibit 4

<u>Cost Category</u>	<u>Estimated Cost</u>
STAFF COSTS (Budgeted Positions)	
Total Staff Costs from Staff Positions Worksheet	\$ 4,542,638

NON-STAFF COSTS

Services and Supplies

PD service and supplies (26 x \$2000)	\$ 52,000
Cell phone service (26 x \$540)	\$ 14,040
Vehicle gasoline	\$ 60,000
On-line reporting service (COPLOGIC)	\$ 11,520

Non-Admin. Departments Allocated Charges

Evidence Handling	\$ 92,821
Dispatch Operations	\$ 600,000
IT maintenance	\$ 90,000

Training

Post and Non-Post training (sworn and non-sworn)	\$ 50,000
Overtime	\$ 200,000

As-Needed Services

SWAT	\$ -
Crime Scene Investigations	\$ -
Supplemental Detectives	\$ -
Hostage Negotiations	\$ -
Special investigations (large narcotics)	\$ -
Directed enforcement unit (gangs)	\$ -
Traffic fatalities	\$ -
Animal services support	\$ -

Administrative Departments Direct Charges

City Manager's Office Direct Charge	\$ 50,000
City Attorney's Office Direct Charge	\$ 50,000
Human Resources Department Direct Charge	\$ 50,000
Finance Department Direct Charge	\$ 75,000

Insurance costs

SIR Insurance Cost	
Premium increase	\$ 98,668

Revenue Estimates

Asset Seizure	N/A
COPS grant	N/A

Total Annual Cost Estimate **\$ 6,036,687**

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ITEM: APPROVE AGREEMENT WITH RIVER ISLANDS DEVELOPMENT FOR THE CONSTRUCTION AND PURCHASE OF A NEW POLICE BUILDING

RECOMMENDATION: Adopt a Resolution Approving an Agreement with River Islands Development for the Construction and Purchase of a New Police Building and All Related Documents

SUMMARY:

The City of Lathrop's Police Department has been located at 15597 Seventh Street since 2002. The current lease expired on August 6, 2017, and has converted to month-to-month. In August 2017, staff brought options to Council to remain at the current location; look into the possibility of funding the City's own police building; or negotiate a construction agreement with a current master developer. At the December 11, 2017, City Council Special Meeting, Council directed staff to work with River Islands Development (RID) to negotiate an agreement to fund and construct a new police facility in the River Islands development.

Over the last several months, staff has worked with the developer and their architect to estimate the amount of acreage, building square footage, and cost needed to construct the facility. The following are project estimates:

- Purchase 2.5 acres of land (develop 2 acres)
- 13,000 square foot facility (includes locker rooms, community meeting room, evidence room, vehicle storage, and generator)
- Total Cost \$8.8 million (excludes land)

Deal terms of the contract with River Islands Development:

- Land price will be appraised at a value not to exceed \$200,000 per acre (appraisal pending).
- RID will fund the project estimated at \$8.8 million plus any project change order(s) and offset by a City's contribution of \$1.8 million at the time of acceptance.
- The City's \$1.8 million contribution will be funded from the Municipal Services CFF fund.
- Interest rate will be prime plus 3% (currently prime is 5.0%).
- Interest will stop accruing at eight (8) years after project acceptance.
- RID will be reimbursed for 100% of the Municipal Services CFF collected in the RID area and 50% of the Municipal Services CFF for non-RID areas collected after the City accepts the completed facility. The City's Administrative Fee for processing developer fee reimbursements will be waived.

Staff is requesting that the City Council approve a Construction Agreement (Attachment "B") and an Agreement for Purchase and Sale (Exhibit "A" to Construction Agreement) with RID to design, build and fund a new police facility.

CITY MANAGER'S REPORT **Page 2**
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING
AGREEMENT WITH RIVER ISLANDS DEVELOPMENT TO CONSTRUCT POLICE FACILITY

BACKGROUND:

Since 2002, the City of Lathrop's Police Department has been located on Seventh Street. The current lease expired in August of 2017 and has converted to month-to-month.

The City has held three City Council Special meetings to discuss police facility options (8/28/17, 9/25/17 & 12/11/17). At the December 11, 2017, Special City Council Meeting, Council directed staff to work with RID to negotiate a contract to design and build a new police station facility.

Staff has worked with RID and their architect, LDA Partners Designers & Architects (LDA), to begin discussing design, and facility needs. LDA was also the architect that assisted the City with the Generations Center. The preliminary plan proposes a 13,000 square foot facility that may cost up to \$8.8 million. Once design is finalized, the project will be put out to bid. Bids may come in lower than expected or if they come in higher, we will return to Council for additional authorization as needed. In addition, 2 acres of land will need to be acquired; however, it is recommended the City purchase 2.5 acres to use for expansion when necessary.

The proposed terms of the contract from RID include: the City's contribution of \$1.8 million at acceptance of the facility; land price not to exceed \$200,000 per acre (pending appraisal); RID will fund \$8.8 million plus any project change orders; interest will be prime plus 3%; interest will stop accruing 8 years after project acceptance; and RID will be reimbursed for 100% of the Municipal Services CFF collected in the RID area and 50% of the Municipal Services CFF for non-RID areas collected after the City accepts the completed facility. Administrative Fee for processing developer fee reimbursements will be waived.

If 300 residential building permits are issued each year and the prime interest rate is 5.0% (rate as of June 2018), the loan would be paid off in about 8 years and the City would pay an estimated \$2.6 million in interest.

REASON FOR RECOMMENDATION:

Staff recommends the City Council consider approving an agreement with RID to construct a police facility in the River Islands Development. RID will finance the majority of the facility and receive reimbursement from future building permits. The developer will assume the financing risk and enable the City to protect the General Fund and Measure C Fund from bond requirements.

FISCAL IMPACT:

Construction costs are estimated to be \$8.8 million. RID will fund the construction of the facility and receive reimbursement from 100% of Municipal Services CFF received from RID development and 50% of Municipal Services CFF received from other development until construction cost plus interest are paid off. The City agrees to pay \$1.8 million of Municipal Services CFF when the facility is accepted by the City. In addition, the City may make additional payments to principal at its discretion.

JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING

AGREEMENT WITH RIVER ISLANDS DEVELOPMENT TO CONSTRUCT POLICE FACILITY

ATTACHMENTS:

- A. Resolution Authorizing the City Manager to Execute an Agreement with River Islands Development and the City of Lathrop for Construction and Purchase of a New Police Building
- B. Police Station Construction Agreement with River Islands

CITY MANAGER'S REPORT
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING
AGREEMENT WITH RIVER ISLANDS DEVELOPMENT TO CONSTRUCT POLICE FACILITY


APPROVALS:



Cari James
Director of Finance

6/14/18


Date



Salvador Navarrete
City Attorney

6-19-18

Date



Stephen Salvatore
City Manager

6-20-18

Date

RESOLUTION NO. 18-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN
RIVER ISLANDS DEVELOPMENT AND THE CITY OF LATHROP FOR
CONSTRUCTION AND PURCHASE OF A NEW POLICE BUILDING**

WHEREAS, River Islands Development (RID) is completing its planned development; and

WHEREAS, a new police building will be constructed in the River Islands Development area; and

WHEREAS, the RID will finance the construction project (Attachment B); and

WHEREAS, an Agreement for Purchase and Sale (Exhibit "A") is required between RID and the City of Lathrop for the construction of said facility under the following terms:

- Land price will be appraised at a value not to exceed \$200,000 per acre.
- RID will fund the project estimated at \$8.8 million plus any project change order(s) and offset by a City's contribution of \$1.8 million at the time of acceptance.
- The City's \$1.8 million contribution will be funded from the Municipal Services CFF fund.
- Interest rate will be prime plus 3% (currently prime is 5.0%).
- Interest will stop accruing at eight (8) years after project acceptance.
- RID will be reimbursed for 100% of the Municipal Services CFF collected in the RID area and 50% of the Municipal Services CFF for non-RID areas collected after the City accepts the completed facility. The City's Administrative Fee for processing developer fee reimbursements will be waived.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is hereby authorized to execute a Reimbursement Agreement with RID for the construction of the new police building;

The foregoing resolution was passed and adopted this 25th day of June, 2018, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

ATTACHMENT B

POLICE STATION CONSTRUCTION AGREEMENT

FOR RIVER ISLANDS POLICE STATION

BY AND BETWEEN

**RIVER ISLANDS DEVELOPMENT, LLC,
A CALIFORNIA LIMITED LIABILITY COMPANY,**

AND

**CITY OF LATHROP,
A MUNICIPAL CORPORATION OF THE STATE OF CALIFORNIA**

DATED AS OF _____, 2018

POLICE STATION CONSTRUCTION AGREEMENT

THIS POLICE STATION CONSTRUCTION AGREEMENT (“Agreement”), effective as of _____, 2018 (“Effective Date”), is made by and between RIVER ISLANDS DEVELOPMENT, LLC, a California limited liability company (“RID”), and the CITY OF LATHROP, a municipal corporation of the State of California (“City”).

RECITALS

A. RID and Califia, LLC (“Califia”) have an interest in approximately 4,800 acres of real property (“Property”) located in the City of Lathrop. The Property is intended for development into approximately 11,000 residential units, 4,000,000 square feet of commercial space and other supporting uses (“Project”).

B. City wishes to locate a new Police Station (defined in the Purchase Agreement, as defined below) in an area central to City’s entire population and within the Project.

C. The parties have designated the site (“Police Station Site”) within the Property for the Police Station. The Police Station Site is more particularly described in the Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions of even date herewith (“Purchase Agreement”) attached hereto as Exhibit A. The Police Station Site is currently owned by Califia, but will be purchased by RID and conveyed to the City pursuant to and in accordance with the Purchase Agreement.

D. The Police Station will be constructed pursuant to the terms of that certain Trade Contractor Agreement in the form attached hereto as Exhibit B (“Trade Contractor Agreement”), which includes the scope of work for the Police Station as approved by the parties, and based upon City specifications and the standard of the most recently constructed police station within the City.

E. RID and City are entering into this Agreement to specify the terms of design, construction and conveyance of the Police Station. Capitalized terms not otherwise defined in this Agreement shall have the same meaning given to them in the Purchase Agreement.

NOW, THEREFORE, in consideration of the promises, covenants and provisions set forth herein, the receipt and adequacy of which consideration is hereby acknowledged, RID and City agree as follows:

SECTION 1 RECITALS AND EXHIBITS. The foregoing recitals are true and correct and are incorporated herein by this reference. Exhibits A and B are incorporated into this Agreement by this reference.

SECTION 2 TRANSFER OF POLICE STATION SITE; ESTIMATE FOR POLICE STATION CONSTRUCTION COSTS.

2.1 Transfer of Police Station Site. The Police Station Site, which is more particularly described in the Purchase Agreement, will be transferred by RID to City pursuant to and in accordance with the Purchase Agreement. The parties shall execute the Purchase Agreement concurrently with the execution of this Agreement. The parties acknowledge that at Closing, RID will transfer the Police Station Site to City improved with the completed Police Station in accordance with the Trade Contractor Agreement. The purchase price for the Land (as defined in the Purchase Agreement) is more particularly set forth in the Purchase Agreement and will be based upon the Appraisal.

2.2 Estimate of Police Station Construction Costs. The parties estimate that the Construction Costs for the Police Station will be approximately \$8,800,000.00; provided, however, that the City's reimbursement to RID shall be based upon actual Construction Costs. The Construction Costs shall include, without limitation, any Utility Costs (defined below) and other applicable costs incurred by RID in connection with constructing the Police Station and providing utilities to the completed Police Station (excluding Police FF&E, defined below).

SECTION 3 DESIGN AND CONSTRUCTION OF THE POLICE STATION.

3.1 Design of Police Station. The parties acknowledge that RID has hired LDA Partners, Inc., a California corporation ("**Architect**"), as the licensed architect to prepare the Plans and Specifications (defined in the Purchase Agreement). Architect is in the process of preparing the Plans and Specifications for the Police Station. RID and City will work together in good faith and consult with each other in connection with the preparation of the Plans and Specifications so that Adoption of Plans (defined in the Purchase Agreement) will occur as soon

as reasonably possible after the Effective Date. RID's construction obligations hereunder shall not arise unless and until Adoption of Plans has occurred. If Adoption of Plans has not occurred by the date that is four (4) months after the Effective Date, then this Agreement shall terminate and be of no further force and effect unless extended by the parties through mutual written amendment hereto.

3.2 Execution of Trade Contractor Agreement.

3.2.1 The Police Station will be constructed pursuant to and in accordance with the Trade Contractor Agreement. Within a reasonable time after the Adoption of Plans, the parties will prepare mutually acceptable public bid documents for the Police Station, and will choose the lowest bidding contractor to construct the Police Station, all in accordance with the laws regarding the public bid process. The amount set forth in the approved low bid shall constitute the "Approved Construction Budget." Upon selection of the contractor (the "Approved Contractor"), RID and the Approved Contractor shall execute the Trade Contractor Agreement.

3.2.2 The Approved Contractor shall commence construction within a reasonable time after execution of the Trade Contractor Agreement. RID shall use commercially reasonable efforts to cause the Approved Contractor to diligently pursue construction and cause completion of the Police Station within [REDACTED] months after the commencement of construction, subject to force majeure delays, which shall include war, insurrection, strikes, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, enactment of conflict state or federal laws or regulations, new or supplemental environmental regulations, judicial decisions, or similar basis for excused performance that is not within the reasonable control of the party to be excused (excluding financial inability). Third party litigation attacking the validity of this Agreement, Approval of Plans or any permit, ordinance, entitlements, or other action of a governmental agency necessary for the construction or operation of the Police Station shall be deemed to create an excusable delay as to any party.

3.2.3 The parties shall consult regularly throughout the construction of the Police Station including, without limitation, meeting not less frequently than every sixty (60) days to evaluate and discuss the construction process and any modifications or

cost overruns with respect to the Approved Construction Budget. Without limiting RID's obligation to pay all Construction Costs (subject to reimbursement by City through payment of the Purchase Price) if RID anticipates that cost overruns will occur, the parties shall meet and work together, in good faith, to redesign the Police Station and make modifications to the Plans and Specifications as reasonably necessary to construct the Police Station within the Approved Construction Budget. In addition to the foregoing, RID shall provide to City construction updates including any information reasonably required by City in connection with the ongoing construction of the Police Station.

3.3 Utilities. Upon commencement of construction of the Police Station, RID will allocate water to the Police Station Site as required for potable use and an interim irrigation service. RID may allocate recycled water to the Police Station Site if and when recycled water becomes available. RID agrees to construct a connection to the City sewer system for sewer service. Upon commencement of construction, RID will set aside permanent sewer allocation for the Police Station. Upon completion of construction of the Police Station, RID shall provide appropriate hookups for gas and electricity service. City shall be responsible for all fees designated by City and/or RID in connection with the transfer of utilities to the Police Station ("**Utility Costs**") which Utility Costs shall be part of the Construction Costs payable hereunder.

3.4 Payment of Costs. The Construction Costs shall be paid by City to RID in connection with payment of the Purchase Price under the Purchase Agreement. Notwithstanding anything to the contrary contained herein or in the Purchase Agreement, City is responsible for furnishing, equipping, and directly leasing and/or purchasing all personal property, furnishings, fixtures, equipment, squad cars and trucks necessary in connection with the operation of the Police Station (collectively, "**Police FF&E**"), once it is completed. RID is not responsible for payment of any costs relating to Police FF&E. Notwithstanding anything to the contrary contained herein but excluding any costs relating to Police FF&E, RID must pay all outstanding Construction Costs and obtain final lien releases prior to the conveyance of the Police Station to City.

SECTION 4 BREACH, DEFAULT AND CURE.

If either party materially breaches or fails to comply with any of its obligations under this Agreement, such breaching party shall have thirty (30) days following

receipt of written notice of breach from the non-defaulting party (the “**Breach Notice**”) to cure such breach or noncompliance or such longer period as is necessary, using diligent efforts as set forth below (the “**Cure Period**”). If such breaching party shall not have cured such breach or noncompliance within the Cure Period and after the expiration of fifteen (15) days from the later of the expiration of the Cure Period and the date it receives written notice of default (the “**Default Notice**”), 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 each of the Breach Notice and the Default Notice shall set forth in reasonable detail the nature of the breach, noncompliance or default, as the case may be. Upon a Default, the non-defaulting party shall have the following rights and remedies: (a) to specifically enforce the obligations under this Agreement or (b) to exercise any and all other rights and remedies the non-defaulting party may have under this Agreement and/or under the law by reason of such default. Without limiting the foregoing, any party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any provision or agreement herein, enjoin any threatened or attempted violation thereof; enforce by specific performance the obligations and rights of the parties hereto; or to obtain any remedies consistent with the purpose of this Agreement. Any legal action in connection with this Agreement shall be initiated in the Superior Court of the County of San Joaquin, State of California. The parties recognize that damages may not be sufficient to compensate a party for breach of this Agreement. The parties agree that all obligations and acts required by each respective party, pursuant to this Agreement, are sufficiently certain to make the precise act which is to be done clearly ascertainable. The parties further agree that the remedy of specific performance shall be available to enforce any and all provisions under this Agreement.

SECTION 5 DISPUTE RESOLUTION MECHANISM.

In the event of a dispute under this Agreement, the parties shall first mediate the dispute using a mutually acceptable mediator at JAMS. The parties shall share equally the fees of the mediator and other costs. If mediation is not successful, the parties may pursue any rights and remedies available at law or in equity.

SECTION 6 SUCCESSORS AND ASSIGNS.

Section 6.5 of the Purchase Agreement shall govern assignments of this Agreement.

SECTION 7 MISCELLANEOUS.

7.1 Captions. The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

7.2 Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California applicable to contracts to be performed wholly within the State.

7.3 Rules of Construction. The singular includes the plural; “shall” is mandatory, and “may” is permissive. The parties acknowledge and agree that each of the parties and each of the parties’ attorneys have participated fully in the negotiation and drafting of this Agreement. In cases of uncertainty as to the meaning, intent or interpretation of any provision of this Agreement, the Agreement shall be construed without regard to which of the parties caused, or may have caused, the uncertainty to exist. No presumption shall arise from the fact that particular provisions were or may have been drafted by a specific party, and prior versions or drafts of this Agreement shall not be used to interpret the meaning or intent of this Agreement or any provision hereof.

7.4 Business Days. In this Agreement, “Business Days” means days other than Saturdays, Sundays and federal and state legal holidays and “days” means calendar days. If the time for performance of an obligation under this Agreement falls other than on a business day, the time for performance shall be extended to the next business day.

7.5 Further Assurances. Each party to this Agreement shall at its own expense perform all acts and execute all documents and instruments that may be necessary or convenient to carry out its obligations under this Agreement. In addition, the parties agree to execute and deliver any and all further documents and to take all such further action consistent with this Agreement as may be reasonably necessary or helpful to fully implement the provisions of this Agreement and to secure to the parties the full and complete benefits hereof. Without limiting the foregoing, City agrees to promptly notice and conduct any and all required hearings

and adopt any resolutions, ordinances, rules and regulations consistent with this Agreement as may be necessary to carry out the intent of the parties as reflected herein.

7.6 **Notices.** Any notice, certificate or other communication to be given hereunder shall be provided in accordance with Section 6.2 of the Purchase Agreement.

7.7 **Relationship.** The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. This Agreement does not create and shall not be construed to create any agency, partnership, joint venture, trust or other relationship with duties or incidents different from those of parties to an arm's length contract.

7.8 **Independent Contractors.** Each party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. Except as expressly set forth herein, nothing contained in this Agreement shall authorize or empower any party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf of or in the name of any other party or to bind any other party or make any representation, warranty or commitment on behalf of any other party.

7.9 **Third Parties.** Nothing in this Agreement, whether express or implied, is intended to or shall do any of the following: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

7.10 **Time of the Essence.** Time is of the essence in the performance of each party's respective obligations under this Agreement.

7.11 **Waiver; Amendment.** No amendment of, supplement to or waiver of any obligations under this Agreement will be enforceable or admissible unless set forth in writing signed by the party against which enforcement or admission is sought. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted shall apply solely to the specific instance expressly stated.

7.12 Parties to Bear Own Costs. Except as specifically set forth in this Agreement, the Purchase Agreement or otherwise agreed to by the parties, each party to this Agreement shall bear its own costs including without limitation attorneys' and consultants' fees and costs incurred in connection with any negotiations, strategic planning, analysis and due diligence related to this Agreement.

7.13 Integration. This Agreement, the Purchase Agreement and all Exhibits hereto and thereto set forth the entire understanding of the parties relating to the transactions contemplated and supersede all prior understandings relating to them, whether written or oral.

7.14 Severability. If any provision of this Agreement is held 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, unless amended or modified by mutual consent of the parties; provided, however, that if the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, then the party adversely affected thereby shall have the right in its sole discretion to terminate this Agreement upon providing written notice of such termination to the other party.

7.15 Counterparts. This Agreement may be executed in multiple identical counterparts, each of which shall be deemed an original, and counterpart signature pages may be detached and assembled to form a single original document. This Agreement may be executed and delivered by the exchange of .pdf or other electronic image files of counterparts of the signature page, which shall be considered the equivalent of ink signatures for all purposes.

7.16 Term of Agreement. The term of this Agreement shall begin as of the Effective Date and end on the earlier of the date when all of RID's and City's obligations hereunder are fully performed or this Agreement is mutually terminated by the parties.

7.17 Signatories Duly Authorized. By signing below, and without any individual liability, each of the signatories represents and warrants that he or she has been duly authorized to execute this Agreement on behalf of the party on whose behalf he or she is signing. The signatory for City, without any individual liability, further represents and warrants, by his/her signature, that this Agreement has been duly ratified and approved by the City Council.

7.18 Eminent Domain. In the event of a permanent taking of the Police Station Site under the power of eminent domain during the term of the Agreement, which permanent taking results in the parties becoming unable to use the Police Station Site for the Police Station, City shall pay to RID the condemnation proceeds or other amounts paid to City as a result of such taking, if any. Otherwise, RID shall be entitled to all proceeds in connection therewith, and this Agreement and the Purchase Agreement shall terminate and be of no further force and effect.

IN WITNESS WHEREOF, this Agreement has been entered into by and between City and RID as of the Effective Date.

DISTRICT:

CITY OF LATHROP, a municipal corporation
of the State of California

By: _____
Name: Stephen J. Salvatore
Its: City Manager

ATTEST:

By: _____
Name: Teresa Vargas
Its: City Clerk

APPROVED AS TO FORM:

By: _____
Name: Salvador Navarrete
Its: City Attorney

RID:

RIVER ISLANDS DEVELOPMENT, LLC,
a California limited liability company

By: _____
Name: Susan Dell'Osso
Its: President

EXHIBIT A

Purchase and Sale Agreement

(See Attached)

EXHIBIT A

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS

by and between

CITY OF LATHROP

and

RIVER ISLANDS DEVELOPMENT, LLC

Doing Business As

RIVER ISLANDS AT LATHROP

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY
AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS (“Agreement”) is made and entered into as of [REDACTED], 2018 (“*Effective Date*”), by and between the **CITY OF LATHROP**, a municipal corporation (“*City*” or “*Buyer*”), and **RIVER ISLANDS DEVELOPMENT, LLC**, a California limited liability company, doing business as River Islands at Lathrop (“*Seller*”). Buyer and Seller are sometimes hereinafter referred to individually as a “*Party*” and collectively as the “*Parties*.”

RECITALS

A. Seller and Califia, LLC (“*Califia*”), have an interest in approximately 4,800 acres of real property located in the City of Lathrop, as more particularly described in **Exhibit “A-1”** attached hereto (“*Project*”), which is intended for development into approximately 11,000 residential units, 4,000,000 square feet of commercial space and other supporting uses. Califia and Seller have a mutual interest in building out the Project.

B. City wishes to locate a new Police Station (defined below) in an area central to City’s entire population and within the Project. The parties agreed that the Police Station will be located on a portion of the Project containing approximately [REDACTED] acres and as more particularly described in **Exhibit “A-2”** attached hereto (including all easements described therein “*Land*”).

C. The Land is currently owned by Califia. Seller has the right to purchase the Land from Califia pursuant to the terms of that certain Purchase Agreement by and between Seller and Califia dated June [REDACTED], 2018 (the “*Underlying Agreement*”).

D. City has agreed that Seller will construct the Police Station and convey the Police Station and Land to City upon completion. In connection therewith, the parties have entered into that certain Police Station Construction Agreement of even date herewith (“*Construction Agreement*”) to specify, among other things, the manner in which the Police Station will be constructed on the Land and, after completion of construction, conveyed to the City. This Agreement is executed pursuant to the Construction Agreement.

E. Seller desires to sell to City and City desires to purchase from Seller, upon the terms and conditions set forth in this Agreement, the Land, together with all improvements located thereon including the fully constructed Police Station, all easements, licenses and interests appurtenant thereto and all land entitlements owned or held by Seller in connection with the Land (collectively “*Police Station*”). Capitalized terms not otherwise defined in this Agreement shall have the same meanings given them in the Construction Agreement.

AGREEMENT

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged pursuant to the terms of this Agreement, Seller and City agree as follows:

1. PURCHASE AND SALE OF PROPERTY.

1.1 Agreement to Purchase. Subject to all the terms, conditions and provisions of this Agreement, and for the consideration herein set forth, Seller agrees to sell, and City agrees to purchase, the Police Station.

1.2 Purchase Price; Appraisal; Interest.

1.2.1 Purchase Price and Appraisal. The purchase price ("**Purchase Price**") which Seller agrees to accept and City agrees to pay for the Police Station is (i) the then-current market value of the Land ("**Land Value**") as set forth in an appraisal for the Land ("**Appraisal**"), which, when obtained, shall be attached hereto as Schedule "2" through the parties' mutual execution of an amendment to this Agreement upon completion of the Appraisal (subject to the terms below), (ii) all out of pocket costs, fees and expenses incurred by Seller to design and construct the Police Station ("**Construction Costs**"), (iii) all out of pocket costs of Seller incurred in connection with the Appraisal and all Closing Costs paid by Seller in connection with this Agreement ("**Seller Costs**") and (iv) Interest (defined below) on the Purchase Price. Prior to the Close of Escrow (defined below), Seller shall provide to City invoices and other payment documentation evidencing the Construction Costs and the Seller Costs. Seller shall commence to obtain the Appraisal not later than two (2) weeks after the Effective Date and shall use commercially reasonable efforts to cause the Appraisal to be finalized not later than sixty (60) days after the Effective Date. The parties anticipate that the Land Value will equal approximately Two Hundred Thousand and No/100 Dollars (\$200,000.00) per acre multiplied by [REDACTED] acres, or [REDACTED] and No/100 Dollars (\$[REDACTED]) (the "**Maximum Value**"), and City shall be deemed to have approved any Land Value set forth in the Appraisal up to the Maximum Value. The parties acknowledge and understand that the City must obtain the City Council approval to any Land Value that exceeds the Maximum Value. In such event, City shall use commercially reasonable efforts to expedite the City Council's review of the Land Value such that City's approval or disapproval, as applicable, is obtained not later than thirty (30) days after City's receipt of the final Appraisal. If the City disapproves the Land Value that exceeds the Maximum Value, this Agreement shall terminate and be of no further force and effect, and City shall be refunded the Deposit. Notwithstanding anything to the contrary set forth herein or in the Construction Agreement, the parties shall finalize the Appraisal prior to Seller's commencement of construction of the Police Station.

1.2.2 Interest.

1.2.2.1 As used herein, the term "**Interest**" means simple interest at the Prime Rate (as defined below) plus three percent (3%). Said interest rate shall be adjusted quarterly beginning at the start of the fiscal year following the Dedication Date. As used herein, "**Prime Rate**" means the prime rate as quoted in the "Money Rates" section of the *Wall Street Journal*. In the event the *Wall Street Journal* is no longer publishing the "Money Rates" section, the prime rate shall be the prime lending rate charged by the Bank of America to its most favored borrowers. Notwithstanding any other provision herein, the aggregate interest rate charged hereunder, including all charges or fees in connection therewith deemed in the nature of interest under applicable law shall not exceed the maximum rate of interest chargeable under California law (the "**Highest Lawful Rate**"). If the rate of Interest (determined without regard to the

preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the unpaid Purchase Price shall bear interest at the Highest Lawful Rate (and not at the rate otherwise determined under the first sentence of this paragraph) until the total amount of Interest paid as part of the Purchase Price equals the amount of Interest which would have been due hereunder if the rate of interest determined under the first sentence of this paragraph had at all times been in effect. It is the intention of both parties to conform strictly to any applicable usury laws. Accordingly, if Seller contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at Seller's option be applied to the applicable Purchase Price or be refunded to City.

1.2.2.2 Interest on the Land Value shall accrue commencing on the date that RID offers the Land to the City for dedication as set forth below (the "**Dedication Date**"). As used herein, "**Dedication Date**" means the later of the date that the Appraisal is finalized (including without limitation any time necessary for the City to approve a Land Value in excess of the Maximum Value) and when the parties execute and record an Offer of Dedication in the form attached hereto as **Exhibit "B"** (the "**Offer of Dedication**")

1.2.2.3 Interest on Construction Costs and Seller Costs shall accrue commencing on the date that such amounts are expended by Seller.

1.2.2.4 Interest accrual on all amounts shall cease on the earlier of (i) when the Purchase Price has been paid in full or (ii) eight (8) years after the Closing Date.

1.3 Offer of Dedication; Payment of Purchase Price; MSF Fees.

1.3.1 In consideration of the Purchase Price and the other promises of City as set forth herein, Seller shall execute, acknowledge and deliver to Escrow Holder the Offer of Dedication on the Dedication Date, with a copy to City. Escrow Holder shall record the Offer of Dedication within three (3) business days after receipt.

1.3.2 The Purchase Price will be paid by City to Seller through (i) an initial payment on the Closing Date equal to One Million Eight Hundred Thousand and No/100 Dollars (\$1,800,000.00) plus all Purchase Price CFF Fees (defined below) collected by City up to and including the Closing Date (the "**Initial Closing Payment**") and (ii) payments to Seller after the Closing Date until the balance of the Purchase Price is paid in full, by wire transfer from funds obtained by City from its Municipal Services Capital Facilities Fee program ("**MSF Fees**"), as more particularly set forth below.

1.3.3 As used herein, MSF Fees collected by the City for residential units within the Project are defined as "**Project CFF Fees.**" MSF Fees collected by the City for residential units outside of the Project but within City boundaries are defined as "**Non-Project CFF Fees.**" Commencing on the Effective Date, City shall collect and hold (A) 100% of all Project CFF Fees and (B) 50% of all Non-Project CFF Fees paid to the City (the "**Purchase Price CFF Fees**") for application to the Purchase Price.

1.3.4 All Purchase Price CFF Fees collected by City from the Effective Date to the Closing Date shall be applied to the Initial Closing Payment.

1.3.5 All Purchase Price CFF Fees collected by City from the Closing Date until the Purchase Price is paid in full shall be (i) collected and held by the City in a separate account and (ii) paid to Seller every six (6) months, on January 15th and June 15th of each year after the Closing Date, until the Purchase Price has been paid in full. Project CFF Fees shall be applied first to accrued Interest and then to principal. Non-Project CFF Fees shall be applied first to principal and then to accrued Interest.

1.3.6 City shall (y) provide to Seller reasonable backup documentation regarding Purchase Price CFF Fees paid to City and (z) not charge any administrative or other municipal fee or charge for collecting the Purchase Price CFF Fees and/or for transferring the Purchase Price CFF Fees to Seller as provided herein.

1.3.7 Notwithstanding anything to the contrary contained herein, the City may prepay any remaining portion of the Purchase Price at any time, without penalty.

1.3.8 The terms of this Section 1.3 shall survive the Closing Date.

1.4 Deposit. City shall place into escrow one dollar (\$1.00) as a good faith deposit ("**Deposit**") within ten (10) days after the Effective Date.

1.4.1 Deposit Non-Refundable. From and after the Effective Date and satisfaction and/or waiver of all conditions set forth in Section 4.1, the Deposit shall become non-refundable and shall be applicable to the Purchase Price, and only refundable as specifically set forth herein.

1.4.2 Retention of Cash. All cash received by Escrow Holder will be, until the Close of Escrow, kept on deposit in a federally insured State or national bank.

1.4.3 No Interest. Escrow Holder shall be required to hold the Deposit in a non-interest-bearing account.

1.5 Adoption of Plans; Seller's Responsibility to Complete Police Station before Closing.

1.5.1 The parties acknowledge that Seller has hired LDA Partners, Inc., a California corporation ("**Architect**"), as the licensed architect to prepare the Plans and Specifications (defined below). Architect is in the process of preparing the Plans and Specifications for the Police Station. Seller and City will work together in good faith and consult with each other in connection with the preparation of the Plans and Specifications so that the parties' approval and the City's adoption of plans ("**Adoption of Plans**") will occur as soon as reasonably possible after the Effective Date. If Adoption of Plans has not occurred by the date that is four (4) months after the Effective Date, then this Agreement shall terminate and be of no further force and effect unless extended by the parties through mutual written amendment hereto, and City shall be refunded the Deposit. City's Adoption of Plans shall be a condition to Seller's

performance of its obligations under this Agreement, and this Agreement shall not become effective until the City's Adoption of Plans is effective.

1.5.2 From and after Adoption of Plans has occurred and until the Closing Date, Seller shall use commercially reasonable efforts to complete the Police Station in accordance with the Construction Agreement and plans and specifications approved by Seller and City pursuant to the Adoption of Plans ("**Plans and Specifications**").

2. INSPECTIONS AND REVIEW.

2.1 Feasibility Approved. Except as provided in Section 2.2 below, City acknowledges that it has: (i) completed its due diligence investigation of the condition of the Land and (ii) will have completed, by the Closing Date, its due diligence inspection of the Police Station, both in accordance with the standards established by agencies with jurisdiction, and is satisfied that the Land, and will be satisfied that the Police Station, complies with all state and local requirements and hereby accepts the condition and suitability of the Land and will accept the condition and suitability of the Police Station as of the Closing Date for City's intended use contingent upon receipt of a certificate of occupancy as provided herein. Such approval shall be a condition to Closing hereunder.

2.2 Title Review.

2.2.1 Title Report. Prior to the Effective Date, the parties obtained a preliminary title report describing the Land ("**Title Report**"), together with copies of all documents referenced as exceptions in the Title Report. The Title Report is attached hereto as Schedule "1."

2.2.2 Approval of Title. City has approved the Title Report except as set forth in Section 2.2.3.

2.2.3 Condition of Title. Seller shall convey title to the Police Station at Closing subject to the following matters (collectively "**Permitted Exceptions**"): (a) pre-printed exceptions and matters shown in the Title Report as set forth in Schedule "1" excluding any deeds of trust and other monetary liens affecting the Police Station (other than the lien of current taxes, special taxes, bonds and assessments including without limitation any community facilities district bonds and assessments, all of which shall be Permitted Exceptions); (b) minor defects and encumbrances of a non-monetary nature that will not materially interfere with or limit the development or use of the Police Station including without limitation public utility easements and limitations on abutters' rights and (c) any exceptions created, caused, suffered or imposed by City.

2.3 AS-IS TRANSFER; RELEASE; INDEMNITY.

2.3.1 City acknowledges and agrees that City has been given or will have been given, prior to the Closing Date, at City's own cost and expense, a full opportunity to inspect and investigate each and every aspect of the Police Station. CITY SPECIFICALLY ACKNOWLEDGES AND AGREES EXCEPT AS EXPRESSLY PROVIDED HEREIN

SELLER IS SELLING AND CITY IS PURCHASING THE POLICE STATION ON AN “AS-IS WITH ALL FAULTS” BASIS.

2.3.2 Effective as of the Closing, City, on behalf of itself and its managers, employees, officers, successors and/or assigns hereby waives any right to recover from RID or any Indemnified Parties (defined below) for, and hereby releases and discharges RID and the Indemnified Parties from, any and all Claims (defined below), that may arise out of or are in any way connected with (i) the physical condition of the Police Station including without limitation any construct defects, whether latent or patent, and whether arising now or in the future, (ii) the condition of title to the Land, (iii) the presence on, under or about the Police Station of any Hazardous Materials, (iv) the Police Station’s compliance with any applicable federal, state or local statute, ordinance, rule or regulation, including, without limitation, Hazardous Materials Laws, or (v) any other aspect of the Land or the Police Station; provided, however, that the forgoing release does not apply to Claims (A) arising from RID’s fraud or intentional misrepresentations, (B) RID’s breach of any of the representations and warranties of RID contained in this Agreement (excluding any Claims relating to the design or construction of the Police Station, which shall be delivered to City in its AS-IS condition, and subject to the AS-IS, release and indemnity obligations contained in this Section 2.3) or (C) except for any obligations of Seller under this Agreement or the Construction Agreement with respect to the design or construction of the Police Station (which shall be delivered to City in its AS-IS condition, and subject to the AS-IS, release and indemnity obligations contained in this Section 2.3), to RID’s breach of any obligation of RID under this Agreement or under any document or instrument executed by RID pursuant to this Agreement which, by its express terms, survives the Closing (collectively, the “*Release and Indemnity Exclusions*”). The release of RID and the Indemnified Parties contained herein shall not apply to any Claims by City against any Construction Entities (defined below) relating to the design and/or construction of the Police Station. For the purposes of this Agreement, the term “*Construction Entities*” means any engineers, consultants, contractors or other agents or representatives engaged by RID in connection with the design and/or construction of the Police Station; provided, however that the term Construction Entities does not include RID or any Indemnified Parties, all of which are released and indemnified by City as set forth herein. The provisions of this Section shall survive the Closing or earlier termination of this Agreement and continue thereafter.

CITY HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 (“*SECTION 1542*”), WHICH IS SET FORTH BELOW:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

CITY HEREBY WAIVES THE PROVISIONS OF SECTION 1542 IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVER AND RELEASE.

2.3.3 Without limiting any other indemnities of City set forth herein and except with respect to the Release and Indemnity Exclusions, from and after the Close of Escrow, City shall indemnify, defend (with counsel selected by RID), protect and hold RID, Califa, The Cambay Group, Inc., St. James Investment Corporation, Deutsche Bank AG, New York Branch and Wilmington Trust, National Association, and any affiliates of RID and its and their officers, directors, partners, shareholders, members, employees, successors and assigns (collectively, "**Indemnified Parties**") from and against any and all claims, damages, liabilities and expenses (including without limitation actual attorneys' fees and costs of defense incurred as a result of such claims or in enforcing this indemnity provision) arising out of or related to the Police Station including without limitation any Claims caused by City or its agents or any other parties directly or indirectly employed by any of the foregoing or whose acts any of the foregoing may be liable in connection with the ownership, construction, development, repair, maintenance or operation of the Police Station and for the performance or non-performance of City's obligations under this Agreement or any other work or services performed or provided by such parties in connection with or related to this Agreement, or any action or failure to act by City in connection with this Agreement or its actions or failure to act in connection with the Police Station including without limitation any breach of this Agreement, any third party claims for death, property damage, personal injury, bodily injury, or other litigation or third party claims, fees, costs, claims, expenses, penalties and other related damages (collectively, "**Claims**"). The parties intend that this indemnity shall extend as broadly as legally permitted and shall apply regardless of whether the loss results from the negligence of RID or any other indemnified parties. City's indemnity obligations shall survive the expiration or earlier termination of this Agreement.

3. ESCROW.

3.1 Opening of Escrow. Within five (5) business days following the Effective Date, the Parties shall open an escrow ("**Escrow**") with Old Republic Title Company ("**Escrow Holder**") at its offices located at 3558 Deer Park Drive, Suite 103, Stockton, CA 95219, Attn: Karen Sayles, by causing an executed copy of this Agreement to be deposited with Escrow Holder, and delivery by City of the Deposit. Escrow shall be deemed open on the date that a fully executed copy of this Agreement is delivered to Escrow Holder ("**Opening of Escrow**"). Escrow Holder shall provide each of the Parties with written confirmation of the date of the Opening of Escrow.

3.2 Close of Escrow; Closing Date. Escrow shall close on the date mutually agreed by the Parties within thirty (30) days after completion of the Police Station and issuance of a certificate of occupancy ("**Closing Date**"), but not later than December 31, 20██ ("**Outside Closing Date**"), subject to satisfaction of the conditions to closing described in Section 4 below. The Outside Closing Date shall be extended for any force majeure delays (as defined in the Construction Agreement) encountered by Seller in connection with construction of the Police Station and otherwise as set forth in this Agreement. The terms "**Close of Escrow**" and/or "**Closing**" are used herein to mean the date the Acceptance of Dedication (as the term is defined below) is recorded in the Office of the County Recorder of San Joaquin, California. Possession of the Police Station shall be delivered to City at the Close of Escrow free and clear of all tenancies, lessees, occupants, licensees and all possessory rights of any kind or nature, except for any Permitted Exceptions. Subject to extension due to force majeure delays, expiration of all

cure periods or other extensions as set forth herein, if the Closing Date has not occurred by the Outside Closing Date, either party not then in default hereunder may elect to pursue specific performance as set forth in Sections 5.4 or Section 5.5, as applicable. If neither party so elects to pursue specific performance, Escrow Holder shall close the Escrow as soon as possible.

3.3 Escrow Instructions. This Agreement shall constitute the joint escrow instructions to Escrow Holder. The parties shall deliver to Escrow Holder such supplementary instructions and documents as may be necessary to consummate the transaction contemplated by this Agreement, provided that such instructions are consistent with this Agreement.

3.4 Deliveries by Seller. No later than 1:00 p.m. on the business day preceding the Closing Date, Seller shall deliver to Escrow Holder:

(a) a Bill of Sale and Assignment in the form attached as **Exhibit “D”** (“**Bill of Sale**”) pursuant to which Seller shall assign to City, among other rights and to the extent assignable, on a non-exclusive basis, all present and future claims, causes of action and other rights of any nature, whether in contract or in tort including without limitation all rights to insurance proceeds and recovery against bonds, that Seller may have against any engineer, consultant, contractor, subcontractor or supplier (collectively “**Work Contractors**”) in connection with the work or services provided to improve the Police Station (“**Work**”). Seller shall have jointly with City the same rights assigned to City pursuant to the Bill of Sale with respect to the Work Contractors so that Seller shall not be precluded from prosecuting any warranty, correction, guaranty, indemnity, insurance, bond or other like claim that Seller may have against any Work Contractors, whether in connection with their work performed for other property owned by Seller or in connection with the Work.

(b) a Certificate of Non-Foreign Status in the form attached hereto as **Exhibit “E”** and California Franchise Tax Board Form 593-C (or equivalent form), each executed by Seller;

(c) any affidavits or documents reasonably required by Title Company to issue the Title Policy (as defined in Section 4.1.3 below); and

(d) all other funds and documents required by Escrow Holder to carry out and close the Escrow pursuant to this Agreement including Seller’s portion of prorations, if any.

3.5 Deliveries by City. No later than 1:00 p.m. on the business day preceding the Closing Date, City shall deliver to Escrow Holder:

(a) the Initial Closing Payment less the Deposit;

(b) a Public Agency Certificate of Acceptance in the form attached hereto as **Exhibit “C”** (“**Acceptance of Dedication**”); and

(c) all other funds and documents required by Escrow Holder to carry out and close the Escrow pursuant to this Agreement including the Escrow fees and City’s portion of prorations, if any.

3.6 Closing, Recording and Disbursements. On or before the Closing Date, and when all conditions precedent to the Close of Escrow set forth in Section 4 of this Agreement have been satisfied or waived in writing, Escrow Holder shall take the actions set forth in this Section 3.6.

3.6.1 Recording. Escrow Holder shall cause the Acceptance of Dedication to be recorded in the Official Records of San Joaquin County, California.

3.6.2 Disbursement of Funds. Escrow Holder shall disburse to Seller the Initial Closing Payment, less proration chargeable to Seller, if any.

3.6.3 Title Policy. Escrow Holder shall deliver to City a commitment to issue the Title Policy.

3.6.4 Delivery of Documents to City. Escrow Holder shall deliver to City a conformed copy of the Acceptance of Dedication, a copy of the Bill of Sale and counterpart originals of any other documents (or copies thereof) deposited by Seller with Escrow Holder pursuant to this Agreement. The original of the Acceptance of Dedication shall be returned to City after recordation.

3.6.5 Delivery of Documents to Seller. Escrow Holder shall deliver to Seller a conformed copy of the Acceptance of Dedication, a copy of the Bill of Sale and counterpart originals of any documents (or copies thereof) deposited by City with Escrow Holder pursuant to this Agreement.

3.6.6 Real Property Taxes. Real property taxes, bonds, assessments and any other similar charges imposed by any governmental agency or special district, organization or body upon the Police Station and payable in the fiscal year in which the Closing Date occurs shall be prorated as of the Closing Date, based on a thirty-day month, and allocated to Seller up to the date of the Close of Escrow. Thereafter, to the extent provided by applicable law, the Police Station will be tax exempt and any claims for refunds for the period prior to the Close of Escrow shall be the responsibility of Seller, and City shall cooperate with Seller in connection therewith.

3.7 Payment of Costs. On the Closing Date, Seller shall pay the following charges and expenses ("**Closing Costs**"): (a) transfer taxes; (b) the cost of all escrow fees and charges; (c) all recording fees and (d) the cost of the standard coverage Title Policy premium. City shall be responsible for obtaining an ALTA Survey of the Police Station, the payment of the ALTA extended coverage portion of the title policy premium for any ALTA extended coverage owner's policy of title insurance and the costs of any endorsements required by City. Seller shall pay all past due property taxes due and satisfy or remove any voluntary monetary liens (excluding taxes, bonds and assessments) and/or abstracts of judgment of record. Seller and City shall each be responsible for their legal, accounting and other professional fees incurred in connection with the negotiation and preparation of this Agreement and the transaction contemplated herein.

4. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

4.1 Conditions to City's Obligations. City's obligation to purchase the Police Station and the Close of Escrow shall be subject to the satisfaction or written waiver by City of each of the conditions precedent set forth in this Section 4.1.

4.1.1 Seller's Performance. Seller is not in material default of any term or condition of this Agreement or the Construction Agreement, and has closed escrow under the Underlying Agreement.

4.1.2 Seller Deliveries Made. Seller has deposited with Escrow Holder all documents and funds required of Seller by this Agreement.

4.1.3 Title Policy. Old Republic Title Company ("***Title Company***") has committed to issue to City a standard coverage owner's policy or, at City's choice, an ALTA extended coverage owner's policy of title insurance ("***Title Policy***"), with liability in the amount of the Purchase Price showing fee title to the Police Station vested in the City, subject only to Permitted Exceptions.

4.1.4 Representations and Warranties. All representations and warranties made by Seller in this Agreement, to Seller's best knowledge, are true and correct as of the Closing as though made at that time.

4.1.5 Hazardous Materials; Environmental Compliance. The Close of Escrow is conditioned on the Police Station not being in violation of any federal, state or local laws or regulations governing the release, discharge, disposal or presence of "***Hazardous Materials***" (as defined or referred to in federal, state or local laws or regulations) (collectively "***Environmental Laws***") on, under, from or about the Police Station. If, prior to the Close of Escrow, City determines that the Police Station is in violation of Environmental Laws, and such violation shall be cured by Seller within sixty (60) days after receipt of City's notice specifically designating such violations or such longer period as is necessary, using diligent efforts, to cure such violation (with the Closing extended to permit Seller to effect such cure).

4.1.6 Compliance with California Law Applicable to Acquisition of Property for Police Station. The Close of Escrow shall be conditioned upon the sale and Police Station being compliant with all applicable California laws relating to the acquisition of such sites. Notwithstanding anything in this Agreement to the contrary, City's failure to provide notice to Seller by the Effective Date of the noncompliance with such applicable laws shall constitute City's approval of the Property and affirmation, to City's then-current actual knowledge, that the sale and Police Station are compliant with all applicable California laws relating to the acquisition of property by a municipal corporation.

4.1.7 Completion of Police Station. The Close of Escrow and any obligation whatsoever of City to purchase the Police Station from Seller shall be conditioned upon the Police Station being completed in accordance with the Construction Agreement and the Plans and Specifications, as evidenced by issuance of a certificate of occupancy from City, issuance of which certificate of occupancy shall not be unreasonably withheld, conditioned or delayed.

4.2 Conditions to Seller's Obligations. Seller's obligations to convey the Police Station, and the Close of Escrow, shall be subject to the satisfaction or written waiver by Seller of each of the conditions precedent set forth in this Section 4.2.

4.2.1 City's Performance. City is not in material default of any term or condition of this Agreement or the Construction Agreement.

4.2.2 City Deliveries Made. City has deposited with Escrow Holder all funds and documents required of City by this Agreement.

4.2.3 Representations and Warranties. All representations and warranties made by City in this Agreement, to City's best knowledge, are true and correct as of the Closing as though made at that time.

4.2.4 Completion of Police Station. The Police Station has been completed in accordance with the Construction Agreement and the Plans and Specifications, as evidenced by issuance of a certificate of occupancy from City.

4.3 Satisfaction of Conditions. Where satisfaction of any of the foregoing conditions requires action by City or Seller, each Party shall use its diligent efforts, in good faith, and at its own cost, to satisfy such condition. Where satisfaction of any of the foregoing conditions requires the approval of a Party, such approval shall not be unreasonably withheld, conditioned or delayed.

4.4 Waiver. City may at any time or times, at its election, waive any of the conditions set forth in Section 4.1 above to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by City and delivered to Seller. Seller may at any time or times, at its election, waive any of the conditions set forth in Section 4.2 above to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by Seller and delivered to City.

4.5 Specific Performance. In the event each of the conditions set forth in Section 4.1 is not fulfilled within the time provided by the terms of this Agreement or waived by City pursuant to Section 4.4 prior to the Closing Date, and if such failure is not cured by Seller within sixty (60) days after receipt of City's notice specifically designating such failure or such longer period as is necessary, using diligent efforts, to cure such violation (with the Closing extended to permit Seller to effect such cure) City's sole remedy shall be to seek specific performance under the terms of Section 5.4. In the event each of the conditions set forth in Section 4.2 is not fulfilled within the time provided by the terms of this Agreement or waived by Seller pursuant to Section 4.4 prior to the Closing Date, and if such failure is not cured by City within sixty (60) days after receipt of Seller's notice specifically designating such violations or such longer period as is necessary, using diligent efforts, to cure such violation (with the Closing extended to permit City to effect such cure), Seller's sole remedy shall be to seek specific performance under the terms of Section 5.5.

5. REPRESENTATIONS AND WARRANTIES; BROKERAGE COMMISSIONS; LIMITATIONS ON DAMAGES.

5.1 Seller's Representations and Warranties. Seller hereby makes the following representations and warranties to City each of which: (i) is material and relied upon by City in making its determination to enter into this Agreement; (ii) is to the "best of Seller's knowledge" (which means to the current actual knowledge of Susan Dell'Osso, a representative of Seller, without personal liability, without investigation or any imputed knowledge or any review of any files), true in all respects as of the Effective Date and shall be true in all respects on the Closing Date and (iii) shall survive the Close of Escrow for a period of one (1) year.

(a) Seller has full right, power and authority to enter into this Agreement and the Underlying Agreement and perform Seller's obligations hereunder and thereunder. This Agreement and all other documents delivered by Seller to City now, or at the Close of Escrow have been or will be duly executed and delivered by Seller and are legal, valid and binding obligations of Seller, are enforceable in accordance with their respective terms and do not violate any provision of any agreement to which Seller is a Party. To the best of Seller's knowledge, the Underlying Agreement is in full force and effect without default by either party thereto.

(b) To the best of Seller's knowledge, and except as disclosed in any due diligence materials delivered to City or in the Title Report, there are no pending or threatened actions, suits, writs, injunctions, decrees, legal proceedings or governmental investigations against or affecting the Police Station or relating to the ownership, maintenance, use or operation of the Police Station that would affect the use thereof as a Police Station.

(c) Except as disclosed in any due diligence materials delivered to City or in the Title Report, Seller has not received any written notices nor has any actual knowledge of any violation of any laws, ordinances, rules, regulations or requirements of any governmental agency, body or subdivision affecting or relating to the Police Station that would affect the use thereof as a Police Station.

(d) Except as disclosed in any due diligence materials delivered to City or in the Title Report, there are no leases, rights of first refusal or other agreements relating to the right of possession and/or occupancy of the Police Station by any person or entity, except for Permitted Exceptions.

(e) To the best of Seller's knowledge, Seller has not received any written notice that the Police Station or Seller is in violation of any applicable Federal, State or local statute, ordinance, order, requirement, law or regulation materially adversely affecting the Police Station or its intended use as a Police Station.

If Seller becomes aware of any act or circumstance which would change or render incorrect, in whole or in part, any representation or warranty made by Seller hereunder, whether as of the Effective Date or any time thereafter through the Closing Date, Seller will give immediate written notice of such changed fact or circumstance to City and if such issue is not cured by Seller within sixty (60) days after Seller sends such notification to City or such longer period as is necessary, using diligent efforts, to cure such issue (with the Closing extended to

permit Seller to effect such cure), and City's sole remedy shall be to either: (i) pursue specific performance under Section 5.4 or (ii) waive such matter and proceed to the Closing.

5.2 City's Representations and Warranties. City hereby makes the following representations and warranties to Seller, each of which: (i) is material and relied upon by Seller in making its determination to enter into this Agreement, (ii) is to the "best of City's knowledge" (which means to the current actual knowledge of Stephen J. Salvatore, a representative of City, without personal liability, without investigation or any imputed knowledge or any review of any files), true in all respects as of the Effective Date and shall be true in all respects on the Closing Date and (iii) shall survive the Close of Escrow.

(a) City has the full right, power and authority to enter into this Agreement and perform City's obligations hereunder. This Agreement and all other documents delivered by City to Seller now or at the Close of Escrow have been or will be duly executed and delivered by City and are legal, valid and binding obligations of City, are enforceable in accordance with their respective terms and do not violate any provision of any agreement to which City is a party.

(b) City acknowledges that neither Seller nor Seller's representatives make any representation or warranty concerning the accuracy or completeness of any reports, studies, analyses, documents, instruments or any other items or materials delivered or made available by Seller or Seller's representatives (collectively "***Seller's Documents***"). City acknowledges that it will be purchasing the Police Station with all faults disclosed in or suggested to exist by the Seller's Documents.

(c) City represents and warrants to Seller that City is acquiring the Police Station for use as a Police Station, has knowledge and experience in financial and business matters that enable City to evaluate the merits and risks of the transactions herein contemplated and has bargained for and obtained a purchase price and agreement terms which make the limitations of City's recourse against Seller acceptable.

If City becomes aware of any act or circumstance which would change or render incorrect, in whole or in part, any representation or warranty made by City hereunder, whether as of the Effective Date or any time thereafter through the Closing Date, City will give immediate written notice of such changed fact or circumstance to Seller and if such issue is not cured by City within sixty (60) days after City sends such notification to Seller or such longer period as is necessary, using diligent efforts, to cure such issue (with the Closing extended to permit City to effect such cure), and Seller's sole remedy shall be to either: (i) pursue specific performance under Section 5.5 or (ii) waive such matter and proceed to the Closing.

5.3 Brokerage Commissions. Seller and City each represent and warrant that no third-party broker's commissions and/or finder's fees are applicable with respect to the transactions contemplated by this Agreement. Each Party acknowledges that no other party is known to be entitled to such broker's commissions and/or finder's fees and agrees to indemnify and hold the other harmless from and against all liabilities, costs, damages and expenses including without limitation attorneys' fees and costs, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay any such broker's commissions and/or finder's fees, or those of any third party in connection with this transaction.

5.4 SELLER'S DEFAULT: IF THE CLOSE OF ESCROW FOR THE POLICE STATION DOES NOT OCCUR SOLELY BY REASON OF DEFAULT BY SELLER IN ANY MATERIAL OBLIGATION OF SELLER UNDER THIS AGREEMENT WHERE SUCH DEFAULT IS NOT CURED BY SELLER WITHIN TEN (10) BUSINESS DAYS AFTER SELLER'S RECEIPT OF WRITTEN NOTICE FROM CITY OF SUCH DFEAULT OR SUCH LONGER PERIOD AS IS NECESSARY TO CURE SUCH DEFAULT, CITY, AS ITS SOLE AND EXCLUSIVE REMEDY, SHALL BE ENTITLED TO PURSUE AN ACTION AGAINST SELLER FOR SPECIFIC PERFORMANCE. THE PARTIES ACKNOWLEDGE THAT IN THE EVENT OF SUCH UNCURED DEFAULT, THE DAMAGES TO CITY WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN, THAT DAMAGES WOULD NOT BE SUFFICIENT TO COMPENSATE CITY FOR SELLER'S BREACH OF THIS AGREEMENT, THAT CITY'S REMEDY AT LAW WOULD BE INADEQUATE DUE TO THE UNIQUE NATURE AND USE OF A POLICE STATION. CITY WAIVES ANY AND ALL OTHER REMEDIES INCLUDING WITHOUT LIMITATION THE RIGHT TO SEEK OR RECOVER ANY DAMAGES AT LAW OR IN EQUITY FROM SELLER INCLUDING ACTUAL, PUNITIVE, INCIDENTAL, EXEMPLARY AND CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS), NOTWITHSTANDING WHETHER SELLER WAS INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR WAS NEGLIGENT. SELLER SPECIFICALLY CONSENTS AND AGREES TO THE REMEDY OF SPECIFIC PERFORMANCE HEREUNDER AS PROVIDED ABOVE.

5.5 CITY'S DEFAULT: CITY AND SELLER EACH AGREE THAT IN THE EVENT OF A MATERIAL DEFAULT OR BREACH HEREUNDER BY CITY RESULTING IN THE FAILURE OF THE CLOSING, THE DAMAGES TO SELLER WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN, THAT DAMAGES WOULD NOT BE SUFFICIENT TO COMPENSATE SELLER FOR CITY'S BREACH OF THIS AGREEMENT, THAT SELLER'S REMEDY AT LAW WOULD BE INADEQUATE DUE TO THE UNIQUE NATURE AND LIMITED COMMERCIAL USE OF A POLICE STATION, AND THAT THEREFORE, IN THE EVENT OF A MATERIAL DEFAULT OR BREACH BY CITY RESULTING IN THE FAILURE OF THE CLOSING, WHICH DEFAULT OR BREACH IS NOT CURED WITHIN TEN (10) BUSINESS DAYS AFTER WRITTEN NOTICE IS GIVEN BY SELLER TO CITY, SELLER MAY SPECIFICALLY ENFORCE THE OBLIGATION OF CITY TO PURCHASE THE POLICE STATION. CITY SPECIFICALLY CONSENTS AND AGREES TO THE REMEDY OF SPECIFIC PERFORMANCE HEREUNDER AS PROVIDED ABOVE.

SELLER _____ CITY _____

5.6 Limitation on Recourse. Notwithstanding anything to the contrary contained in this Agreement, City agrees that its recourse against Seller under this Agreement or under any other agreement, document, certificate or instrument delivered by Seller to City, or under any law applicable to the Police Station or this transaction, shall be strictly limited to Seller's interest in the Police Station (or upon consummation of the transaction contemplated hereunder, to the net proceeds of the sale thereof actually received by Seller), and that in no event shall City seek or obtain any recovery or judgment against any of Seller's other assets (if any) or against any of

Seller's members (or their constituent members or partners) or any director, officer, employee or shareholder of any of the foregoing.

6. MISCELLANEOUS.

6.1 Attorneys' Fees; Litigation. In the event either party to this Agreement should default under any of the provisions hereof, and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained (including any affirmative defenses), the defaulting party agrees that it will, on demand therefor, pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

6.2 Notices. All notices required to be delivered under this Agreement to the other Party must be in writing and shall be effective: (i) when personally delivered by the other Party or messenger or courier thereof; (ii) three (3) business days after deposit in the United States mail, registered or certified or (iii) twenty-four (24) hours after deposit before the daily deadline time with a reputable overnight courier or service; in each case postage fully prepaid and addressed to the respective Parties as set forth below or to such other address and to such other persons as the Parties may hereafter designate by written notice to the other Parties hereto:

If to City: **CITY OF LATHROP**
390 Towne Centre Drive
Lathrop, CA 95330
Attn: City Manager & Public Works Director

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

If to Seller: **RIVER ISLANDS DEVELOPMENT, LLC**
73 W. Stewart Road
Lathrop, CA 95330
Attn: Susan Dell'Osso

WITH COPY TO: Freilicher Law
3235 Bayo Vista Avenue
Alameda, CA 94501
Attn: Lisa Freilicher, Esq.

Seller and City, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

6.3 Authority. The persons executing this Agreement on behalf of the Parties hereto warrant, without any personal liability, that: (i) such Party is duly organized and existing; (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party; (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

6.4 Execution in Counterparts. This Agreement may be executed in several counterparts (including electronic counterparts), and all so executed shall constitute one agreement binding on all Parties hereto, notwithstanding that all Parties are not signatories to the original or the same counterpart.

6.5 Assignment. City shall not assign this Agreement or any right or privilege City might have under this Agreement without the prior written consent of Seller, which consent may be withheld in Seller's sole and absolute discretion. Seller shall not assign this Agreement or any right or privilege Seller might have under this Agreement without the prior written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed, provided that the assignee agrees in a written notice to City to carry out and observe each of Seller's obligations hereunder including all Exhibits hereto. City shall review and consider promptly and in good faith any request by Seller to assign this Agreement. City's consent to any such assignment may be withheld only if: (i) reliable evidence (for example, financial records) requires a conclusion that the proposed assignee clearly will be unable to perform the rights and obligations hereunder or (ii) Seller or the assignee fail to provide acceptable security, as and if reasonably requested by City, to ensure performance of the rights and obligations under this Agreement that are proposed to be assumed by such assignee. If Seller requests City's written consent to any such assignment, Seller shall: (a) notify City in writing of the proposed assignment; (b) provide City with the name and address of the proposed assignee; (c) provide City with financial information of the proposed assignee and (d) provide City with a copy of the proposed assignment. City shall respond in writing to Seller within thirty (30) days after receipt of the foregoing information. If City fails to so respond within such thirty (30) day period, Seller may subsequently notify City in writing of such failure and request again City's consent to the proposed assignment. If City fails to respond to such subsequent notice and request within fifteen (15) days after receipt thereof, City shall be deemed to have consented to the proposed assignment. Changes in the ownership or control of Seller, or the assignment of this Agreement to an affiliate of Seller, shall not be deemed to constitute a transfer of this Agreement.

6.6 Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not signatory to this Agreement.

6.7 Binding on Heirs. Except as set forth in Section 6.5, this Agreement shall be binding upon the Parties hereto and their respective heirs, representatives, transferees, successors and assigns.

6.8 Time of the Essence. Time is of the essence with respect to each of the terms, covenants and conditions of this Agreement.

6.9 Condemnation. In the event the Police Station is taken, in whole or in part, or designated to be taken by condemnation proceedings, or proceedings in lieu thereof, prior to the Close of Escrow, this Agreement shall terminate, Escrow shall be canceled and City shall be refunded the Deposit. Seller shall be entitled to all proceeds of condemnation.

6.10 Entire Agreement, Waivers and Amendments. This Agreement, and any written agreement entered into by the Parties with respect to the Police Station, incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the Parties with respect to all or part of the subject matter thereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Party to be charged. Any amendment or modification to this Agreement must be in writing and executed by Seller and City.

6.11 Exhibits. Exhibits “A-1,” “A-2,” “B,” “C,” “D” and “E” and Schedules “1” and “2” attached to this Agreement are incorporated herein by this reference and made a part hereof. Said Exhibits are identified as follows:

- “A-1” - DESCRIPTION OF PROJECT
- “A-2” - DESCRIPTION OF LAND
- “B” - OFFER OF DEDICATION
- “C” - PUBLIC AGENCY CERTIFICATE OF ACCEPTANCE
- “D” - BILL OF SALE
- “E” - NON-FOREIGN AFFIDAVIT

- SCHEDULE “1” TITLE REPORT
- SCHEDULE “2” APPRAISAL

6.12 Effect of Recitals. The Recitals above are deemed true and correct, are hereby incorporated into this Agreement as though fully set forth herein and Seller and City acknowledge and agree that they are each bound by the same.

6.13 Section References. Any reference to any section of this Agreement cited without a decimal includes all sections following the cited section. For example, a reference to Section 5 includes 5.1, 5.1(a), *et seq.*

6.14 Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

6.15 Interpretation: Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect on the Effective Date.

6.16 Covenants to Survive Escrow. The covenants and agreements contained in this Agreement shall survive the Close of Escrow for a period of one (1) year.

6.17 Conflicts of Interest. No director, officer, official, representative, agent or employee of the City shall have any financial interest, direct or indirect, in this Agreement.

6.18 Nondiscrimination. There shall be no discrimination by Seller nor City against any person on account of race, color, religion, sex, marital status, national origin or ancestry in the performance of their respective obligations under this Agreement.

6.19 Rights and Remedies are Cumulative. Except as may be otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of its rights or remedies shall not preclude the exercise by it, at the same time or at different times, of any other rights or remedies for the same default or any other default by another Party.

6.20 Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein, and the Agreement shall be read and enforced as though it were included herein; if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either Party the Agreement shall forthwith be physically amended to make such insertion or correction.

6.21 Cooperation. City and Seller acknowledge that it may be necessary to execute documents other than those specifically referred to herein in order to complete the acquisition of the Police Station and/or to accomplish the objectives and requirements that are set out in this Agreement. Both City and Seller hereby agree to cooperate with each other by executing such other documents or taking such other actions as may be reasonably necessary to complete this transaction in accordance with the intent of the Parties as evidenced in this Agreement and all Exhibits attached hereto.

6.22 Dispute Resolution Mechanism. In the event of a dispute under this Agreement, the parties shall first mediate the dispute using a mutually acceptable mediator at JAMS. The parties shall share equally the fees of the mediator and other costs. If mediation is not successful, the parties may pursue any rights and remedies available at law or in equity.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers, as of the Effective Date.

CITY

CITY OF LATHROP, a municipal corporation of the State of California

By: _____
Name: Stephen J. Salvatore
Its: City Manager

SELLER

RIVER ISLANDS DEVELOPMENT, LLC, a California limited liability company

By: _____
Name: Susan Dell'Osso
Its: Vice President and Secretary

ATTEST:

By: _____
Name: Teresa Vargas
Its: City Clerk

APPROVED AS TO FORM:

By: _____
Name: Salvador Navarrete
Its: City Attorney

EXHIBIT "A-1"

LEGAL DESCRIPTION OF PROJECT

[To Be Inserted]

EXHIBIT "A-2"

LEGAL DESCRIPTION OF LAND

[To Be Inserted]

EXHIBIT "B"

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

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

(Space Above For Recorder's Use)

The undersigned grantor(s) declare(s): This document is being recorded for the benefit
This conveyance is exempt from the payment of the City of Lathrop and is exempt from the
of a documentary transfer tax pursuant to payment of a recordation fee pursuant to Govt.
Revenue and Taxation Code section 11922. Code section 6103.

**IRREVOCABLE OFFER OF DEDICATION
FOR POLICE STATION**

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, RIVER ISLANDS DEVELOPMENT, LLC, a California limited liability company, hereby offers for dedication to the CITY OF LATHROP, a municipal corporation in the County of San Joaquin, State of California ("**City**"), that certain real property situated in City of Lathrop including all improvements located thereon and more particularly described as follows (the "**Property**"):

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Grantor intends to convey with the Property any and all riparian rights or other water interests to which the Property is entitled therein appurtenant or relating to the Property, whether such water rights shall be riparian, overlying, littoral, percolating, prescriptive, adjudicated, statutory or contractual ("**Water Rights**").

While Grantor intends to transfer with the Water Rights with the Property, it does not intend by this grant to sever the riparian rights of the surrounding properties. With this conveyance Grantor intends to retain to any and all land surrounding the Property all riparian rights to which those lands are entitled.

Notwithstanding the above grant, Grantor intends to except and reserve unto Grantor, its successors and assigns, together with the right to grant and transfer all or a portion of the same:

A. All rights that the Property may have in and to that Water Right License 2637 (Application 5155/Permit 2720) granted by the State Water Resources Control Board and held by Island Reclamation District No. 2062.

B. The right and power to utilize, convey, remove, treat, and store the Water Rights from the Property, to divert or otherwise utilize such water, rights or interests on the Property or other property, but without, however any right to enter upon the surface of the Property in the exercise of such rights.

C. All oil, oil rights, minerals, mineral rights, natural gas rights and other hydrocarbons by whatsoever name known, geothermal steam and all products derived from any of the foregoing, that may be within or under the Property, together with the perpetual right of drilling, mining, exploring and operating therefor and storing in and removing the same from said Property or any other land including the right to whipstock or directionally drill and mine from lands other than the Property, oil or gas wells, tunnels and shafts into, through or across the subsurface of the Property, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, the right to drill, mine, store, explore or operate through the surface or the upper five hundred feet (500') of the subsurface of the Property.

D. The right to place on, under or across the Property, transmission lines and other facilities for a community antenna television system and thereafter to own and convey such lines and facilities, and the right to enter upon the Property to service, maintain, repair, reconstruct and replace said lines and facilities; provided, however, that the exercise of such rights shall not unreasonably interfere with Grantee's reasonable use and enjoyment of the Property.

E. Nonexclusive easements in gross on, over and under the Property for the construction, installation and maintenance of electric, gas, telephone, water, sewer and drainage facilities, provided that the construction and installation of such facilities shall not unreasonably interfere with Grantee's reasonable use and enjoyment of the Property. Grantor shall give to Grantee thirty (30) days written notice before exercising the foregoing easement in gross except in case of an emergency and shall restore the surface of the easement to its condition immediately prior to Grantor's entry. Grantor shall exert its best efforts to ensure that such facilities are located within rights of way and utility areas, and under no circumstances shall such facilities be placed under building pads.

SUBJECT TO:

1. General and special real property taxes and assessments and supplemental assessments, if any, for the current fiscal year.

2. Rights or claims of parties in possession not shown by the public records.

3. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey or inspection of the premises.

This Offer of Dedication is made pursuant to Section 7050 of the Government Code of the State of California, and may be accepted at any time by the City Engineer of the City of Lathrop.

This Offer of Dedication shall be irrevocable and shall be binding on the Grantor's heirs,

executors, administrators, successors and assigns. Notwithstanding anything to the contrary contained herein, this Offer of Dedication shall not be effective until execution, acknowledgment and recordation by City of an Acceptance of Dedication duly executed by an authorized representative thereof.

SIGNATURES:

Dated: _____

GRANTOR:

RIVER ISLANDS DEVELOPMENT, LLC
a California limited liability company

By: _____
Name: Susan Dell'Osso
Its: President

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)

On _____, before me, _____, a Notary Public, personally appeared _____, 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.

Notary Public

(SEAL)

ATTACHMENT "A" TO OFFER OF DEDICATION

LEGAL DESCRIPTION OF LAND

[To Be Inserted]

EXHIBIT B

Trade Contractor Agreement

(See Attached)

TRADE CONTRACTOR AGREEMENT **EXHIBIT B**

PROJECT NAME: River Islands at Lathrop (the "Project")
 PROJECT ADDRESS: 73 West Stewart Road, Lathrop, California
 PROJECT PHONE: 209-879-7900

CONTRACT NUMBER: [REDACTED]

THIS TRADE CONTRACTOR AGREEMENT ("Contract"), made and entered into as of [REDACTED], 20__ by and between [REDACTED], hereinafter referred to as "Contractor", and RIVER ISLANDS DEVELOPMENT, LLC, a California limited liability company, hereinafter referred to as "RID" for the benefit of the CITY OF LATHROP, a municipal corporation of the State of California ("City"). City is an express intended third party beneficiary under this Contract.

SECTION 1: DESCRIPTION OF WORK AND CONTRACT PRICE

a. Contractor agrees to furnish the construction and services required by the Contract Documents (defined in Section 1.b.), whether completed or partially completed, and all other labor, materials, installation, supplies, equipment, services, machinery, tools and other facilities of every kind and description required for the prompt and efficient execution of Contractor's obligations hereunder, and to complete the duties described herein and in Exhibit A in a good and workmanlike manner (collectively, the "Work").

b. The Work shall be performed for the benefit of RID and City and completed in strict accordance with all applicable building codes, laws and regulations, the terms and conditions of this Contract, and the general conditions, specifications, plans, and drawings prepared for the Work (all of which documents constitute and are referred to hereinafter as the "Contract Documents" and are incorporated herein by this reference), and all applicable codes and ordinances and to the full satisfaction and acceptance of RID.

Exhibits and Schedules	
Exhibit A	Scope of Work and General Conditions
Exhibit B	Insurance Requirements
Exhibit C-1	Request for Change Order
Exhibit C-2	Change Order Form
Exhibit D	Certification Form
Schedule 1	Public Works Requirements
Schedule 2	Form of Performance Bond
Schedule 3	Form of Payment Bond
Schedule 4	Form of Guaranty Bond

(All Exhibits are incorporated into this Contract as though set forth in full herein). The Contract Documents also include the Notice to Contractors, Bid Proposal, this Contract, the Accepted Bid, Non-Collusion Affidavit, Technical Specifications, Plans, and all Addenda as prepared prior to the date of bid opening that set forth any modifications or interpretations of any of the foregoing documents. All of the provisions of the Contract Documents are hereby incorporated in and made a part of this Contract as though fully set forth herein.

The Work and the price for the Work is described below:

Contractor For	Contract Price
See Exhibit A, Scope of Work for Contractor (cost code __-__)	\$ _____
TOTAL	\$ _____

c. The Work will be performed for the total sum of \$ [REDACTED] ("Contract Price"), including all cartage and applicable taxes of any nature whatsoever. Total consideration stated above shall be paid by RID to Contractor in accordance with the provisions of Section 2 of this Contract. Contractor shall commence the Work not later than five (5) working days after receipt of a notice to proceed from RID.

d. The Work includes all Work and materials (unless it is specified in the scope of Work that materials are to be supplied by RID and/or a third party) to perform the Work in accordance with the terms of this Contract including without limitation all Contract Documents. Contractor shall have the necessary personnel available to meet the Baseline Schedule (defined in Section 4.a., as may be amended from time to time) and to compensate for weather delays. Contractor shall pay all royalties, license fees and taxes applicable to materials furnished by Contractor, and all forms and methods used by Contractor in the performance of this Contract. Should Contractor use RID's or City's equipment or facilities, Contractor shall reimburse RID, at a pre-determined rate prior to use thereof. No additional payments will be made for "field measured" quantities. Whenever any

manufactured article, implement, or series of articles or implements is mentioned in the specifications by name, trade or manufacturer's name, it is intended to establish a standard of merit and quality. The intent of this definition is to require quality materials and workmanship; however, substitutes of equal merit may be used by the Contractor, but only upon the written consent of RID, or RID's authorized representative. Under no circumstances shall a substitute material be used which will not conform to requirements set forth in the Contract Documents.

e. This is a public works contract. The Work includes improvements that will ultimately be dedicated to and accepted by a governmental or quasi-governmental entity. Contractor shall therefor strictly comply with the provisions of Schedule 1 attached hereto.

f. Contractor shall attend all Project meetings called by RID. In addition, during all times when its Work is in progress, Contractor shall have a competent project manager, superintendent or foreperson, readily available or on the Project jobsite as Contractor's representative who: (a) shall be authorized by Contractor and capable to communicate in English with RID and others on the jobsite; (b) shall be authorized by Contractor to make such monetary and non-monetary decisions on behalf of Contractor as may be necessary for the prompt and efficient performance of the terms of this Contract by Contractor; and (c) shall be authorized to represent Contractor as to all matters on the applicable Project. Prior to the commencement of Work, Contractor shall notify RID of the identity of Contractor's representative on the Project jobsite, and in the event of any replacement by Contractor of such representative, Contractor shall notify RID of the identity of such replacement. RID may reasonably reject Contractor's representative and/or any replacements.

g. In connection with this Contract, RID's designated representative for purposes of signing this Contract or any relevant amendments or Change Orders, is Susan Dell'Osso, Project Director for RID. RID's designated representative in the field shall be the individual designated by Susan Dell'Osso from time to time, which designation may be verbal.

SECTION 2: PAYMENT SCHEDULE

a. **PROGRESS PAYMENTS.** Contractor will not be paid until Contractor has complied with all of the provisions of this Section 2. Progress payments for Work shall be paid only after the following conditions have been met, which progress payments shall reflect adjustment in Retention (defined in Section 2.e), if any, as provided herein:

1. Contractor has executed this Contract and any applicable Change Orders (defined in Section 7.b.) and delivered a W-9 form to RID, together with a copy of its California contractor's license.
2. Contractor has in fact performed the percentage or stage of the Work (the "**Applicable Work**") that would trigger a progress payment;
3. the Applicable Work has been performed in accordance with all governmental requirements and, if requested, Contractor has provided RID with satisfactory evidence of same;
4. Contractor has submitted an invoice for the Applicable Work to RID for approval, together with a monthly report describing Contractor's progress and whether Contractor is in compliance with the Baseline Schedule (the "**Monthly Progress Report**").
5. Contractor has delivered to RID conditional and final lien waivers and releases in the form required by the California Civil Code, executed by Contractor, its subcontractors, and all suppliers who furnished materials to the Project, to the date of the invoice(s).
6. The payment request and supporting documents meet RID's requirements;
7. Contractor has supplied to RID a copy of certified payrolls as required by Schedule 1 and the Certification Form attached as Exhibit D;
8. Contractor is in compliance with the insurance requirements set forth herein; and
9. Contractor has corrected any defective Work in accordance with the provisions of this Contract.

Any payment made hereunder, prior to total completion and acceptance of Contractor's Work shall not be construed as evidence of acceptance of any part of Contractor's Work, nor a waiver of any claim by RID arising out of faulty workmanship or materials or from failure of Contractor to comply strictly with the Contract Documents.

b. **TIMING OF PROGRESS PAYMENTS.** RID agrees to pay Contractor by the end of the month for invoices that have been received by RID by the first of the month (including all supporting documentation). No Retention shall be paid to Contractor until all of the Work has been fully completed by Contractor and accepted by RID in accordance with this Contract. No interest shall accrue to the Contractor on account of payments or Retention withheld hereunder.

c. **FINAL PAYMENT.** RID shall process its final payment for the Work after the following conditions have been met, which payment shall reflect adjustment in Retention, if any, as provided herein:

1. The Work has been fully completed, including all corrections to defective Work, as requested by RID or City, all Change Orders have been fully executed, and Contractor is in compliance with insurance requirements set forth herein;
2. RID has provided final written approval of the Work;
3. Contractor has delivered to RID final lien waivers and releases in the form required by the California Civil Code from Contractor, its subcontractors and all suppliers who furnished materials to the Project;
4. The Work has been performed in accordance with all applicable governmental requirements and Contractor has provided RID with satisfactory evidence of same;
5. If requested by RID, Contractor has provided fully detailed "as-built" drawings of its completed Work;
6. Contractor has provided RID with copies of all written warranties and assignments of any manufacturers warranties from Contractor's Agents (defined in Section 11.a.1) and material suppliers as set forth in this Contract;
7. Contractor has delivered all operating, servicing and maintenance manuals, if any; and
8. Contractor has fully performed all other outstanding obligations under this Contract.

Contractor's acceptance of RID's final payment shall be conclusive evidence that RID has made all payments due and owing with respect to the Work and Contractor shall have no further right to request any further payment with respect thereto.

d. **RIGHT OF OFFSET.** Contractor agrees that amounts owed under this Contract are subject to withholding, backcharge and offset by RID in the event of: (a) Contractor's breach of this Contract; (b) any damages caused by Contractor; (c) any Liens (defined in Section 14.a) or other claims arising out of the Work and/or materials; (d) any Costs (defined in Section 9.b) of curing defective Work and/or materials and/or any other amounts expended by RID in connection therewith; (e) Contractor's breach of any other agreement between Contractor and RID and/or its Affiliates (defined in Section 11); (f) claims or amounts due to RID and/or its Affiliates, regardless of whether arising out of this Contract or otherwise; (g) failure of Contractor to make payments to its lower tier subcontractors for labor, materials, or equipment and/or (h) any other reason for withholding provided in this Contract or under applicable law. Contractor further agrees that should RID have reason to terminate this Contract as a result of Contractor's failure to comply with the terms and conditions of this Contract, then RID and/or its Affiliates shall have the right, in their sole discretion, to terminate any other agreements between Contractor and RID and/or its Affiliates. In the event Contractor breaches this Contract, RID shall have the right to stop all payments to Contractor until such time as RID can accurately ascertain its damages and Costs resulting from the breach, at which time RID is authorized to deduct all Costs related thereto from any monies owed Contractor under this Contract and/or other agreements with RID. Contractor shall not delay and/or stop any Work by reason of RID's failure to make any payments if the failure is a result of a dispute as to the amount of the payment or whether payment is due.

e. **RETENTION.** During the term of this Contract, to cover any potential Costs related to Contractor's performance of this Contract, RID may withhold from Contractor up to five percent (5%) of amounts owing to Contractor hereunder (the "Retention"). The Retention may be retained by RID as long as permitted by applicable laws (defined in this Section below). If no applicable laws govern, RID may retain the Retention until the later of: (i) such period of time during which a Lien or claim of Lien could lawfully be filed by anyone performing Work or furnishing materials related to the Work, or (ii) the expiration of the Warranty Period (defined in Section 23.b). At RID's sole discretion, RID may accept a letter of credit as a substitute for Retention, in which case the Contractor shall provide a letter of credit acceptable to RID as well as execute all other documents requested by RID. If RID elects to accept a letter of credit, Retention may be withheld until Contractor provides an acceptable letter of credit and executes all documents requested by RID. As used herein, the term "applicable laws" means all applicable, local, state and federal ordinances, laws, rules and regulations, including but not limited to, building codes, safety laws, FHA/VA requirements, all occupational safety and health standards promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970, as amended, and all conditions of approval affecting the Project, copies of which are available at RID's office set forth above.

f. **COMPLIANCE WITH WAGE AND BENEFIT LAWS.** Contractor shall comply with all state and federal laws governing the full and prompt payment of wages, fringe or other benefit payments or contributions due to its employee(s) or to a third party on any employee's behalf including, but not limited to, compliance with California Labor Code section 218.7 governing the payment of wages for the Wage Claimant's (as defined below) performance of labor included in the scope of Work in the Contract. Contractor shall also comply with all rules as follows:

1. Should Contractor subcontract with a lower tier subcontractor, Contractor shall enforce each requirement under this Section on any and all of its lower tier subcontractors who contract to perform any portion of the Work, and shall require each lower tier subcontractor to comply with and enforce these requirements in their respective subcontract agreements. Contractor shall expressly require the indemnity in favor of RID provided in Section 11 of this Contract, as part of the subcontract agreement with any such lower tier subcontractor, and Contractor shall require by subcontract agreement that any lower tier subcontractor provide all information required to be submitted in Section 2 of this Contract including, but not limited to, the certification(s) to be delivered by lower tier subcontractors regarding the payment of wages, all as set forth below.

2. Contractor agrees to assume, and be liable for, any and all debt owed to a Wage Claimant or third party on the wage claimant's behalf for such wage claimant's performance of labor for any portion of the Work (collectively, "**Wage Claimant**"), whether such Wage Claimant was employed by Contractor or by any of its lower tier subcontractors.

3. Prior to commencing any portion of the Work, Contractor shall provide RID with award information that includes the Project name, name and address of each and every lower tier subcontractor with whom the Contractor has under subcontract, anticipated start date, duration, and estimated journeymen and apprentice hours, and contact information for each of its lower tier subcontractors on the Project. Contractor shall require by subcontract agreement that any lower tier subcontractor provide the same information to RID for any of its lower tier subcontractors for the Project.

4. For each request for payment submitted by Contractor, Contractor shall submit: (a) a certification from Contractor that it has paid all wages, fringe or other benefit payment or contributions due to any Wage Claimant; and (b) a certification from each of Contractor's lower tier subcontractors that it has paid all wages, fringe or other benefit payment or contributions due to any Wage Claimant; in each case, for all Work covered by the request for payment. Such certifications shall be in the form attached hereto as **Exhibit D** to this Contract.

5. Contractor shall maintain accurate payroll records, which, at a minimum, shall contain the information set forth in subdivision (a) of California Labor Code section 226, and which are payroll records as contemplated by California Labor Code section 1174, of its employees who are providing labor on any portion of the Work ("**Payroll Records**"). Contractor shall also require all lower tier subcontractors to maintain accurate Payroll Records for employees who are providing labor on any portion of the Work in their respective subcontract agreements.

6. If requested by RID, Contractor shall provide copies of Payroll Records that shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. The Payroll Records must contain information sufficient to apprise RID of the payment status of the Contractor and its lower tier subcontractors' payment in making fringe or other benefit payments or contributions to a Wage Claimant.

7. In the event that Contractor receives notice of a claim or has knowledge of any claim by any of its employees or any Wage Claimant regarding the payment of wages for the Project, Contractor shall immediately notify RID of such claim and any information received to date by Contractor regarding such claim.

8. Should Contractor or any lower tier subcontractor not provide any requested Payroll Records, any notice of claim by Contractor employee or Wage Claimant, or any other information to be provided to RID pursuant to this Contract in a timely manner, then RID may back-charge or withhold from monies owing to Contractor under the Contractor or otherwise, any amount reasonably believed necessary to protect it from any claims related to the foregoing, including any incurred attorney fees and costs, until Contractor or lower tier subcontractor provides the requested information. Such amount shall be withheld as "disputed" under California Labor Code section 218.7 until RID is provided with all requested information. This is in addition to any other rights RID may have to withhold under the Contract and failure of Contractor to pay its employees shall constitute a breach under this Contract.

9. To the fullest extent permitted by applicable law, Contractor shall be obligated to indemnify, defend and hold harmless the Indemnitees (as defined in Section 11), against any and all claims, damages, injury, loss, liability and expense, including but not limited to, attorneys' fees and expert fees incurred as a result thereof, arising out of, connected with or related in any way to any claim that is made against RID or any of the Indemnitees, whether directly or indirectly, alleged or actual, for unpaid wage, fringe or other benefit payment or contribution by a Wage Claimant or a third party on the Wage Claimant's behalf for such Wage Claimant's performance of labor for any portion of the Work, which includes, but is not limited to, claims that are brought against RID or any of the Indemnitees pursuant to Labor Code section 218.7 for any claim, damages or loss arising out of, connected with or related in any way to Contractor's or any of its lower-tier subcontractor's actual or alleged failure to pay, including, but not limited to unpaid wages, attorneys' fees and expert fee, fringe or other benefit payment or contribution, interest or otherwise as may be assessed against RID or any of the Indemnitees (collectively, "**Wage Claims**"). Contractor's duty to defend RID and the Indemnitees arises immediately upon tender of the Wage Claim to Contractor and is entirely separate from, independent and free of Contractor's duty to indemnify RID and the Indemnitees elsewhere in this Contract, and includes, without limitation, defense of RID and the Indemnitees to the fullest extent permitted by applicable laws regardless of whether the issue of RID's and the Indemnitees' liability has been determined and whether RID or any Indemnitees have paid any sums, or incurred any detriment, arising out of or resulting directly or indirectly from such Wage Claims. It is the parties' intent that RID and the Indemnitees shall be entitled to summary adjudication of Contractor's duty to defend RID and the Indemnitees during any stage of a Wage Claim. The prevailing party in any action to enforce the indemnity provisions herein shall be entitled to recover its reasonable attorneys' fees and costs. Contractor shall defend RID and the Indemnitees at Contractor's sole cost and expense and with legal counsel approved by RID, which approval shall not be unreasonably withheld.

10. If requested by RID, Contractor shall furnish payment bonds in the amount of the Contract Price covering the payment of all obligations arising under this Section. Prior to commencement of the Work by Contractor, Contractor shall pay the premium on such payment bonds and provide evidence of its payment to RID. Contractor acknowledges that such payment bond shall not be released until the following conditions are satisfied: (1) after the one-year statute of limitations set forth under California Labor Code section 218.7 expires; and (2) any and all claims for unpaid wage, fringe or other benefit payment or contribution by a Wage Claimant or a third party on the wage claimant's behalf for such Wage

Claimant's performance of labor for any portion of the Work, including any and all claims to enforce the indemnity provisions herein against Contractor, are fully adjudicated.

SECTION 3: INDEPENDENT INVESTIGATION

a. Contractor represents that Contractor has satisfied itself, by Contractor's own investigation and research, regarding all the conditions affecting the Work to be done and materials to be furnished including all requirements, statutes and ordinances of all governmental entities, and as to the meaning and intention of the plans and specifications and the general conditions referred to herein, and has based Contractor's conclusion to execute this Contract on such investigations, independent of any estimate or other information prepared or furnished by RID. Contractor proposes to furnish the Work in accordance with the plans, specifications and drawings described herein, as part of the Project. All provisions of the above-mentioned Contract Documents that are applicable to this Contract or which in any way affect the Work herein described, shall have the same effect as if written in full in this Contract, except insofar as such provisions may be specifically changed by this Contract. **BID DOCUMENTS ARE NOT INCORPORATED INTO THIS CONTRACT. ALL TERMS ON ANY CONTRACTOR QUOTATIONS, ACKNOWLEDGMENTS, INVOICES OR OTHER CONTRACTOR DOCUMENTS ARE HEREBY CANCELED AND RENDERED NULL AND VOID TO THE EXTENT OF ANY CONFLICT AND/OR INCONSISTENCY WITH THIS CONTRACT, AND THIS CONTRACT SHALL CONTROL.**

b. Without limiting the foregoing, Contractor represents that before commencing Work on the Project, it shall have (i) thoroughly inspected the then-current state of the Project jobsite and reviewed the latest version of the plans and specifications and Baseline Schedule for the Project, it being Contractor's responsibility to stay informed regarding all changes to the jobsite, plans and specifications, and Baseline Schedule throughout the course of the Project; (ii) ascertained the jobsite conditions to be encountered in the performance of the Work, including verifications of all grades, measurements and the location of existing utilities; (iii) inspected all curbs, landscaping, common areas, walks, drives and streets, and reported any damage to RID (damage found may later be charged to Contractor, if such damage is due to Contractor's negligence or breach of this Contract); (iv) verified that all Work, storage and access areas and surfaces relating to or adjoining the Work are satisfactory for the commencement of the Work. The commencement of the Work by Contractor shall be deemed as Contractor's acceptance of the jobsite and all access and storage areas; and (v) notified RID, in writing, of any discrepancy, error, conflict or omission discovered by Contractor at the jobsite and/or in the plans and specifications, or in the work of others.

c. RID may provide a geotechnical engineer to provide testing for RID's quality assurance. RID's testing does not relieve Contractor of the sole obligation to provide RID with compaction, if any, required by this Contract. Contractor is solely responsible for all repairs caused by improper use of soils or compaction. Contractor may employ its own geotechnical engineer, at no cost to RID, to ensure that Contractor's obligations in this regard are fulfilled.

d. If applicable, it is Contractor's responsibility to schedule RID's geotechnical engineering and testing firm ("**Testing Firm**") not less than twenty four (24), but not more than seventy two (72) hours, prior to performing any structural soils placement. If the Testing Firm does not appear to test soils as scheduled, Contractor will do no structural soils placement until Contractor has notified RID in writing, and RID has returned written approval for the Work to continue. If Contractor places structural material without the Testing Firm approving the structural material placement, Contractor will be responsible for all costs associated with obtaining Testing Firm's approval. These costs are without limitation, and will include correction of Contractor's Work, as well as any other work, which may be affected by the unapproved structural soils placement, including any work subsequently placed on the unapproved structural soils.

e. Unless otherwise specified in the scope of Work, all soil movements necessary to complete the Work are included in the Contract Price, and RID will not be required to make any additional payment for such soil movements.

SECTION 4: PERFORMANCE

a. If Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this Contract, or use inferior materials or workmanship not satisfactory to RID, RID may, after five (5) business days written notice to the Contractor, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. Prior to execution of this Contract, RID prepared and distributed a Baseline Schedule ("**Baseline Schedule**") outlining the timing of the Work to be performed by Contractor. The inability or refusal of Contractor to prosecute or complete the Work in the time provided in the Baseline Schedule shall at the option of RID, constitute sufficient grounds for the termination of this Contract for cause upon forty eight (48) hours' written notice; provided, however, RID shall have its remedies hereunder for breach of this Contract. RID may rearrange the items within the Baseline Schedule from time to time upon written notice to Contractor; provided, however, that RID may not shorten or lengthen the duration of the Baseline Schedule without obtaining the prior written approval of Contractor, which shall be documented by written Change Order.

b. Contractor shall coordinate its Work with RID and other contractors and subcontractors of RID so that there will be no delay or interference with the Work being performed by RID and its contractors. Contractor shall perform all Work promptly and efficiently and without delaying other work on the Project. If Contractor should fail or refuse to prosecute the Work properly and diligently or fail to perform any provisions of this Contract, and should any such failure or refusal continue for forty-eight (48) hours, or other legally required times, after written notice to Contractor, then such failure shall constitute a material breach of this Contract. In addition to its other rights and remedies, such breach shall entitle RID to immediately terminate this Contract, and RID shall have the right, but not the obligation to remedy the situation with all Costs being borne by Contractor.

If RID exercises such right, RID may withhold all sums payable to Contractor, which withheld sums shall be an offset against RID's obligations to Contractor.

c. RID shall have no liability to Contractor if any other laborer, supplier, subcontractor or contractor fails to comply with its respective Baseline Schedule thereby delaying the progress of the Work of Contractor or Contractor's Agents. Contractor expressly agrees not to make, and hereby waives, any and all monetary claims for damages against RID caused by any delay for any cause whatsoever, even those delays caused by RID or those delays for which RID may otherwise be liable. Contractor acknowledges that an extension of time shall be its sole and exclusive remedy in this regard. Should the Contractor be delayed in the prosecution of any Work solely by the acts of RID or by a Force Majeure Event, the time allowed for completion of the Work shall be extended by the number of days that Contractor has been thus delayed, but no allowance or extension shall be made unless a claim therefor is presented in writing to RID immediately upon the onset of such delay. For the purposes of this Contract, "Force Majeure Event" shall mean any delay caused by any condition beyond the reasonable control of either RID or Contractor, including, without limitation, an act of God; flood or other severe weather; war; embargo; fire or other casualty; the intervention of any governmental authority unrelated to any act or failure to act by the party claiming the Force Majeure Event; any act of terrorism or sabotage; and/or a civil riot.

d. Contractor shall give RID immediate written notice if Contractor foresees, experiences and/or is advised of any constraint, shortage or insufficiency in the supply of any materials, labor or other items necessary for Contractor to timely perform its obligations under this Contract. The giving of such notice shall not excuse Contractor from its obligations hereunder or under this Contract. In the event of any such constraint, shortage or insufficiency, Contractor shall, at its own cost and expense: (a) use its best efforts to promptly resolve any such constraint, shortage or insufficiency and increase its forces, or work such overtime or expedite the delivery of materials as may be required to bring its Work into compliance with applicable requirements of this Contract; and (b) provide RID with priority of supply and labor over any other customer of Contractor, at no additional cost to RID, provided that such priority does not cause a default of the provisions of Contractor's agreements with other customers. In addition, RID may, at its sole discretion and option, locate, order and take delivery of the affected materials directly from the manufacturer or an alternative supplier. If RID exercises this option, then Contractor shall reimburse RID for all of its Costs associated therewith, and RID may, on a going forward basis, continue to order and take delivery of the affected materials directly from the manufacturer or an alternative supplier.

e. Upon breach of this Contract, in whole or in part by Contractor, or upon any assignment by Contractor, voluntarily, or by operation of law, or upon the commission of any act of bankruptcy by Contractor, or upon Contractor's failure or refusal to do any of the Work to be done hereunder to the satisfaction of RID, RID may, after ten (10) business days written notice to the Contractor, at its option personally, by agents, or other contractors, perform and complete said Work for the account and at the expense of Contractor and, *inter alia*, withhold from the price to be paid hereunder sufficient funds therefor. The foregoing does not limit RID's other remedies under this Contract.

f. LIQUIDATED DAMAGES. SUBJECT TO EXCUSED DELAYS FOR FORCE MAJEURE EVENTS, IF THE WORK IS NOT COMPLETED WITHIN THE TIME PERIODS SET FORTH IN THE BASELINE SCHEDULE (INCLUDING WITHOUT LIMITATION THE INDIVIDUAL MILESTONE DATES SET FORTH THEREIN), IT IS UNDERSTOOD THAT RID WILL SUFFER DAMAGE. IT BEING IMPRACTICAL AND UNFEASIBLE TO DETERMINE THE AMOUNT OF ACTUAL DAMAGE, IT IS AGREED THAT CONTRACTOR SHALL PAY TO RID, AS FIXED AND LIQUIDATED DAMAGES, AND NOT AS A PENALTY, (i) [REDACTED] AND NO/100 DOLLARS (\$ [REDACTED]) FOR EACH WORKING DAY OF DELAY IN MEETING THE INDIVIDUAL MILESTONES SET FORTH IN THE BASELINE SCHEDULE, AND (ii) [REDACTED] AND NO/100 DOLLARS (\$ [REDACTED]) FOR EACH WORKING DAY OF DELAY IN FINAL COMPLETION OF THE WORK AS SET FORTH IN THE BASELINE SCHEDULE.

THE PROVISIONS OF THIS SECTION 4.f ARE EXPRESSLY UNDERSTOOD AND AGREED BY THE PARTIES HERETO.

RID INITIALS: _____

CONTRACTOR INITIALS: _____

SECTION 5: LABOR

a. Contractor agrees that the manufacture, fabrication, erection or installation of any of Contractor's Work performed under this Contract shall be performed by persons acceptable to RID in its sole and absolute discretion. In the performance of the Work, Contractor shall only employ qualified persons to perform Work on the Project, shall not employ any person who is disorderly, unreliable or otherwise unsatisfactory, and shall immediately remove or replace any such person upon written notice from RID. In connection with performance of the Work, Contractor agrees not to discriminate against any employee or applicant for employment because of race, color, sex, age, national origin, disability and/or any other protected class or status.

b. Contractor shall maintain labor harmony on the Project jobsite, and shall not employ any persons, means, materials or equipment which may cause strikes, work stoppages or any disturbances of Contractor's Agents, RID and/or any other contractor or subcontractor on the Project. Contractor shall perform the Work with labor that is compatible with that of other trades performing work at the Project jobsite, and Contractor shall use its best efforts to overcome any strike or other labor dispute or action. Any strike or other labor difficulties shall not be considered a "Force Majeure Event" for the purposes of this Contract, if such labor difficulties are caused by the action or inaction of Contractor.

c. Contractor is solely responsible for the verification of each of its employee's and Contractor's Agent's eligibility to work legally in the United States. Contractor represents and warrants that: (a) Contractor's employees and Contractor's Agents shall all be eligible to work legally in

the United States, (b) Contractor will timely obtain, review and retain all documentation required by applicable law(s) to ensure that each of its employees and each of Contractor's Agents is eligible to work legally in the United States; (c) Contractor shall comply with all applicable laws and other governmentally required procedures and requirements with respect to work eligibility, including all verifications and affirmation requirements; and (d) Contractor shall not knowingly or negligently hire, use, or permit to be hired or used, any person not eligible to work legally in the United States in the performance of Contractor's Work.

d. Contractor further agrees to make all contributions to any type of insurance, health and welfare or other similar plans initiated by any labor organizations having jurisdiction over Contractor's employees. Contractor further agrees to comply with all terms and conditions of any labor agreement now in existence and/or any revision or extension thereof that are binding upon RID, City, or Contractor.

SECTION 6: TAXES

Contractor agrees to pay any and all city, state, county or federal taxes, including, without limitation, all sales and/or use taxes, in connection with the Work and materials to be furnished hereunder.

SECTION 7: CHANGE ORDERS

a. It is understood and agreed that all labor and/or materials furnished by Contractor even though said labor and/or materials are not specifically required or demanded in this Contract, or the plans, specifications or drawings, and the same shall, nevertheless be deemed to be included within the scope of labor and/or materials properly and necessarily required for the performance hereof, subject only to the provisions set forth below. Should there be any discrepancies between the Contract Documents and Exhibit A or should any changes to the Contract Documents be required after the signing of this Contract, it shall be the responsibility of the Contractor to advise RID, in writing prior to performing the Work, of the discrepancies, changes and effects upon Contractor's portion of the Contract. The Contractor shall perform no additional work nor shall Contractor decrease Contractor's obligations in the Contract without the written consent and compensation adjustment from RID.

b. Contractor shall submit written requests for any changes to the Work. Change order requests will include the following information, as applicable: (a) a detailed description of the requested change; (b) the justification for the change; (c) any change in the Contract Price associated with the requested change; (d) any change to the unit price of materials, provided that in no event shall change order requests be accepted for materials price increases based on field measured quantities; (e) any projected adjustment to the Baseline Schedule associated with the requested change; and (f) the priority of the requested change. Contractor shall promptly respond to any inquiries from RID for additional information in connection with the change order request. No Work shall begin in connection with any request until Contractor has submitted a request for Change Order in the form attached hereto as Exhibit C-1, and both parties have executed a written change order for such Work ("Change Order") in the form attached as Exhibit C-2. If a proposed Change Order is not executed by both parties, the Work shall continue unaffected. If Contractor commences such Work prior to the execution of a requested Change Order, Contractor shall be solely responsible for all costs, fees and expenses incurred by Contractor in connection with such Work, and hereby relinquishes all claims against RID for any compensation or remuneration for such Work. No verbal commitments or other exceptions will be permitted. RID will advise Contractor of any limitations or requirements regarding which RID personnel have authority to agree to a Change Order. Any authorizations for additional Work shall be subject to the terms of this Contract and shall be authorized by a mutually executed Change Order or such other written documentation as may be provided by RID to Contractor. Should RID so request, Contractor shall perform such additional Work so long as RID agrees in writing to pay Contractor the specified cost of such additional Work together with Contractor's reasonable overhead and profit attributable thereto. Failure of Contractor to perform such additional Work shall constitute a material breach of this Contract by Contractor, and any dispute concerning the performance of such additional Work, the amount to be paid Contractor by RID and/or any adjustment in the Baseline Schedule shall not affect Contractor's obligation to perform such additional Work.

c. It is expressly agreed and understood by and between RID and the Contractor that no extra charges will be paid without written authorization; that the Contract Price includes performing all Work specified in this Contract according to specifications and acceptable to RID and that said Work must comply with all city, county, state and federal building codes and requirements.

SECTION 8: DEVIATIONS

Contractor shall make no changes and shall be responsible for any deviation from the plans, specifications and/or drawings that Contractor may make and may be required to cause any Work to conform strictly to the plans, specifications and/or drawings unless a written authorization of RID addressed to the Contractor shall be given setting forth specifically in detail what changes shall be made. It shall be deemed that the cost of changes, unless otherwise specifically agreed upon in writing, shall not exceed a credit for the work not required to be done.

SECTION 9: SAFETY (CAL/OSHA)

a. Contractor, Contractor's employees, Contractor's subcontractors and their employees shall comply with all applicable federal, state, local and any other legally required safety and health standards, orders, rules, regulations or other laws. Contractor shall bear full financial responsibility, as between the parties to this Contract, for the compliance of persons mentioned in the previous sentence.

b. Contractor acknowledges that the Occupational Safety and Health Act of 1970, and all applicable state and local laws related to occupational health and safety (all, as amended from time to time, the "OSHA Regulations"), require, among other things, all contractors and

subcontractors to furnish to their workers employment and a place of employment that is free from recognized hazards. In this regard, Contractor specifically agrees, without limitation of its general obligations under Section 9 or 10 or any other provision of this Contract, as follows:

1. Contractor will fully comply with the OSHA Regulations and will cooperate with RID and all other contractors of RID in order to assure compliance with the OSHA Regulations.
2. Contractor accepts full responsibility and liability for the training of its employees as to all precautionary measures necessary to protect such employees during both routine and emergency situations on the Project jobsite and Contractor shall make available for RID's review all records and logs indicating such training was administered by Contractor to its employees.
3. Contractor will assist RID in complying with the OSHA Regulations, including the preparation of a spill prevention, control and countermeasures plan (SPCC).
4. Before using any chemicals in its performance of the Work for RID or incorporating any chemicals into materials supplied to RID or to the Project jobsite, Contractor must give RID prior written notice of the existence and the possible exposure to such chemicals, and deliver a material safety data sheet to RID.

RID has entered into this Contract with Contractor with the expectation that Contractor will perform Work on the Project jobsites fully in compliance with OSHA Regulations. Any failure by Contractor to do so could result in potential losses to RID (potential liability for injuries, administrative fines or penalties, operational costs due to work stoppages, etc.). Because of these potential losses, if RID identifies violations of OSHA Regulations or of the Project jobsite rules and regulations related to safety established by RID by Contractor (or its employees or Contractor's Agents), Contractor shall, in addition to and not in place of any and all other rights and remedies that RID may have under this Contract, reimburse RID for all direct and indirect costs, fees, damages and expenses incurred or paid by RID, including, without limitation, replacement material, equipment and/or product costs, labor costs, production stoppage costs, and reasonable legal fees and expenses (collectively, "Costs") associated therewith. RID may offset or back-charge these Costs against amounts that may otherwise be due from RID to Contractor under this Contract. Although RID has the right to do so, RID has no obligation (and does not commit or assume) to monitor compliance with OSHA Regulations by Contractor (and its employees and Contractor's Agents). RID's failure to assess Costs against Contractor for violations of OSHA Regulations or of the Project jobsite rules and regulations related to safety established by RID shall in no way waive any of RID's rights and remedies available under this Contract or otherwise. Furthermore, failure to comply with this Section is a default by Contractor, giving RID the right to exercise any remedies available under this Contract. Contractor will fully comply (and will cause its employees and Contractor's Agents to comply) with any Project jobsite rules or regulations, including those that relate to safety, that RID may choose to put in place. Even though RID may put some safety-related rules and regulations in place, Contractor acknowledges that it continues to be responsible for the safety of its employees and Contractor's Agents and that RID assumes no responsibility or obligation for their safety.

c. Without limiting the foregoing, should Contractor, Contractor's employees, Contractor's subcontractors or their employees fail to comply, within twenty-four (24) hours from the time RID or any governmental agency issues Contractor a written notice of noncompliance or within the time of an abatement period specified by any governmental agency, whichever period is shorter, RID may give written notice of default to Contractor for failure to perform in accordance with the terms of this Contract. Failure of Contractor to cure such default within twenty-four (24) hours after such notice shall give RID the option of:

1. Without terminating this Contract or the obligation of Contractor, RID may perform such portion of the Work or may furnish any materials, equipment or other items required, as RID, in its sole discretion, may deem necessary to avoid noncompliance with any applicable safety or health laws. The cost of such Work or materials, equipment or other items shall be deducted from the Contract Price, and, in the event the cost of such Work or materials or other items of any nature exceeds the balance due Contractor, such excess shall be immediately due and owing from Contractor to RID.
2. Without terminating this Contract, RID may eject Contractor from the jobsite, and RID shall have the further option of: (i) completing the Work or any portion thereof itself; or (ii) having the Work, in whole or in part, completed by others. The foregoing right to eject Contractor shall not be construed to deny RID any other right or remedy which it may have under this Contract, at law or in equity.
3. Contractor shall be liable for all damages suffered by RID by reason of Contractor's default and exercise of the option by RID to eject Contractor shall not relieve Contractor of such liability. Contractor shall have no right to receive any further payment after default until such time as the Work has been completed and RID's damages, if any, ascertained and satisfied.

SECTION 10: PROTECTION AGAINST INJURY

a. Contractor agrees to protect Contractor's own work and to be responsible therefore under all circumstances and for the condition thereof until final acceptance of the Work; to protect adjacent property from injury arising out of Contractor's work, and to be financially responsible for any such damages or injuries. In connection therewith:

1. All materials delivered to and accepted by Contractor, and/or transported by Contractor to and from the jobsite, shall be at the sole risk and responsibility of Contractor. It shall be the duty and responsibility of Contractor to accept or reject all such materials. Failure of materials to conform to the specifications shall be cause for rejection, and Contractor shall not install or use any damaged materials.

2. Contractor shall keep, store and maintain all materials in good order. Contractor shall take commercially reasonable efforts to protect all materials from damage, theft and/or loss and to protect the Work to be performed by Contractor, and shall at all times be solely responsible for the good condition thereof until final completion of the Work.

3. Contractor assumes all responsibility and expense for Contractor's materials and/or tools lost, damaged or stolen at the Project jobsite. Contractor shall protect all property adjacent to that upon which it is performing Work and the property, work and materials of other contractors and subcontractors from injury arising out of Contractor's Work. In no event shall RID be responsible for loss or damage to the Work or materials belonging to, supplied to, or under the control of Contractor (except as a direct result of the intentional acts of RID), and Contractor shall indemnify and hold RID harmless from any such claims. Contractor acknowledges and agrees that RID owes no duty to protect Contractor's Work, materials or tools, and if RID uses any security services that such services are for RID's exclusive benefit and that Contractor shall not rely upon such services.

4. Without limiting the generality of the foregoing, Contractor shall take all precautions and actions that may be appropriate, whether or not requested by RID, to protect materials and/or Work during a predicted natural disaster, (e.g., hurricane), or severe weather.

5. Contractor shall be responsible for any defect in the Work, damage to the Work, or theft or loss of materials caused by or resulting from its failure to adequately and properly protect such Work or materials. Contractor shall be fully liable and responsible to RID for all Costs associated with any damage, loss, theft and/or vandalism resulting from Contractor's failure to fully comply with the terms of this Section.

b. In connection with all of its activities under this Contract, Contractor shall take all reasonable safety precautions, shall comply with all safety measures, rules, programs and/or processes initiated by RID, shall comply with all applicable laws, and, to the extent that such safety orders are applicable to the Work being performed by Contractor, shall provide Material Safety Data Sheets to RID for any hazardous material that Contractor may use in performing the Work. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work, and shall ensure that all Work areas comply with all safety measures, rules, programs and/or processes initiated by RID, all applicable laws and all applicable industry standards. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to: (a) all employees involved in the Work and all other persons who may be affected thereby; (b) all the Work of Contractor and of others and all materials and equipment to be incorporated therein, whether in storage on or off the jobsite, and/or (c) other property at the jobsite or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of the Project. Contractor shall immediately advise RID of any injury to any of Contractor's employees and/or Contractor's Agents (defined below) at the jobsite, and will provide RID with a written report regarding such injury within twenty-four (24) hours after such injury. All signage and traffic control required by applicable law shall be included by the Contractor, whether such signage and traffic control is specifically shown in the specifications or not.

SECTION 11: INDEMNITY AND INSURANCE

a. INDEMNIFICATION.

1. For purposes of this Section, a "Claim" or "Claims" is any notice of claim, notice of commencement of a legal proceeding of any kind, claim, demand, penalty, obligation, cause of action, damage, loss, liability, judgment, cost or expense (including, without limitation, reasonable attorneys' fees and costs, expert witness fees and costs and other expenses of any litigation, mediation, arbitration, judicial reference or other legal proceeding of any kind incurred as a result of such claims or in enforcing this indemnity provision), of every kind or nature, whether based on tort, contract, or equitable principles, in any way arising from or in any way connected with (a) the performance or nonperformance of this Contract by Contractor or Contractor's suppliers, subcontractors, laborers, materialmen, engineers, agents, consultants and/or other persons from whom Contractor proposes to purchase and/or to contract for necessary Work and materials required by Contractor hereunder and any other entity under the direction of Contractor (collectively, "**Contractor's Agents**"); (b) any negligence (whether by act or omission) or willful misconduct of Contractor or Contractor's Agents; or (c) any illness, injury, death or property damage suffered or alleged by any officer, employee, contractor, consultant or agent of Contractor or any of Contractor's Agents. A Claim includes, without limitation, costs incurred by RID or City (i) arising from or relating to non-compliance with California Labor Code Section 2810 by Contractor, (ii) arising from or relating to non-compliance with any provision of the California Labor Code or other California law governing payment of wages or maintenance of valid workers' compensation insurance coverage by Contractor or Contractor's Agents which may subject RID or any of the other Indemnitees to liability under California Labor Code Section 2810.3, and/or (iii) as a result of any claim by an employee or subcontractor of Contractor who has been injured on property owned by an Indemnitee.

2. The term "**Indemnitees**" means RID, RID's members (The Cambay Group, Inc., a California corporation ("**Cambay**") and St. James Investment Corporation, a Delaware corporation ("**St. James**")), Califia, LLC, a California limited liability company ("**Califia**"), Island Reclamation District 2062 ("**RD 2062**"), River Islands Public Financing Authority ("**RIPFA**"), the City of Lathrop ("**City**"), and each of their past, present and future employees, officers, directors, partners, members, Affiliates, parent companies, subsidiaries, agents and representatives, and all of their respective successors and assigns. The term "**Affiliate**" shall mean, with respect to any person or entity, any Principal (defined below) of such person or entity and any person or entity in which such person or entity or any of its Principals has, individually or in the aggregate, directly or indirectly, a ten percent (10%) or greater direct or indirect interest in the voting, profits, losses or equity of such entity. The term "**Principal**" as to any

entity means any person or entity that owns or controls, directly or indirectly, a ten percent (10%) or greater direct or indirect interest in the voting, profits, losses or equity of such entity.

3. The term "Non-Indemnified Claims" means Claims: (i) for defects in the construction, workmanship, materials or functionality of any work or improvement to real property ("**Construction Defect Claims**"), to the extent such Claims (a) arise out of, pertain to, or relate to the negligence of RID or RID's other agents, other servants, or other independent contractors who are directly responsible to RID (collectively, "RID Parties") or (b) do not arise out of, pertain to, or relate to the scope of Contractor's Work, (ii) for defects in design furnished by the RID Parties, (iii) that arise out of the sole negligence or willful misconduct of RID; or (iv) that arise out of a contract that is subject to California Civil Code Section 2782.05, and not subject to any of the exceptions set forth in California Civil Code Section 2782.05 ("**Section 2782.05 Claims**"), to the extent such Section 2782.05 Claims (a) arise out of, pertain to, or relate to the active negligence or willful misconduct of the RID Parties or (b) do not arise out of, pertain to, or relate to the scope of Contractor's Work.

4. To the maximum extent permitted by law and subject to the limitations set forth below, Contractor shall indemnify and hold harmless the Indemnitees from and against any and all Claims, including those Claims arising from the active or passive negligence or liability without fault of any Indemnitee; provided, however, in no event shall Contractor be obligated to indemnify any Indemnitee for a Non-Indemnified Claim. Nothing in Contractor's indemnity obligations shall be construed to negate, abridge or otherwise reduce any of Indemnitees' other rights of indemnity which would otherwise exist. In any and all Claims against any Indemnitee brought by Contractor or Contractor's Agents, the indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or Contractor's Agents under workers' or workman's compensation acts, disability benefit acts or other employee benefit acts.

5. Subject to Section 11.a.7 below, Contractor shall immediately defend (with legal counsel reasonably satisfactory to Indemnitees) the Indemnitees from and against any and all Claims. Notwithstanding the foregoing, however, if an entry of a non-appealable final judgment after trial or award after arbitration ("**Final Judgment**") determines that a portion of the damages awarded were caused by or attributable to a Special Defense Claim (as defined in Section 20.7), Indemnitee shall be obligated to reimburse Contractor for that portion of the defense costs reasonably incurred by Contractor which is attributable to a Special Defense Claim. Such defense obligation shall arise immediately upon written notice of Claim being provided to Contractor, and includes, without limitation, the obligation to defend Indemnitee with respect to any alternative dispute resolution proceeding authorized under this Contract as well as matters related to investigation and resolution of Claims. It is the parties' intention that any of the Indemnitees shall be entitled to obtain summary adjudication of Contractor's duty to defend and/or duty to indemnify the Indemnitees at any time. Payment by any Indemnitee is not a condition precedent to enforcing such Indemnitees' rights to indemnification and/or defense under this Contract.

6. Contractor's defense obligation shall apply regardless of the fault or negligence of Contractor or Contractor's Agents, whether or not the Claim has any merit, and regardless of the fault, concurrent negligence (whether active or passive), any act or omission to act, or misconduct by any Indemnitee. Contractor's duty to defend the Indemnitees, includes without limitation, the defense of the Indemnitees against Claims for which any of the Indemnitees may be strictly liable and applies whether or not the issue of Contractor's liability, breach of this Contract or other obligation or fault has been finally determined and whether or not any of the Indemnitees have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from Contractor's performance of the Work.

7. To the extent one or more Construction Defect Claims or Section 2782.05 Claims (collectively, "**Special Defense Claims**") are asserted against one or more Indemnitees giving rise to a duty to defend, Contractor will satisfy its defense obligation in accordance with California Civil Code Section 2782(d) - (f) for Construction Defect Claims or California Civil Code Section 2782.05(e) - (f) for Section 2782.05 Claims. Within ninety (90) days after written notice of the Special Defense Claim is provided to Contractor, Contractor must provide written notice to the Indemnitees that it will satisfy its defense obligation under this paragraph. Contractor must choose to satisfy its defense obligation with regard to a Special Defense Claim by electing either of the following choices:

(a) Contractor agrees to defend and control the defense of any Special Defense Claim or portion thereof to which the defense obligation applies above subject to the rules and laws concerning conflicts of interest. Contractor shall engage and retain counsel of its choice from the list of defense counsel in subparagraph (d) below and with no conflicts pursuant to California Rules of Professional Conduct Rule 3-310(C) to defend such claim. Said defense by Contractor shall be a full and complete defense of the Indemnitees to the extent alleged to be caused by Contractor, including any vicarious liability claims against the Indemnitees resulting from the Work. Contractor's defense obligation shall include the engagement of professionals, experts and/or consultants reasonably necessary to the provision of said full and complete defense of the Indemnitees. Accordingly, Contractor shall be solely responsible for all defense costs and expenses related to Contractor's defense of the Indemnitees including, without limitation, all reasonable attorneys' fees, court costs and all other professional, expert and/or consultants' fees and costs. In the event of a material, current, actual, or unwaivable conflict of interest, the Indemnitees do not waive, release or relinquish their right to the appointment of separate counsel; or

(b) The Indemnitees shall be entitled to select the attorney and experts engaged to defend the Indemnitees against the Special Defense Claim and to control and make all decisions, in their sole and absolute discretion, related to said claim. Contractor agrees to pay,

on an ongoing basis during the pendency of the claim, a reasonable allocated share of the fees and costs incurred by the Indemnitees in defending said claim. The Indemnitees shall, in their sole discretion, determine Contractor's allocated share. The Indemnitees shall determine said allocation after careful consideration of the nature of the allegations, potential liability exposure, the Work, and the number of parties with allegations related to their scope of work. The Indemnitees and Contractor agree that share allocation at the commencement of the Special Defense Claim may be difficult to calculate and that the methodology identified herein may be altered as necessary to achieve an allocation determination that is reasonable. Contractor shall pay the Indemnitees its allocated share within thirty (30) days of receipt of an invoice from the Indemnitees. Indemnitees agree to reimburse Contractor that portion of Contractor's allocated share that is not attributable to or arise out of the Work by or for Contractor. Such reimbursement obligation shall arise upon entry of judgment, issuance of a binding arbitration award or execution of a final settlement agreement that allocates the Indemnitees' and Contractor's proportionate liability ("Final Determination"). In the event of a dispute between the Indemnitees and Contractor arising out of Contractor's allocated share, such dispute shall be resolved through binding arbitration, however, such dispute may only be raised after such share has been subject to reallocation upon Final Determination. The parties may elect to retain a mutually selected arbitrator or panel of arbitrators, or conduct the arbitration in accordance with the Construction Industry Dispute Resolution Procedures of the American Arbitration Association in effect at such time. Notice of the demand for arbitration shall be filed in writing with the other party and/or with the American Arbitration Association. Unless otherwise agreed by the parties, the arbitration shall take place within thirty (30) days of the appointment of the arbitrator(s). The award rendered by the arbitrator or arbitrators shall be final, binding, and non-appealable, and judgment may be entered thereon in accordance with the applicable law of any court having jurisdiction thereof.

(c) Consequences for Breach of Defense Obligation.

(i) If Contractor fails to timely and adequately perform its defense obligations herein, Contractor waives any and all rights to challenge, contest or dispute the amount or reasonableness of any settlement of the claim reached by the Indemnitees or any other Contractor and the claimants. Contractor shall be bound by the amount of any settlement of the claim reached by the Indemnitees or any other Contractor and the claimants. The binding effect of this provision shall in no way diminish or reduce Contractor's right to defend itself or assert all available defenses relevant to its liability in any subsequent trial.

(ii) Upon Contractor's failure to timely and adequately perform its defense obligations herein, the Indemnitees may, at their sole option, elect in writing either to: (1) treat this Contract as continuing and enforce the same by specific performance; (2) seek compensatory and consequential damages, reasonable attorney's fees and costs incurred to recover said damages and interest on defense and indemnity costs from the date incurred; or (3) increase Contractor's allocated share by fifty percent (50%), not as a penalty, but as an agreed, reasonable liquidated damage. The Indemnitees and Contractor agree that at the time this Contract is entered into actual damages are difficult to calculate and that an increase in Contractor's allocated share by fifty percent (50%) shall be a reasonable approximation of actual damages incurred, but without the expense or litigation. In the event of election by the Indemnitees to seek liquidated damages set forth above, ten (10) days written notice to Contractor shall be given. The liquidated damages identified above shall be paid to the Indemnitees upon demand. Such liquidated damage will not be subject to reallocation. The Indemnitees may sue to collect such liquidated damages from Contractor.

(d) List of Defense Counsel

- (i) Koeller, Nebeker, Carlson & Halluck, LLP
- (ii) Clapp, Moroney, Bellagamba Vucinich, PLC
- (iii) McKenna Long & Aldridge LLP
- (iv) Morgan Miller Blair, PLC
- (v) Lorber, Greenfield & Polito, LLP
- (vi) Newmeyer & Dillion, LLP

8. Evidence of insurance procured by Contractor will be deemed admissible in any legal proceeding and/or arbitration for any purpose, including evidence that the parties expressly bargained for a commercially reasonable risk allocation. Except as set forth in Section 11.a.8, the defense and indemnification obligations of Contractor under this Contract shall not be limited by the amounts or types of insurance (or the deductibles or self insured retention amounts of such insurance) which Contractor is required to carry under this Contract or that Contractor does in fact carry. The right to indemnification from Contractor shall be in addition to RID's or any other Indemnitee's separate rights under the insurance to be provided by Contractor under this Contract. The provisions of this Section 11.a shall survive expiration or termination of this Contract and shall continue until such time it is determined by final judgment that the Claim against Indemnitees is fully and finally barred by the statute of limitations.

b. **INSURANCE.** Contractor shall carry the insurance in the amounts, and subject to the requirements, set forth in Exhibit B attached.

SECTION 12: CONTRACTOR'S PERMITS, LICENSES

Contractor agrees to obtain at Contractor's expense all permits and licenses required to comply with all laws, ordinances, rules, regulations, orders and requirements of the city, county, state and federal government which shall or might affect or apply to Contractor's trade or business and to

maintain Contractor's licenses required by the state in which the Work is being performed. Notwithstanding the foregoing, if applicable, RID is responsible for obtaining the building permit for the Work at RID's sole cost and expense.

SECTION 13: QUALITY, INSPECTION AND CORRECTION OF WORK

a. Contractor is solely responsible for the finished quality of the Work. Contractor shall make efficient use of all labor and materials for the Project, and shall perform the Work in a good and workmanlike manner, free of defects, in compliance with this Contract, applicable laws, and all manufacturer's recommendations, installation guidelines and specifications. Without limiting the generality of the foregoing, all Work to be performed by Contractor shall meet or exceed the highest standards of the industry for construction in the same geographic area.

b. Contractor shall thoroughly inspect all of its Work and materials for quality and completion. Unless otherwise directed by RID, Contractor shall schedule all inspections relative to its Work and shall perform any tests necessary to receive inspection approval. Contractor shall pay all re-inspection fees unless the need for re-inspection is due to the fault of RID or a third party for which Contractor is not responsible. In addition, RID may from time to time hire third party inspectors, and Contractor shall cooperate with such inspectors and make such corrective Work as they may reasonably require, at no additional cost to RID.

c. Contractor shall promptly correct all Work that RID or City, each in its reasonable discretion, deems to be deficient or defective, or as failing to conform to this Contract, and Contractor shall bear all costs of correcting such rejected Work without any increase in the Contract Price. RID may nullify any previous approval of Work if it subsequently determines that the Work is defective or non-compliant with the terms of this Contract. In addition, Contractor shall, within five (5) business days after receiving notice from RID, remove all materials that RID rejects as unsound or improper, and Contractor shall make repair or replace all Work and/or materials rejected, at Contractor's sole expense.

d. Should RID exercise any of its options, remedies or rights granted it pursuant to the terms of this Contract in the event of any material failure of performance or breach by Contractor, RID at its sole election may, but shall not be obligated so to do: (a) use any materials, supplies, tools or equipment on the jobsite which belong to Contractor to complete the Work required to be completed by Contractor, whether such Work is completed by RID or by others, and Contractor agrees that it shall not remove such materials, supplies, tools and equipment from the jobsite unless directed in writing by RID to do so; (b) eject Contractor from the jobsite; and/or (c) enforce any or all of the contracts which Contractor has with Contractor's Agents, true and complete copies of which (including all modifications and Change Orders) shall be provided immediately upon RID's written request. In exercising its rights under Section 13, RID shall only be acting as the authorized agent of Contractor and RID shall not incur any independent obligation in connection therewith.

SECTION 14: PREVENTION OF LIENS

a. Contractor will pay when due all claims for labor and/or materials furnished to the Project as part of the Work, and all claims made by any benefit trust fund pursuant to any collective bargaining agreement to which Contractor may be bound, to prevent the filing of any mechanics' lien, materialmen's lien, construction lien, stop notice or bond claim or any attachments, levies, garnishments, or suits involving the Work or Contractor (collectively "Liens"). Contractor agrees within five (5) business days after receipt of written notice, to take whatever action is necessary to discharge or terminate the effect of any Liens, including, but not limited to, filing or recording a release or lien bond. Contractor may litigate any Liens, provided Contractor causes the effect thereof to be removed from the Project and any other of RID's or City's property or operations by the proper means, including, but not limited to, Contractor's filing of a cash bond or surety bond as RID may deem necessary.

b. Failure to comply with the requirements of Section 14 within a period of five (5) business days after receipt of written notice from RID of any Liens shall place Contractor in default and entitle RID to exercise all available remedies, including, without limitation, termination of this Contract upon written notice, and use whatever means it may deem best to cause the Liens, together with their effect upon the Project or any of RID's or City's property or operations, to be removed, discharged, compromised, or dismissed, including making payment of the full amount claimed without regard to the legitimacy of such claim, and the Costs thereof shall become immediately due and payable by Contractor to RID.

c. If RID receives any notice of any Liens pertaining to the Work, RID may withhold the payment of any monies to which Contractor would otherwise be entitled to receive, until such time that RID has reasonable evidence that such Liens have been discharged.

d. If Contractor fails to pay or discharge when due any bills or obligations of any kind or nature whatsoever incurred by Contractor by reason or in the fulfillment of this Contract, whether or not Liens have been or may be placed or filed with respect thereto, which bills or obligations in the opinion of RID are proper, RID, at RID's option but without being obligated to do so, may pay all or any part of such bills or obligations, for Contractor's account and/or RID may, at its sole discretion, issue payment jointly to Contractor and the applicable third party. Any direct or joint payment is solely at the discretion of RID and shall be deemed as a payment towards the obligations of this Contract. **Contractor hereby expressly waives and releases any claim and/or right of redress or recovery against RID by reason of any act or omission of RID in paying such bills or obligations, and nothing herein shall be deemed to mean RID assumes any liability towards Contractor's suppliers, laborers or materialmen.**

e. Contractor shall pay to RID upon demand all amounts that RID may pay in connection with the discharge and release of any Lien, including all Costs related thereto.

f. Contractor intends to furnish Work and/or materials in the construction, repair and/or replacement of improvements upon real property owned by RID.

1. Contractor represents and warrants that it has not assigned and will not assign any claim for payment or any right to perfect a Lien against said Work, real property, or the improvements thereon, to any third person, including without limitation any lender or factoring company. Contractor agrees that any such attempted assignment shall be invalid and not enforceable. Such attempted assignment shall be deemed a material default of Contractor's obligations under this Contract. Contractor shall include substantially identical language to this Section in all subcontracts for Work and/or materials.

2. In addition to any notices required by applicable law, Contractor also agrees to provide RID with advance notice before placing or filing any Lien against any real property upon which Work is performed and/or materials are delivered, used and/or installed. Such notice shall be served on RID in written form at least ten (10) business days in advance of the placement or filing of any Lien, or as much in advance of placement or filing of any Lien as is reasonably practical under applicable laws. If the potential Lien issue is still not resolved, then three (3) business days in advance of the placement or filing of any Lien, Contractor shall make reasonable efforts to contact RID's Chief Financial Officer via telephone.

SECTION 15: ASSIGNMENT AND SUBCONTRACTING BY CONTRACTOR

Contractor shall not assign or sub-contract any portion of this Contract without first obtaining permission in writing from RID and City, and then only subject to the provisions of this Contract. Such permission in writing may be granted or withheld by each of RID and City in its sole and absolute discretion. If requested by RID, Contractor shall identify all suppliers, subcontractors, laborers, materialmen, engineers, agents, consultants and other persons from whom Contractor proposes to purchase or to contract with for necessary materials, Work and other items which may be required by Contractor to fully perform its obligations hereunder.

SECTION 16: ASSIGNMENT BY RID; CITY AS THIRD-PARTY BENEFICIARY

RID may in its sole and absolute discretion assign this Contract, in whole or in part, to any other party at any time without the permission of Contractor. In the event of any such assignment, RID may require Contractor to add such entities as additional insureds to Contractor's insurance hereunder. In such event, Contractor shall provide additional insured endorsements to RID with respect to Contractor's completed operations and other coverage including such entities at no additional cost to RID. Contractor and RID agree that City is an express intended third-party beneficiary under this Contract and has the right (but not the obligation) to enforce any of the obligations of Contractor hereunder and to require strict performance by Contractor of all such obligations.

SECTION 17: VENUE; ATTORNEYS' FEES

The parties agree that any litigation arising between the parties in relation to this Contract shall be initiated and maintained in the state or federal courts in San Joaquin County ("County"), State of California (the "State"). If either party fails to perform any obligation of such party hereunder and it becomes necessary for the other party to enforce any of its rights under this Contract by legal action, the prevailing party in such action shall be entitled to recover from the other party all reasonable expenses incurred in connection with such action, including without limitation reasonable attorneys' fees.

SECTION 18: SURETY BONDS

Upon mutual execution of this Contract, Contractor shall immediately furnish to RID, at Contractor's sole cost and expense, (a) a performance bond in the form attached as Schedule 2 hereto in the amount of the Contract Price ("Performance Bond"), (b) a payment bond in the form attached as Schedule 3 hereto in the amount of the Contract Price ("Payment Bond"), and (c) a guaranty bond in the form attached as Schedule 4 hereto in the amount of twenty-five percent of (25%) of the Contract Price ("Guaranty Bond", and, together with the Payment Bond and the Performance Bond, the "Bonds"). Each of the Bonds must (a) be issued by a surety approved in advance by RID and City, (b) be approved in advance by RID in form and substance, and (c) otherwise comply with the bond requirements in the bid documents for this Contract.

SECTION 19: SUPERVISION; RELATIONSHIP MANAGEMENT

a. This Contract does not constitute a hiring by either party. It is the parties' intention that Contractor be an independent contractor and not RID's employee or agent. The parties hereto are and shall remain independent contractors bound by the provisions hereof. Nothing in this Contract shall be construed as creating a relationship between RID and Contractor of joint venturers, partners, employer-employee or agent. Neither party has the authority to create any obligations for the other, or to bind the other to any representation or document.

b. Contractor, or its representatives, shall exercise full time general supervision on all phases of Contractor's operation to ensure correct performance of the Contract Documents. RID, or its representatives, shall have access to any and all parts of the Contractor's storage facilities, including but not limited to the construction grounds, and may at any time inspect, sample, test, or require tests to be taken on any materials furnished or ordered to be used in the Work described in the Contract Documents. RID shall, at all times during the course of construction, respect the Contractor's authority over its workmen.

c. The Contractor shall be responsible to and answer directly to RID or its representative, for Contractor's acts or omissions, and for the acts or omissions of Contractor's employees and of all persons directly or indirectly employed or retained by Contractor in connection with the Work outlined as Contractor's responsibility under the Contract Documents.

d. The Contractor shall at all times respect the judgment and authority of RID's representative acting in the capacity of Job Superintendent. The Contractor shall report any and all criticism, materials shortages, labor trouble, or other conditions or circumstances, which in any way affect the performance of Contractor's duties or the completion of the job.

e. Contractor shall provide RID with all reports, documentation and information as RID reasonably requests to verify the performance of Contractor's obligations under this Contract, including, without limitation, full reports of the progress of Work in such detail as may be required by RID including any shop drawings, as-built drawings and/or diagrams in the course of preparation, process, fabrication, manufacture, installation or treatment of the Work and/or materials.

f. Contractor represents and warrants that it: (a) shall perform its obligations and deal with RID in good faith and with fair dealing; (b) shall conduct its business in a manner which reflects favorably on RID; (c) shall not engage in any deceptive, misleading, illegal or unethical business practices; (d) has not and shall not, directly or indirectly, request, induce, solicit, give and/or accept any bribe, kickback, illegal payment and/or excessive gifts or favors to or from RID or any RID employee, and/or any third party acting on RID's behalf; and/or (e) has not engaged in and shall not engage in any anticompetitive behavior, price fixing and/or any other unlawful restraints of trade. Contractor shall immediately provide written notice to RID of any of the foregoing upon Contractor's becoming aware of the same.

g. To the extent permissible under applicable law or agreement, Contractor shall notify RID in writing promptly of: (a) any litigation and/or arbitration brought against Contractor related to Work performed and/or materials supplied by Contractor under this Contract; (b) any actions taken or investigations initiated by any governmental agency in connection with the Work performed and/or materials supplied by Contractor under this Contract; (c) any legal actions initiated against Contractor by governmental agencies or individuals regarding any illegal activities, including, but not limited to, fraud, abuse, false claims and/or kickbacks; and/or (d) any proceedings by or against Contractor in bankruptcy, insolvency of Contractor, any proceedings for appointment of a receiver or trustee or an assignment for the benefit of creditors or any other similar event. Upon RID's written request, and to the extent permissible under applicable law or agreement, Contractor shall provide to RID all known details of the nature, circumstances, and disposition of any of the foregoing.

SECTION 20: PLANS AND SPECIFICATIONS

a. The Contract Documents are intended to collaborate so that any Work exhibited or called for in any of them, whether exhibited in any other or not, is to be executed in the true intent and meaning thereof, the same as if set forth in all of the Contract Documents. However, should any law, ordinance or regulation of the State, County or a municipality prescribe additional requirements or should any of the Work called for be in violation of the requirements of such authorities, then the requirements of such law or regulations shall prevail and shall be required to be completed by the Contractor as a part of the Work called for in the Contract Documents, and no compensation shall be allowed therefor.

b. It is the intent of the Contract Documents that all Work described therein shall equal or exceed the construction requirements (when applicable), all local building codes, zoning ordinances, and restrictive covenants; that all erection, application or installation shall be in accordance with the manufacturer's directions and the best standard practice applicable, and performed in a good and workmanlike manner.

c. Figured dimensions given on the plans shall, in all cases, be considered as correct in lieu of measurements by scale. It is intended that all figures and dimensions should agree.

SECTION 21: INSPECTIONS AND REVIEWS

a. At RID's request, Contractor shall allow RID, City or either of their designated representatives to review Contractor's applicable invoices, books and records to the extent necessary to verify Contractor's representations and charges to RID and compliance with this Contract. Such review shall include, without limitation, a review of Contractor's invoices for materials, hourly wage rates, hours to perform Work, any volume incentives and rebates received by Contractor, benefits and insurance provided to Contractor's employees, costs to kit, handle, fabricate and/or deliver materials, and, if and to the extent used to determine any charges to RID, taxes paid or payable by Contractor and Contractor's carrying costs of money. Contractor shall reasonably cooperate with RID, City and their designated representatives in connection with such review. Upon completion of any such review, RID and Contractor shall review the report together and work in good faith to agree upon any adjustment of charges (including any reimbursement of any overpayment) resulting from the review.

b. RID, City and their respective agents shall have the right to inspect all Contractor materials, facilities, Project jobsite and surrounding areas, to confirm Contractor's compliance with the requirements of this Contract, as well as background OSHA and Experience Modification Factor checks. No inspection or failure to inspect by or on behalf of RID will increase RID's obligations or liabilities nor limit RID's rights or Contractor's obligations.

SECTION 22: GENERAL ENVIRONMENTAL COMPLIANCE; STORM WATER MANAGEMENT

a. GENERAL ENVIRONMENTAL COMPLIANCE.

1. Contractor and Contractor's Agents shall fully comply with all applicable federal, state and local environmental and natural resource laws, rules and regulations. Contractor shall solely be responsible for and shall defend, protect, indemnify and hold RID and all other Indemnitees harmless from and against any and all claims, losses, costs, penalties, reasonable attorney and consultant fees and costs, and damages,

including, without limitation, consequential damages, arising from or related to Contractor's or Contractor's Agents' failure to comply with any federal, state and local environmental and natural resource laws, rules and regulations, including ordinances and policies.

2. Contractor is solely responsible for the proper use, storage and handling of all materials, including but not limited to potential pollutants, used in Contractor's and Contractor's Agents' Work, and for the generation, handling and disposal of all wastes resulting from Contractor's and Contractor's Agents' Work, in full compliance with all applicable federal, state and local laws, rules and regulations. In addition, Contractor shall immediately notify RID if Contractor and/or Contractor's Agents generate more than 100 kilograms (220.46 pounds) of hazardous waste in any one month onsite.

3. Contractor and Contractor's Agents must not cause any unpermitted impacts to wetlands, waters or designated protected areas, whether on or off the jobsite.

4. Contractor and Contractor's Agents must minimize any vehicle or equipment fueling, washing, maintenance or repair on the jobsite and such activities should not result in run-off or releases onto the ground or off the jobsite or into a storm water management or conveyance system. Contractor shall provide secondary containment for all petroleum products and potentially hazardous materials stored or used on any jobsite.

5. Contractor will take immediate steps, at Contractor's sole expense, to remediate in full compliance with and to the fullest extent required by applicable laws, rules and regulations, any release or discharge by Contractor of any hazardous or other regulated substance, whether on or off the jobsite while acting on behalf of or within the scope of its Work for RID.

6. In the event that Contractor fails to correct any non-compliance with this Section after written notice from RID, RID may, without assuming any liability therefor, correct such non-compliance and charge the Costs of such correction to Contractor, through setoff of any amount which may be due Contractor under this or any other agreement, or otherwise, including, but not limited to repair and remediation Costs, and penalties and fines for noncompliance.

7. All materials placed onsite or transported to and from the jobsite by Contractor or Contractor's Agents shall be at the risk and sole responsibility of Contractor.

b. STORM WATER MANAGEMENT.

1. Contractor shall comply with the Federal Water Pollution Control Act of 1972, as amended, (the "Clean Water Act" or "CWA"), and all federal, state and local laws, regulations, ordinances, and policies relating to storm water pollution, sedimentation control and erosion control. RID, in accordance with Paragraph 402(p) of the CWA, which establishes a framework for regulating storm water discharges under the National Pollution Discharge Elimination System ("NPDES") Program, has developed an erosion, sedimentation and storm water pollution control and prevention plan (a "SWPPP") for the Project in order to control erosion and storm water discharges and to prevent certain non-storm water discharges. Contractor and Contractor's Agents shall at all times comply with the NPDES Permit(s) and the SWPPP. Contractor shall solely be responsible for and shall irrevocably defend, protect, indemnify and hold RID and the other Indemnitees harmless from and against any and all past, present or future claims of any kind or nature, at law or in equity (including, without limitation, claims for personal injury, property damage or environmental remediation or restoration), losses, costs, penalties, obligations, reasonable attorney and consultant fees and costs, and damages, including, without limitation, consequential, special, exemplary and punitive damages contingent or otherwise, matured or unmatured, known or unknown, foreseeable or unforeseeable, arising from or in any way related to Contractor's or Contractor's Agents' failure to comply with the Clean Water Act, any federal, state and local laws, rules and regulations, including ordinances and policies, relating to storm water pollution and erosion and sedimentation control and/or the SWPPP. Such failures shall constitute a material breach of this Contract.

2. Contractor shall designate a Contractor employee representative with authority from Contractor to oversee, instruct, and direct Contractor's employees and Contractor's Agents regarding compliance with the requirements of the CWA and any federal, state or local laws, regulations or ordinances relating to storm water pollution or erosion control and the requirements of the SWPPP for the Project. Prior to commencing Work at the Project or within a reasonable time after, the designated Contractor representative shall contact RID's jobsite Storm Water Compliance Representative to request information on storm water management at the Project. Contractor and Contractor's Agents shall review prior to commencing Work on the jobsite, and shall abide by at all times, all storm water and jobsite orientation materials and direction provided by RID to Contractor, and as may be required by the CWA, any federal, state or local laws, regulations, ordinances, or policies relating to storm water pollution or erosion control, and the SWPPP, shall file all notifications, plans and forms required by the CWA, any federal, state or local laws, regulations, ordinances, or policies relating to storm water pollution or erosion control, and the SWPPP. Contractor is responsible for circulating information provided by RID regarding storm water management to its employees and Contractor's Agents who will be working on the Project.

3. Contractor shall require Contractor's Agents to immediately notify Contractor and RID of any source pollutants that Contractor's Agents intend to use on the jobsite that are not identified in the SWPPP, and shall require that each of Contractor's Agents on the Project immediately notify Contractor, and RID of any corrections or recommended changes to the SWPPP that would reduce or eliminate the discharge of pollutants and/or sediments from the jobsite. Further, neither Contractor nor any of Contractor's Agents shall discharge any prohibited non-storm water discharges to storm water systems or from the jobsite. If requested by RID, Contractor shall annually or at the completion of the Work, certify that the Work was performed in compliance with the requirements of the CWA, any federal, state or local laws, regulations, ordinances, or policies relating to storm water pollution or erosion control, and the SWPPP.

4. Contractor acknowledges that periodic changes may have to be made to the SWPPP during the progress of the Work, and Contractor shall at all times comply with, and shall require that Contractor's Agents at all times comply with, the most current version of the SWPPP. Contractor and Contractor's Agents shall use best efforts to comply with the SWPPP practices and procedures, including, without limitation, the "best management practices," and Contractor shall implement "best management practices" to control erosion and sedimentation and to prevent the

discharge of pollutants including sediments. Contractor shall ensure that all of Contractor's and Contractor's Agent's personnel are appropriately trained in the appropriate "best management practices", and trained to comply with the SWPPP and with all applicable laws and regulations.

5. Contractor shall immediately notify RID if it observes, discovers and/or becomes aware of (i) any spill of any hazardous or toxic substance or material or other pollutants on the jobsite, (ii) any discharge of any hazardous or toxic substance or material or other pollutants into or on the jobsite which leaves the jobsite or is capable of being washed from the jobsite during a rain event, (iii) any failure by any party to comply with the requirements of the SWPPP, the Clean Water Act, and/or any federal, state or local laws, regulations, ordinances, or policies relating to storm water pollution or erosion control, and (iv) any damage to or failure of a "best management practice" or any other stormwater or erosion control measure. Contractor shall retain all records relating to the SWPPP, the CWA, and any federal, state or local laws, regulations, ordinances, or policies relating to storm water pollution or erosion control, and any and all violations of the same for a period of five (5) years following completion of the Project, or longer as required by applicable law.

6. Notwithstanding anything to the contrary contained herein, RID and City shall have the right, but not the obligation, to immediately remedy any violation of the CWA, any federal, state or local laws, regulations, ordinances, or policies relating to storm water pollution or erosion and sedimentation control, and/or the SWPPP for which Contractor is responsible, without the necessity of providing Contractor with any notice or right to cure. Should RID or City remedy any such violation, RID shall have the right to back-charge Contractor for the Costs to remedy the violation. Conversely, RID shall have the right, in RID's sole and absolute discretion, to require Contractor to reimburse RID for the Costs incurred by RID and/or City to remedy such violation and/or for fines or penalties paid for such violation, and unless Contractor reimburses RID for such Costs within ten (10) days after receiving RID's written request for payment of the same, Contractor will be in default of this Contract, and RID shall have all rights and remedies available to RID as a result of a Contractor default. Nothing in this Section 22.b.6 shall limit or modify in any way Contractor's obligations or RID's rights under Section 22.b.1.

SECTION 23: WARRANTIES AND GUARANTEES

a. Contractor warrants and guarantees that: (a) all materials, except materials provided by RID, shall be new, of good quality and free of liens, security interests, claims or encumbrances; and (b) all Work, except materials provided by RID that are part of the Work, shall meet or exceed the requirements of all applicable laws.

b. Contractor warrants that the Work and all materials, except materials provided by RID, incorporated into the Work shall be and remain in conformity with the specifications, and free from defects or flaws, until the latest to occur of (a) five (5) years after the date following the completion and final acceptance of the Work; (b) five (5) years after the dedication to a governmental entity, if applicable; (c) such longer warranty period as may be provided under applicable law, including without limitation any applicable warranty required by a governmental authority; or (d) the passage of all applicable statutes of limitation and statutes of repose for Claims arising from or relating in any manner to the Work under any legal theory (collectively, the "Warranty Period"). In addition, upon RID's acceptance of the Work, Contractor shall deliver and transfer to RID any and all materials manufacturer's warranties. The warranties and guarantees contained herein shall in all cases survive termination of this Contract and shall apply to both patent and latent defects in workmanship and materials.

c. If during the applicable Warranty Period any of the Work, except materials provided by RID, does not comply with the warranties set forth in this Section and/or elsewhere in this Contract, then Contractor shall promptly commence to repair such Work, at Contractor's sole cost and expense, within forty-eight (48) hours after notice to do so, or within three (3) hours after notice in the event of any emergency. RID, in its sole and absolute discretion, shall determine whether an emergency exists, which generally includes, but is not necessarily limited to, those conditions involving the risk of harm to persons or property. Repairs and replacements shall be made in a diligent first-class manner with as little inconvenience as possible to RID. Contractor shall clean up thoroughly after repairs are completed. Neither repairs nor replacements shall be deemed to be complete until the defect or nonconformity has been permanently corrected. Contractor shall reimburse RID for any damages to the Project jobsite, for any damages to personal property located on the Project jobsite, and for any reasonable Costs incurred as a result of the inconvenience or loss of use and enjoyment of the Project jobsite which is caused by the defect, non-conformity or the repairs and/or replacements. In the event Contractor fails or refuses to timely fulfill any of its warranty obligations, RID may repair or replace the applicable Work and Contractor shall reimburse RID for all Costs related thereto on demand.

d. If any Work, except materials provided by Owner, is determined by Owner to be defective or otherwise non-conforming after the expiration of the Warranty Period but before the expiration of the applicable statutory limitation period and/or statutory period of repose, Owner, in its sole and absolute discretion, shall have the right to request that Contractor repair and replace any such Work. Contractor shall use commercially reasonable efforts to promptly perform such repair and replacement at Contractor's sole cost and expense. If Contractor performs any such repair and/or replacement after the expiration of the Warranty Period and after the expiration of any applicable statutory limitation period and period of repose, Owner shall compensate Contractor for such repair and/or replacement activities at reasonable market rates. The provisions of this Section shall survive expiration or termination of this Contract and/or completion of the Work.

e. Contractor agrees to cooperate with RID in connection with any matters relating to any applicable notice and opportunity to repair statutes. If Contractor fails or refuses to cooperate in that process, RID will have the right to correct any defective Work, and Contractor shall, upon demand, immediately reimburse RID for all Costs incurred responding to and/or correcting any such defective Work.

f. All warranties provided by Contractor, and all of RID's rights and remedies set forth in the Contract, are cumulative and are in addition to all other warranties, rights and remedies provided to RID by this Contract and any other document, or at law, in equity, or otherwise, including all warranties, rights and remedies under the Uniform Commercial Code.

SECTION 24: WORK COMMENCEMENT AND PROGRESS

Contractor agrees to be prepared to begin the Work within five (5) business days after receipt of written notice of approval and acceptance of this Contract by the undersigned RID; and Contractor agrees to commence the Work on a date selected by RID, provided RID gives Contractor five (5) business days' notice in advance of the date of Work commencement, and to continue said Work diligently to completion with sufficient personnel and equipment upon the job at all times.

SECTION 25: TERMINATION

a. Contractor may stop work or terminate this Contract if RID commits a material breach of this Contract and fails to cure such breach within thirty (30) days after its receipt of written notice of the breach from Contractor.

b. At Owner's sole election, if a default occurs, then such default shall constitute a default under any other contract(s) between Contractor and Owner or Owner's affiliates. In such event, Owner may withhold any monies which might otherwise then be due or thereafter become due under any contracts between Contractor and Owner or Owner's affiliates, and Owner may, at Owner's sole discretion, apply such monies by way of offset toward remedying any such defaults or breaches in all contracts, including this Contract. This right to withhold shall continue in time and as to such amount as Owner in its sole discretion shall determine is reasonably necessary to satisfactorily carry out Contractor's obligations under the terms and conditions of all contracts between Contractor and Owner, including any warranties or guarantees thereof. However such deduction shall not be deemed a waiver or release of any obligations of Contractor, including, without limitation, responsibility for any loss or liability of Contractor in excess of any such deduction.

c. RID shall have the right to terminate this Contract, with or without cause, effective upon written notice to Contractor. A termination "for cause" includes, but is not limited to, circumstances where: (a) Contractor fails to comply with this Contract; (b) Contractor repudiates any of the terms of this Contract; (c) RID is insecure and requests assurances of Contractor's ability or willingness to perform and Contractor fails to provide written assurances satisfactory to RID within the time requested by RID; (d) in the event of any proceedings by or against Contractor in bankruptcy, insolvency of Contractor, any proceedings for appointment of a receiver or trustee or an assignment for the benefit of creditors or any other similar event; (e) Contractor refuses or neglects to supply Work of proper quality, as determined by RID; (f) Contractor fails to make prompt payment to Contractor's Agents for materials or labor; (g) Contractor violates any applicable law; and/or (h) Contractor is listed by the administrative office of an applicable employee benefit trust, including by way of illustration but not exclusion, health, welfare, pension, vacation or apprenticeship trust, as being delinquent in the payment to any such trust, regardless of the construction project upon which delinquency occurred.

c. RID's total liability to Contractor upon termination of this Contract without cause shall be limited to payment for completed Work, including any Retention, delivered and accepted by RID. However, in the event RID terminates this Contract without cause and, prior to receipt of RID's notice of termination and in accordance with this Contract and the Baseline Schedule, Contractor has made a binding commitment to purchase mechanical systems, equipment or other materials that will form part of the Work, RID and Contractor shall use their best efforts to return such systems, equipment and materials to the supplier thereof, re-direct such systems, equipment and materials to use on other RID projects and/or sell such systems, equipment or other materials to third parties. To the extent the parties are unsuccessful in either returning, re-directing and/or selling such systems, equipment and materials, RID shall pay Contractor for any of same not returned and/or re-directed. In the event that RID terminates this Contract for cause, RID may, at its option, immediately provide any required Work and Contractor shall reimburse and pay RID for all Costs incurred or paid by RID resulting therefrom, and/or RID may deduct all such Costs from any money then due or thereafter to become due to Contractor under this Contract.

d. Upon expiration or termination of this Contract for any reason, Contractor will, at RID's request, continue to provide Work pursuant to the terms of this Contract, and provide reasonable transition assistance services to prevent disruption in RID's business activities, for a period of up to six (6) months after the termination date, at RID's discretion. However, at RID's request, Contractor will promptly vacate the jobsite(s), remove all Contractor supplies, scaffolding, tools, and other equipment from the jobsite(s), complete all of Contractor's clean-up and other obligations, and otherwise reasonably cooperate with RID in winding down Contractor's participation on the Project(s).

e. All provisions of this Contract that by their nature should survive termination of this Contract shall so survive termination of this Contract, including, without limitation, those provisions related to warranty and indemnification.

SECTION 26: NOTICE

All notices or other communications made pursuant hereto shall be in writing and shall be deemed properly delivered, given or served if given by personal delivery, overnight courier that guarantees next-day delivery, or if deposited in the United States mail, certified or registered with return receipt requested, proper postage prepaid, to the parties at their respective addresses:

RID

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

Contractor

Each such notice or other communication shall be effective upon personal delivery, or upon confirmation of the receipt of the applicable telecopy, or three (3) business days after the date on which the same is deposited in the United States mail in accordance with the foregoing. Either party may change its address for the purposes of this Section 26 by giving five (5) business days prior written notice of such change to the other party in the manner provided in this Section 26.

SECTION 27: DISPUTE RESOLUTION

a. Except as otherwise expressly set forth herein, any controversy or claim arising out of, or relating to this Contract, or the making, performance, or interpretation thereof is subject to a good faith effort at resolution through non-binding mediation unless the parties mutually agree otherwise, and shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. Any such mediation shall take place within 60 days after written request by either party or such longer period as the parties agree. The mediator's fees and any filing fees shall be divided equally among the parties involved. The parties agree to limit the admissibility in any subsequent litigation or proceeding of anything said, any admissions made, and any documents prepared, in the course of mediation, consistent with California Evidence Code Section 1152.5. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

b. Claims, controversies or disputes not resolved by mediation shall be decided by binding arbitration, unless the parties mutually agree otherwise, and shall be 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 party to the Contract and the American Arbitration Association.

c. Notice of the demand for arbitration shall be filed in writing with the other party to the arbitration and the American Arbitration Association and made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by any and all applicable statutes of limitation.

d. Unless otherwise agreed in writing, the parties hereunder shall proceed diligently with performance of this Contract pending resolution by arbitration of any claim, dispute or other matter in question arising out of, or relating to, this Contract or the interpretation or breach thereof.

e. In addition to the other rules of the American Arbitration Association applicable to any arbitration hereunder, the following shall apply.

1. Promptly upon the filing of the arbitration demand, each party shall be required to set forth in writing and to serve upon each other party a detailed statement of its contentions of fact and law.

2. Discovery shall be at the discretion of the arbitrator; however, the parties shall have the right to request documents pursuant to California Code of Civil Procedure Section 2031.010, et seq.

3. The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein.

4. The costs and fees of the arbitrator shall be allocated between the parties in the discretion of the arbitrator. However, the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including expert witness costs, in an amount to be determined by the arbitrator.

5. These additional rules shall be implemented and applied by the arbitrator.

6. The award rendered by the arbitrators shall be final and judgment may be entered in accordance with California law and in any court having jurisdiction thereof.

SECTION 28: COUNTERPARTS

This Contract may be executed in counterparts and all so executed shall constitute an agreement binding upon all parties hereto. The parties agree to accept signatures transmitted via facsimile or other electronic transmission, and such facsimile or electronically transmitted signatures shall have the same force and effect as an original signature.

SECTION 29: INTERPRETATION

This Contract is the joint product of RID and Contractor and each provision hereof has been subject to the mutual consultation, negotiation and agreement of the parties hereto and shall not be interpreted or construed for or against any party hereto. If any provision of this Contract is held by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be enforced to the fullest extent that it is valid and enforceable under applicable law. All other provisions of this Contract shall remain in full force and effect.

SECTION 30: TIME OF ESSENCE

Time is of the essence of this Contract and each and every provision thereof on the Contractor's part is to be performed.

SECTION 31: APPLICABLE LAW

This Contract shall be construed and interpreted under, and shall be governed and enforced according to the laws of the State of California.

SECTION 32: RID NAME; USE OF PROPRIETARY MATERIALS

Contractor shall not use the name "River Islands", or the logo of RID without the prior written approval of RID. Contractor understands that, from time to time, RID may direct Contractor to use proprietary and/or private-labeled materials in performing the Work. Contractor agrees not to otherwise use, sell, offer to sell, distribute, duplicate, market, promote, advertise or modify such materials, whether for commercial or private purposes. Contractor may not remove such materials from an RID jobsite without prior RID authorization, unless removal is for the purpose of; (a) returning defective goods to a supplier or distributor; or (b) selling or transferring as waste disposal. Contractor acknowledges that RID retains ownership of all Contract Documents including without limitation all shop drawings and other work product prepared by Contractor in connection with the performance of the Work.

SECTION 33: TAXES

Contractor shall pay all taxes imposed by any federal, state, or local taxing authority, on all payrolls and compensation of its employees and any other taxes, fees and charges levied against Contractor on account of this Contract under authorization of any law, ordinance or regulation.

SECTION 34: BINDING

This Contract and the covenants contained herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns.

SECTION 35: ENTIRE AGREEMENT

This Contract contains the entire agreement of the parties hereto with respect to the subject matter hereof, and supersedes all prior arrangements, written or oral, between parties. No agreement, statement or promises made by either party hereto which is not contained herein shall be binding or valid. Except as expressly provided herein, this Contract may not be modified except by a writing executed by an authorized officer of each party or his or her express designee.

SECTION 36: EXHIBITS

All exhibits attached hereto and referred to in this Contract are incorporated in the Contract by this reference as though they were fully set forth herein.

SECTION 37: WAIVER

The failure in any one or more instances of a party hereto to insist upon performance of any of the terms, covenants or conditions of this Contract, to exercise any right or privilege in this Contract conferred, or the waiver by said party of any breach of any of the terms, covenants or conditions of this Contract, shall not be construed as a subsequent waiver of any such terms, covenants, conditions, rights or privileges, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred. No waiver shall be effective unless it is in writing and signed by the waiving party or an authorized representative of the waiving party.

SECTION 38: MISCELLANEOUS

a. Contractor agrees to hold RID's officers and/or employees harmless from any expense of any nature arising out of any and all claims (including, but not limited to, claims that may be presented by virtue of any contract or employment under the Contractor) for union welfare, pension, vacation, apprenticeship, owner-operator, health and welfare, and related type payment obligations connected with the job herein referred to, whether or not well-founded.

b. In addition to the provisions of Section 25 of this Contract or any other provisions hereinbefore stated, RID may terminate the Contract of the Contractor or its subcontractors (and the Contractor shall so provide in contracts with its subcontractors), in the event that the Contractor, or its subcontractors, are listed by any administrative office of the appropriate health and welfare, pension, vacation, or apprenticeship funds as being delinquent in payment, or payments, to said fund or funds regardless of the job in connection with which the alleged delinquency occurred (which

Trade Contractor Agreement (Police

Station)

Contractor's Initials _____
RID's Initials _____

termination shall be considered "for cause"). If the Contract and/or any subcontract hereunder is terminated pursuant to this provision, Contractor shall be obligated to pay the entire cost of completion of the work called for by said contract(s) whether RID causes said work to be completed on a time and material basis or lets a new contract for completion of the work. If RID elects not to terminate pursuant to this provision, Contractor appoints RID and Contractor shall bind its subcontractors to appoint RID (at the election of RID as to both Contractor and its subcontractors) as its agent to pay all such sums due under any collective bargaining agreements to the appropriate administrative office, out of funds RID would otherwise be required to pay to Contractor. RID's determination as to amount(s) to be paid, if any, shall be final.

c. The Contract Documents should be considered complimentary to each other and what is called for in one should be binding as if called for by all.

d. Where agreement, approval, consent or similar action by either party is required by any provision of this Contract, such action shall not be unreasonably delayed or withheld unless otherwise expressly permitted.

e. NOTICE. CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first above written.

RID:

RIVER ISLANDS DEVELOPMENT, LLC
a California limited liability company

Date: _____

By: _____

Title: _____

CONTRACTOR:

a _____

Date: _____

By: _____

Title: _____

State License Number: _____

FOR REFERENCE PURPOSES

CONTRACT NUMBER: _____
PROJECT NAME: River Islands at Lathrop

PROJECT ADDRESS: 73 West Stewart Road, Lathrop, California

PRELIMINARY INFORMATION

FOR RIVER ISLANDS AT LATHROP PROJECT

In connection with the Mechanics' Lien Laws, we submit the following information to assist you in preparing your 20 Day Preliminary Notice:

RID: River Islands Development, LLC
73 West Stewart Road
Lathrop, CA 95330

Construction Lender: None

Location: River Islands at Lathrop
73 West Stewart Road
Lathrop, CA 95330

EXHIBIT A
SCOPE OF WORK AND GENERAL CONDITIONS

CONTRACTOR: _____
CONTRACT NUMBER: _____
PROJECT NAME: River Islands at Lathrop
PROJECT ADDRESS: 73 West Stewart Road, Lathrop, California

SECTION 1: SCOPE OF WORK

Contractor shall furnish all labor, material, tools, equipment, services, supplies, insurance, licenses, supervisions and facilities necessary to complete work in a workmanlike manner per the following:

Work to include, without limitation:

INSERT

SECTION 2: GENERAL NOTES

Contractor is required to do a comprehensive quality control walk and correct all discrepancies prior to the quality control walk by RID. Contractor shall unconditionally guarantee its work, material and labor as set forth in this Contract. All applicable governing agencies plans and specifications are made a part of this contract; and these plans and specifications must be followed in order to receive acceptance of all work by the governing agencies and RID. All additional work performed or material supplied prior to or without written approval shall become Contractor's responsibility for any necessary corrections and shall be considered done at no charge to RID.

Any errors and omissions from the list of items in the specifications and/or shown on the subject drawings, or vice versa, shall be called to the attention of the RID in writing either before submission of Contractor's bid or prior to execution of this document. Failure to do so shall imply that all items related to said subcontract are fully covered upon execution of said document.

All scheduling will be by RID or its assigned representative; Contractor move-ins shall be as required by RID. All move-ins, as required and movement through the project are included in the contract unit prices. No other compensation will be made. Contractor shall cooperate totally in accelerations or deviations made by RID in the scheduling and completion of this contract work.

As time is of the essence in this Contract, work shall proceed at the direction of RID and be completed as rapidly as possible and in accordance with RID's schedule. Contractor will under all circumstances leave area outlined in contract in a neat and orderly fashion prior to RID's acceptance of final work. Contractor shall not at any time leave any aspect of the jobsite, including then-existing streets, sidewalks and housing pads, in an unsafe condition. Upon completion of Contractor's Work, Contractor shall promptly remove all of Contractor's equipment, and shall move all excess usable materials from the Project jobsite in accordance with instructions issued by RID. If Contractor fails to do so, RID has the right, but not the obligation to, clean up and remove any Contractor equipment or excess materials and reasonably allocate all Costs related thereto to those believed to be responsible therefore, and RID's reasonable allocation shall be binding upon Contractor.

Contractor is to remove all overages/material from jobsite as directed by Project Superintendent.

Contractor shall comply with the Air Quality Management District or a substitute governing body in the event of termination of construction activities during third stage alert. Any regulations issued by the governing agency in connection therewith shall hold RID free and harmless from any and all claims from loss of construction during this period.

No alcoholic beverages of any kind are to be consumed by Contractor's employees while on the jobsite. Any employee found to be under the influence of drugs or alcohol shall be immediately removed from the jobsite. Any employee found to have violated said regulation is to be immediately replaced. Any breach of this provision will be grounds for immediate termination of this contract by RID.

All traffic control devices shall be furnished, placed and maintained throughout Contractor's phase of work, with no additional cost to RID.

If the Contractor elects to work overtime for any reason not directly requested by RID, no premium compensation shall be paid.

Upon completion of work, Contractor agrees to walk all items constructed within that tract by Contractor with the Project Superintendent. A written list of all discrepancies shall be prepared and signed by both parties. Contractor shall then have a maximum of ten (10) working days to repair and/or replace unacceptable work.

Contractor agrees that all work and materials will meet and/or exceed State, County or City codes, and all work and materials must be acceptable to the Project Superintendent.

Each subcontractor is required to do a comprehensive quality control walk and correct all discrepancies prior to quality control walk by Project Superintendent.

Each subcontractor shall place all trash and debris in garbage at the end of each working day.

Contractor's foreman is to report to the Project Superintendent prior to commencement of any work.

No vehicles allowed in driveways or garages.

No dogs, radios, alcohol, or drugs permitted on job site.

No eating, drinking, or smoking inside any structures.

All trades must respect and protect other contractors.

All materials supplied to project to be installed and applied according to manufactures specifications.

Foremen are required to attend production meetings weekly as directed by Project Superintendent as well as to participate in quality control inspection at direction of Project Superintendent.

Contractor agrees to comply with all applicable laws relating to construction noise. Unless otherwise specified by RID, construction, alteration, or repair activities which are authorized by a valid permit shall be allowed between the hours permitted by the jurisdiction in which the Project is located. On weekends and federal holidays, construction shall be allowed only upon receipt of a weekend/holiday work permit from the local jurisdiction if required by its ordinances. Contractor shall have the option, at its own cost, to provide and maintain feasible noise control measures. If mitigation is not feasible, then Work shall be scheduled during the hours when residents shall be least affected, at no additional cost to RID. If blasting activities are required to perform the Work, Contractor shall conduct the blasting activities in compliance with all applicable laws. Contractor shall submit to the local jurisdiction blasting plans for review and approval prior to commencing any on-site or off-site blasting activities.

Prior to any excavation or digging, Contractor must verify that there is no conflict with the location of all underground utilities and/or landscaping. Contractor is responsible for having all existing underground utilities located and/or relocated, as applicable, prior to excavation or digging. Such location and/or relocation, as well as all costs associated with tying into any existing utilities, are included in the Contract Price. Contractor shall perform Work as to not damage utility lines, and shall follow all applicable encroachment standards affecting the utility rights of way and adequately protect its own employees, and those of others and RID, in performing the Work. Contractor shall not use any utilities, except ones specifically provided by RID. Contractor is responsible to supply any water, electricity, heat and/or light needed to perform its Work, and Contractor shall perform any water pumping necessary to perform its Work.

ALL TRADES SHALL TAKE ALL SAFETY MEASURES RELATED TO THEIR WORK FOR THE SAFETY OF ALL TRADES (INCLUDING TEMPORARY SAFETY FACILITIES, MEASURES AND PRECAUTIONS) AND AS NECESSARY TO SATISFY CONTRACTOR'S SAFETY OBLIGATIONS UNDER THE CONTRACT.

SECTION 3: GENERAL CONDITIONS

a. Contractor shall ensure that all of Contractor's employees shall not use obscene language, shall not play loud music, shall not bring visitors, children or pets to the job site, shall observe speed limits particularly in construction areas, DO NOT EXCEED 15 M.P.H. (for vehicles only), shall observe working hours regulations and ordinances of the governing agencies or as may be required by RID, and shall exhibit consideration towards others particularly in areas of the job site close to existing occupied residences.

b. Contractor is solely responsible for Contractor's material and equipment left on the job site and shall provide Contractor's own security. Contractor may store such equipment on the job site at a location approved by the Project Superintendent, at Contractor's own risk. Nothing shall be construed as creating a relationship of bailor and bailee between Contractor and RID. Upon completion of this Contract, Contractor shall remove all such equipment from the job site.

c. The work will be based on Uniform Building Code as adopted in the applicable jurisdiction, unless noted otherwise.

d. Contractor recognizes that in the performance of its work, it will be required to work side-by-side with other contractors and representatives of RID on the job site, and therefore labor disputes may arise on the job site.

e. Contractor agrees that should there be picketing or a threat of picketing by any labor organization at or near the job site, RID may establish a reserved gate for the use of Contractor's employees and suppliers or other subcontractors, or RID. In that event, it shall be the affirmative

obligation of Contractor as a material consideration of this Contract to ensure that its employees and suppliers use only the gate or entryway designated by RID.

f. If after a reserved gate has been established and in the event Contractor's employees refuse to work because of a labor dispute or grievance with Contractor, RID, or some other contractor, it shall not relieve Contractor of its obligations to supply enough properly skilled workers to perform the work undertaken by it without interruption. However, in the event of a primary labor dispute directed at Contractor, Contractor shall have a time period not to exceed ten (10) calendar days in order to reorganize its organization and to supply enough properly skilled workers and equipment to perform the work undertaken by it without further interruption.

g. Contractor agrees to cooperate fully with RID and City and their respective representatives and attorneys with respect to any labor dispute that should arise on the job site, including but not limited to the giving of testimony and evidence to an agent or judge of the National Labor Relations Board.

h. If Contractor is bound by a collective bargaining agreement, Contractor hereby warrants that Contractor is not now nor will be delinquent in the payment or reporting to any labor management fringe benefit trust fund.

i. **WITHOUT LIMITING THE FOREGOING OR ANY OTHER PROVISIONS OF THIS CONTRACT, CONTRACTOR SHALL ENSURE THAT THE WORK WILL BE IN COMPLIANCE WITH ALL CONDITIONS OF APPROVAL AFFECTING THE PROJECT. IN THE EVENT OF A CONFLICT, THE STRICTER PROVISIONS SHALL PREVAIL.**

**EXHIBIT B
INSURANCE REQUIREMENTS**

CONTRACTOR: _____
CONTRACT NUMBER: _____
PROJECT NAME: River Islands at Lathrop
PROJECT ADDRESS: 73 West Stewart Road, Lathrop, California

INSURANCE REQUIREMENTS

Contractor shall carry, with insurance companies rated A- VII or better by A.M. Best Company, the following insurance coverage continuously during the life of this Contract, and thereafter as provided below

1. Commercial General Liability Coverage.

- (a) Commercial General Liability Insurance ("CGL") coverage shall be on an occurrence form containing minimum limits of \$3,000,000 per occurrence, \$3,000,000 aggregate and \$3,000,000 products completed operations aggregate, protecting against property damage, bodily injury and personal injury claims arising from the exposures of:
 - (i) Premises or ongoing operations;
 - (ii) Products-completed operations, which shall:
 - (A) cover materials designed, furnished and/or modified in any way by Contractor;
 - (B) have a separate aggregate limit at least equal to the CGL per occurrence limit; and
 - (C) be maintained through the longer of the statute of limitations or repose period for construction defect and products liability claims in the State. Policies and/or endorsements cannot include any provisions that terminate products-completed operations coverage at the end of a policy period or limit the coverage in any other way with respect to additional insureds;
 - (iii) Independent contractors;
 - (iv) Contractual liability; and
 - (v) Property damage resulting from explosion, collapse, or underground (x, c, u) exposures (if applicable).
- (b) The CGL coverage must be primary. Any of RID's insurance shall be considered excess to all primary and excess insurance of Contractor for the purpose of responding to claims. The following wording must be included in the Description of Operations on the Certificate of Insurance: "This insurance is Primary and Non-Contributory."
- (c) Contractor's CGL policy must include a waiver of subrogation in favor of RID, Califia, Cambay, St. James, RD 2062, RIPFA, the City, and any other entities designated in writing by RID in its reasonable discretion by referencing and attaching the required endorsement.
- (d) The policy may not contain exclusions for the Work, including but not limited to exclusions for residential construction, attached product (if applicable) or liability that arises from a dispute governed by a notice and opportunity to repair statute. The following wording must be included in the Description of Operations on the Certificate of Insurance: "No exclusionary language or limitations relating to residential construction, condominiums, or multi-family or multi-unit dwellings to the extent the Work includes construction projects of these types."
- (e) Contractor shall add RID, Califia, Cambay, St. James, RD 2062, RIPFA, the City, and any other entities designated in writing by RID in its reasonable discretion as additional insureds on the CGL policy by having the insurance carrier issue an additional insured endorsement(s) at least as broad as the ISO CG 2010 11/85 Additional Insured - Owners, Lessees or Contractors - Form B endorsement. Such additional insured status under the CGL policy must not be limited by amendatory language to the policy. Further, this endorsement shall:
 - (i) Provide coverage for both premises/ongoing operations and products-completed operations to the benefit of the additional insured; and
 - (ii) Provide coverage to the full extent of the actual limits of Contractor's coverage even if such actual limits exceed the minimum limits required by this Contract.
- (f) Owners and Contractors Protective Liability Policies ("OCP") **cannot fulfill the requirement for CGL coverage** under this Contract.
- (g) In the event that Contractor opts to participate in any alternative general liability insurance program offered through RID as a means to fulfill the requirement for CGL coverage, Contractor agrees that RID may deduct premium payments due Contractor under this Contract.

- (h) In the event that Contractor provides Work for a portion of the Project covered by an Owner Controlled Insurance Program (“OCIP”) arranged by RID, the CGL requirements are hereby waived for purposes of that portion of the Project only. Contractor acknowledges that no such OCIP or other programs are presently offered by RID.
- (i) The CGL coverage must be written so that the general aggregate limit applies on a “per project” basis, specifically designating “River Islands at Lathrop Finish Lot Improvements”.
2. Automobile Liability Coverage. Contractor shall carry automobile liability coverage with a combined single limit of \$1,000,000 insuring against bodily injury and/or property damage arising out of the operation, maintenance, use, loading or unloading of any auto including owned, non-owned, and hired autos. RID, Califia, Cambay, St. James, RD 2062, RIPFA, the City, and any other entities designated in writing by RID in its reasonable discretion must be added as additional insureds for automobile liability.
3. Workers' Compensation and Employer's Liability Coverage.
- (a) Contractor shall carry workers' compensation insurance providing statutory benefits imposed by applicable state or federal law such that: (1) RID will have no liability to Contractor, its employees or Contractor's Agents; and (2) Contractor will satisfy all workers' compensation obligations imposed by state law.
- (b) This policy must include a **documented** waiver of subrogation in favor of RID, Califia, Cambay, St. James, RD 2062, RIPFA, the City, and any other entities designated in writing by RID in its reasonable discretion (in states where permitted).
- (c) If any of Contractor's employees or Contractor's Agents are subject to the rights and obligations of the Longshoremen and Harbor Workers Act or any other maritime law or act, the workers' compensation insurance must be broadened to provide additional required coverage.
- (d) For purposes of worker's compensation coverage, Contractor agrees that Contractor, Contractor's employees and Contractor's Agents are not employees of RID or its Affiliates, and are therefore not beneficiaries of any RID coverage.
- (e) Contractor may satisfy its workers' compensation obligations by providing documentation of current authorization from the appropriate state authorities for the state(s) where the Work is performed indicating that Contractor is adequately self-insured for workers' compensation claims.
- (f) Contractor agrees to carry employer's liability coverage with limits of not less than:
- | | | |
|-------|-------------|------------------------------------|
| (i) | \$1,000,000 | Each Accident |
| (ii) | \$1,000,000 | Aggregate Policy Limit for Disease |
| (iii) | \$1,000,000 | Each Employee |
4. Umbrella or Excess Coverage. To the extent Contractor carries umbrella or excess insurance above the minimum required limits stated in this Contract, the protection afforded the additional insureds in the umbrella or excess liability insurance shall be as broad or broader, than the coverage present in the underlying insurance and in accordance with this Contract. Each umbrella or excess liability policy shall specifically state that the insurance provided by the Contractor shall be considered primary.
5. Contractor must disclose all applicable policy deductibles and/or self-insured retentions (“SIR”) and agrees to be liable for all costs within the deductibles and/or SIR.
6. Certificates of Insurance. Contractor shall evidence that such insurance is in force by furnishing RID with a certificate of insurance, or if requested by RID, certified copies of the policies. Notwithstanding the non-renewal or termination of this Contract, Contractor shall provide renewal certificates and endorsements to RID for so long as the applicable insurance is required to be maintained pursuant to this Exhibit B. The certificate shall state the type of Work being performed, and shall be incorporated into this Contract. The certificate shall evidence the requirements of this Contract, including but not limited to, specifying that:
- (a) RID, Califia, Cambay, St. James, RD 2062, RIPFA, the City, and any other entities designated in writing by RID in its reasonable discretion are additional insureds on the CGL and automobile policies, and if applicable the umbrella and/or excess policies, by referencing and attaching the required endorsement;
- (b) The policy does not contain exclusions for the Work and/or for duties performed by Contractor pursuant to this Contract, including, without limitation, residential construction, attached product (if applicable), or liability that arises from a dispute governed by a notice and opportunity to repair statute. The following wording must be included in the Description of Operations on the Certificate of Insurance: “No exclusionary language or limitations relating to residential construction, condominiums, multi-family, or multi-unit dwelling;”
- (c) Contractor's coverage is primary and RID's insurance is excess for any Claims. The following wording must be included in the Description of Operations on the Certificate of Insurance: “This insurance is Primary and Non-Contributory;”
- (d) Contractor's CGL policy contains contractual liability coverage;
- (e) Contractor's workers' compensation policy includes a waiver of subrogation in favor of RID, Califia, Cambay, St. James, RD 2062, RIPFA, the City, and any other entities designated in writing by RID in its reasonable discretion (in states where permitted), by referencing and attaching the required endorsement;

(f) Contractor's CGL policy includes a waiver of subrogation in favor of RID, Calafia, Cambay, St. James, RD 2062, RIPFA, the City, and any other entities designated in writing by RID in its reasonable discretion, by referencing and attaching the required endorsement; and

(g) Contractor must provide evidence of Workers Compensation in the states(s) that it operates by either listing on the certificate those states listed in item 3.A. of the Information Page of the Workers Compensation Policy or attaching a copy of the Information Page.

7. Contractor's Agent(s). If Contractor should subcontract any Work, Contractor shall nevertheless be bound to indemnify and defend RID as provided in this Contract for the acts and omissions of Contractor's Agent(s) in the same manner and to the same extent as if Contractor had performed such Work. In addition, Contractor shall require that Contractor's Agent(s) agree to indemnify and defend RID for the acts and omissions of Contractor's Agents in the same manner and to the same extent as provided in this Contract for Contractor. Contractor represents and warrants that Contractor's Agent(s) shall carry insurance as set forth in this Contract prior to permitting Contractor's Agent(s) to commence its work.

The provisions of this Exhibit B shall survive expiration or termination of this Contract and shall continue until such time it is determined by final judgment that the Claim against Indemnitees is fully and finally barred by the statute of limitations.

**EXHIBIT C-1
REQUEST FOR CHANGE ORDER FORM**

CONTRACTOR: _____
CONTRACT NUMBER: _____
PROJECT NAME: River Islands at Lathrop
PROJECT ADDRESS: 73 West Stewart Road, Lathrop, California

All Change Orders shall be processed using the forms set forth in Exhibits C-1 and C-2:

REQUEST FOR CHANGE ORDER

PROJECT NAME:	
CONTRACTOR:	
CONTRACT/CO NUMBER:	
DATE:	
JOB #/COST CENTER/COST CODE:	
TYPE OF WORK:	

I. **REQUEST FOR CHANGE ORDER:**

All services, labor, material and conditions of performance involved in this Change Order shall be in accordance with the provisions of the Contract executed between Contractor and RID referenced above.

Change Order Number: _____

Date of Request: _____

Previous Total: _____

Change Order Amount: _____ (Cost Code XXX)

New Total: _____

Reason for Change Order: _____

CONTRACTOR

a _____

By: _____

Name: _____

Its: _____

Date: _____

**EXHIBIT C-2
CHANGE ORDER FORM**

CONTRACTOR: _____
CONTRACT NUMBER: _____
PROJECT NAME: River Islands at Lathrop
PROJECT ADDRESS: 73 West Stewart Road, Lathrop, California

All Change Orders shall be processed using the forms set forth in Exhibits C-1 and C-2:

CHANGE ORDER

PROJECT NAME:	
CONTRACTOR:	
CONTRACT/CO NUMBER:	
DATE:	
JOB #/COST CENTER/COST CODE:	
TYPE OF WORK:	

CHANGE ORDER

Contractor is directed to provide all services, labor, materials and conditions of performance as set forth in this Change Order, all of which shall be performed in accordance with the provisions of the Contract executed between Contractor and RID referenced above.

Revision to Scope of Work:

[INSERT]

Reason for Change Order:

[INSERT]

Attachments:

[LIST DOCUMENTS SUPPORTING CHANGE AND JUSTIFYING COST AND TIME]

Change in Contract Price:

Original Contract Price: \$ _____
Contract Price Prior to this Change Order: \$ _____
Net Increase (decrease) of this Change Order: \$ _____
Contract Price with all Approved Change Order: \$ _____

By execution below, RID approves this Change Order, and Contractor accepts this Change Order and will perform in accordance with the terms hereof and the Contract. This Change Order may be executed in multiple counterparts (including facsimile or electronic (pdf) counterparts, each of which shall constitute an original and all of which shall constitute the same document.

APPROVED BY RID:

RIVER ISLANDS DEVELOPMENT, LLC
a California limited liability company

By: _____
Name: _____
Its: _____
Date: _____

ACCEPTED BY CONTRACTOR

a _____

By: _____
Name: _____
Its: _____
Date: _____

**EXHIBIT D
CERTIFICATION FORM**

CONTRACTOR: _____
CONTRACT NUMBER: _____
PROJECT NAME: River Islands at Lathrop
PROJECT ADDRESS: 73 West Stewart Road, Lathrop, California

PROJECT NAME:	
CONTRACTOR:	
CONTRACT/CO NUMBER:	
DATE:	
JOB #/COST CENTER/COST CODE:	
TYPE OF WORK:	

I, _____, the undersigned, am the
(Name – print)

_____ with the authority to act for and on behalf of
(Position in company)

_____, and certify under penalty of perjury
(Name of company)

that all wages, fringe or other benefit payment or contributions due to any Wage Claimant performing labor for any portion of the Work covered by this request for payment, or to be paid on such Wage Claimant's behalf have been paid in full.

Date: _____ Signature: _____

SCHEDULE 1

PREVAILING WAGE PROCEDURES AND DOCUMENTATION

This Project requires payment of Prevailing Wages on the scope of work within the Trade Contractor Agreement and related bid request(s) issued by RID. It is the responsibility of Contractor to ensure that any bid submitted assumes the correct prevailing wage rates for all work. The current rates may be found on the Department of Industrial Relations website: (http://www.dir.ca.gov/DLSR/statistics_research.html). Copies of the prevailing rates of per diem wages are also available at the principal office of RID, located at 73 W. Stewart Road, Lathrop, California and will be made available to interested parties upon request.

This Exhibit will be part of all contracts for this project on which prevailing wages are required. It explains the prevailing wage requirements in detail.

1. Not less than the general prevailing rate of wages for work of a similar character in San Joaquin County as determined by the Director of the Department of Industrial Relations pursuant to the provisions of Division 2, Part 7, Chapter 1 of the California Labor Code shall be paid to all workers employed for construction, alteration, demolition, installation or repair work within the scope (a) of the contract of which this Prevailing Wage Schedule is a part, and (b) of the bid request pursuant to which this contract was executed.

2. Attached hereto and incorporated herein by this reference are the provisions of California Labor Code sections 1771, 1773.3 1775, 1776, 1777.5, 1813 and 1815. Contractor agrees to comply and to require all of its subcontractors of every tier to comply with all of the California Labor Code provisions and amendments applicable to the performance of the work within the scope of this contract. Specifically, Contractor agrees:

2.1 To pay all workers not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work within the scope of this contract is performed.

2.2 To pay all workers not less than the general prevailing rate of per diem wages for holiday and overtime work required by the applicable prevailing wage determinations.

2.3 To pay all workers any and all travel and subsistence requirements required by the applicable prevailing wage determinations.

2.4 To post at each job site the current prevailing wage determinations applicable for work within the scope of this contract for each craft, classification, or type of worker needed to execute the work. Contractor further agrees to provide RID with copies of all prevailing wage determinations governing workers employed by Contractor and its subcontractors of every tier in the execution of the work within the scope of this contract. Contractor agrees that all applicable prevailing wage determinations will be produced to RID within seven (7) days of receiving a written request for such records. Contractor understands the prevailing wage determinations in effect at the time of contract bid may change and that Contractor is responsible for ascertaining any and all changes, determining whether they are applicable to work under the contract, and applying any and all changes to the extent required by the California Labor Code for work performed by Contractor and its subcontractors of every tier.

2.5 To adhere to the compliance measures outlined in Labor Code section 1775(b) for every subcontractor of every tier performing work within the scope of this contract. Specifically, Contractor agrees:

(i) To insert or require to be inserted into all contracts with subcontractors of every tier notice of the prevailing wage obligations and copies of Labor Code sections 1771, 1775, 1776, 1777.5, 1813, and 1815;

(ii) To monitor subcontractors of every tier to assure payment of the specified general prevailing rate of per diem wages;

(iii) Upon learning of non-compliance, to take corrective action diligently to halt or rectify the failure, including retaining sufficient funds due the subcontractor for work performed on the project; and

(iv) Prior to making final payment to a subcontractor of any tier, to obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the work within the scope of this contract and any amounts due pursuant to California Labor Code section 1813.

2.6 To submit certified payroll records to RID for its own work and for the work of subcontractors of every tier on a weekly basis. Records shall be provided no later than five (5) days following the last day of each workweek. Certified payrolls must either be submitted on forms approved by the California Division of Labor Standards Enforcement (DLSE), or on forms containing all information set forth in the DLSE forms.

2.7 To comply with the applicable apprentice requirements as required by Labor Code 1777.5. Compliance includes, but is not necessarily limited to the following:

(i) For this contract and for each subcontract of every tier, Contractor, or any subcontractor of any tier as applicable, shall, within ten (10) days of the execution of the contract or subcontract, but in no event later than the first day in which the Contractor or subcontractor of any tier, as applicable, has workers employed upon the work, submit contract award information to all applicable apprenticeship training programs by forwarding a completed Public Works Contract Award Information Form (DAS 140, DAS 142, and PWC-100);

(ii) At least 48 hours (excluding Saturdays, Sundays, and holidays) before one or more apprentices are needed, Contractor or subcontractor of any tier, as applicable, shall request the dispatch of required apprentices from at least one of the certified programs operating within the locality of the work;

(iii) Before completing the work within this contract, Contractor and its subcontractors of every tier utilizing apprenticeable crafts must satisfy a minimum 1:5 ratio of apprentice to journeymen hours. Contractor understands that RID may periodically require disclosure of apprentice staffing ratios. Contractor agrees to provide RID with a written disclosure of then-current apprentice staffing ratios for each apprenticeable craft within seven (7) days of receiving a written request from RID.

(iv) Contractor and its subcontractors of every tier making required training fund contributions either to a certified apprenticeship training program, or to the California Apprenticeship Council.

(v) Within sixty (60) days of completing this contract, Contractor and its subcontractors of every tier submitting to all utilized apprenticeship programs a verified statement of journeyman and apprentice hours performed on the contract or subcontract as applicable. (Labor Code § 1777.5(e)). If requested, Contractor agrees also to provide these verified statements to RID.

2.8 To submit to RID a Statement of Employer Payments by Contractor and its subcontractors of every tier which describes any and all fringe benefits claimed as credits against required per diem wages under California Labor Code section 1773.1. Contractor agrees to comply with this requirement by completing a form and by having the subcontractors of every tier complete a form approved by the California Department of Industrial Relations. A copy of the form may be viewed and downloaded at: <http://www.dir.ca.gov/dlse/DLSE-Forms-PW.htm>.

2.9 To submit to RID periodically a written list of all subcontractors of every tier performing work within the scope of this contract. Contractor agrees to provide this list within seven (7) days of receiving a written request from RID.

2.10 To obligate every subcontractor of every tier to comply with paragraphs 2.1 through 2.9 of this Exhibit.

3. Contractor, prior to receiving final payment for work performed on this project, shall sign an affidavit under penalty of perjury that Contractor has paid the specified general prevailing rate of per diem wages to its employees for the proper craft needed to fulfill the obligations of the contract and has complied with its training and apprentice hiring obligations pursuant to this contract. Prior to receiving final payment for work performed on this project, Contractor shall also obtain equivalent affidavits from its subcontractors of every tier.

4. Contractor agrees to defend, indemnify and hold harmless RID against any and all liabilities, claims, losses, demands, causes of action, or damages, including but not limited to any and all unpaid wages, penalties, expenses, attorneys' fees and costs, for any violations of the California Labor Code, including the provisions expressly referenced, and the related provisions of this Exhibit, which were caused by the failure to comply with said provisions either by Contractor or by any subcontractor of any tier performing work within the scope of this contract.

CALIFORNIA LABOR CODE SECTIONS 1771, 1773.3 1775, 1776, 1777.5, 1813 and 1815

§ 1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works. This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

§ 1773.3

(a) (1) An awarding agency shall provide notice to the Department of Industrial Relations of any public works contract subject to the requirements of this chapter, within five days of the award.

(2) The notice shall be transmitted electronically in a format specified by the department and shall include the name of the contractor, any subcontractor listed on the successful bid, the bid and contract award dates, the contract amount, the estimated start and completion dates, job site location, and any additional information the department specifies that aids in the administration and enforcement of this chapter.

(b) In lieu of responding to any specific request for contract award information, the department may make the information provided by awarding bodies pursuant to this section available for public review on its Internet Web site.

§ 1775. Penalties for violations

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

§ 1776. Payroll records; retention; inspection; agencies entitled to receive nonredacted copies of certified records; noncompliance penalties; rules and regulations

(a) Each contractor and subcontractor shall keep accurate payroll records, 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. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(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 the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee 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 body awarding the contract, the Division of Labor Standards Enforcement, and the 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 for copies thereof. However, a request by the public shall be made through either the body awarding the contract, 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 the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body, the Division of Apprenticeship Standards, or the Division of Labor Standards

Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) 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, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

1777.5. Employment of registered apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions

(a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the

dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Chief of the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

- (1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.
- (2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.
- (3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.
- (4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m)(1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all money in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) All decisions of an apprenticeship program under this section are subject to Section 3081.

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

1815. Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

SCHEDULE 2
FORM OF PERFORMANCE BOND

SCHEDULE 3
FORM OF PAYMENT BOND

SCHEDULE 4
FORM OF GUARANTY BOND

EXHIBIT "C"

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

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

(Space Above For Recorder's Use)

PUBLIC AGENCY CERTIFICATE OF ACCEPTANCE
(Government Code Section 27281)

This is to certify that the interest in real property conveyed by the Offer of Dedication dated _____ and recorded on _____ in the Official Records of the County of San Joaquin, State of California, as Instrument No. _____, from **RIVER ISLANDS DEVELOPMENT, LLC**, a California limited liability company, is hereby accepted by the undersigned officer on behalf of the **CITY OF LATHROP**, a municipal corporation of the State of California, pursuant to authority conferred by the California Constitution and pursuant to resolution approved by the City on _____, 201_, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

CITY OF LATHROP, a municipal corporation of the State of California

By: _____

Name: Stephen J. Salvatore

Its: City Manager

ATTEST: \

By: _____

Name: _____

Its: City Clerk

APPROVED AS TO FORM:

By: _____

Name: Salvador Navarrete

Its: City Attorney

EXHIBIT "D"

**BILL OF SALE AND ASSIGNMENT
(POLICE STATION)**

THIS BILL OF SALE AND ASSIGNMENT ("*Assignment*") is executed and delivered effective as of _____, 20__, by **RIVER ISLANDS DEVELOPMENT, LLC**, a California limited liability company ("*Assignor*"), for the benefit of the **CITY OF LATHROP**, a municipal corporation of the State of California ("*Assignee*"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in that certain Agreement for Purchase and Sale of Real Property and Joint Escrow Instructions entered into as of _____, 2018, between Assignor and Assignee ("*Purchase Agreement*").

For good and valuable consideration, receipt of which is hereby acknowledged, Assignor does hereby assign to Assignee, to the extent assignable, on an AS-IS and non-exclusive basis, with no representation or warranty whatsoever by Assignor and with no recourse by Assignee to Assignor and solely with respect to the Police Station acquired by Assignee concurrently with the execution of this Assignment: (a) all appurtenant rights, privileges, tenements, estates, interests and easements to the extent relating to the Police Station; (b) all improvements on and under the Police Station as of the date hereof; (c) all governmental licenses, permits, approvals, applications, certificates and any other development rights relating to the Police Station, if any, in effect as of the date hereof; provided, however, that Assignor reserves the right to retain, and Assignee shall have no rights whatsoever with respect to, all fee credits, refunds, rebates, utility true-ups and other payments, credits, allocations and benefits from governmental agencies or quasi-governmental agencies that derive in any way from agreements made, monies paid, lands dedicated or improvements or services provided by or on behalf of Assignor or its predecessor in interest in connection with the Police Station; (d) to the extent within the actual possession or control of Assignor, all plans and specifications relating to the development of the Police Station or improvements thereon, and all engineering, environmental, soil, seismic and geologic reports, studies and certificates and other documents relating to the development of the Police Station or improvements thereon; (e) all present and future claims, causes of action and other rights of any nature, whether in contract or in tort, that Assignor may have against any engineer, consultant, contractor, subcontractor or supplier based upon agreements with such third-parties in connection with the design and/or construction of the Police Station including without limitation all rights to insurance proceeds and recovery against bonds to the extent applicable to the Police Station and rights under the agreements listed on **Schedule 1** attached hereto ("*Construction Contracts*") and (f) all warranties, indemnities and guarantees to the extent relating to the Police Station and improvements constructed thereon (collectively "*Assigned Rights*"); provided, however, that in all cases Assignor shall have jointly with Assignee the same rights assigned to Assignee pursuant to this Assignment so that Assignor shall not be precluded from prosecuting any warranty, correction, guaranty, indemnity, insurance, bond or other like claim that Assignor may have against any engineer, consultant, contractor, subcontractor or supplier, whether in connection with their work performed for other property owned by Assignor or in connection with the Police Station.

Assignor hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Assignee or its successors and/or assigns any new or confirmatory instruments, and do and perform any other acts which Assignee or its successors and/or assigns may request in order to fully transfer possession and control of, and protect the rights of Assignee, its nominees, successors and/or assigns in, the assets of Assignor intended to be transferred and assigned hereby.

This Assignment shall be binding upon and inure to the benefit of Assignee and its successors and assigns.

This Assignment may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Assignment is executed and delivered by the Assignor to the Assignee as of the Effective Date.

Assignor:

RIVER ISLANDS DEVELOPMENT, LLC, a
California limited liability company

By: _____

Name: Susan Dell'Osso

Its: President

Schedule 1 to Exhibit "D"

Construction Contracts

[TO BE ATTACHED]

EXHIBIT "E"

NON-FOREIGN AFFIDAVIT

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by RIVER ISLANDS DEVELOPMENT, LLC, a California limited liability company (the "**Transferor**"), the undersigned hereby certifies the following:

1. The real property interest being transferred by the Transferor consists of an interest in the real property in the City of Lathrop, County of San Joaquin, State of California;

2. Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

3. Transferor/seller is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);

4. Transferor's U.S. tax payer identification number is 46-1242903; and

5. Transferor's business address is:

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

The undersigned understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement made within this certification could be punished by fine, imprisonment, or both.

Under penalties of perjury, I, the undersigned, declare that I have examined this certification and that, to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have the authority to sign this document on behalf of the Transferor.

Dated: _____

RIVER ISLANDS DEVELOPMENT, LLC
a California limited liability company

By: _____

Name: Susan Dell'Osso

Its: President

SCHEDULE "1"

TITLE REPORT

[To Be Attached]

SCHEDULE "2"

APPRAISAL

[To Be Attached]

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**CITY MANAGER'S REPORT
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING**

ITEM: **PUBLIC HEARING TO CONSIDER AN ORDINANCE TO AMEND THE LATHROP MUNICIPAL CODE SECTION 15.00.050 RELATED TO THE TIME LIMITS OF A BUILDING PERMIT.**

RECOMMENDATION: **Council to Consider the Following:**

- 1. Hold a Public Hearing; and**
- 2. Introduction and First Reading of an Ordinance amending Lathrop Municipal Code Title 15 Buildings and Construction, Chapter 15.00 Building and Housing Administrative Code, Section 15.00.050 Permits, related to the Time Limits of a Building Permit.**

SUMMARY:

Staff proposes an amendment to the City's Building and Housing Administrative Code for the purpose of maximizing the Chief Building Official's authority related to time allowances and limitations of Building Permits.

BACKGROUND:

The City of Lathrop adopted a comprehensive update to Municipal Code, Title 15, Buildings and Construction in December of 2016 in order to maintain compliance with the updated standards adopted by the State of California Building Standards Commission (CBSC). The CBSC publishes updated editions of the California Code of Regulations (CCR), Title 24, every three years to reflect new technologies and enhance life-safety and property protection.

The State allows local municipalities to modify these building standards, provided findings are made that the proposed modifications are necessary due to local climatic, geological, or topographical conditions that can affect the health, welfare and safety of local residents.

ANALYSIS:

Chapter 15.00 Building and Housing Administrative Code, Section 15.00.050, Permits, Subsection E, entitled "Expirations"; currently establishes the expiration of a building permit to a period of 180-days from its issuance, and gives the building official authorization to consider as many as two, 180-day permit extensions if warranted.

**CITY MANAGERS REPORT
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING
AMENDMENT TO MUNICIPAL CODE SECTION 15.00.050**

PAGE 2

The proposed amendment is intended to provide greater security to the holder of the building permit by increasing the extension of their permit by as much as a full year at a time when warranted instead of 180-days at a time. It also provides protection to the City by adding language that limits the extension of a building permit beyond a California Building Code update unless the request is supplemented with revisions covering forthcoming code updates. The proposed language reads as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. ~~The building official is authorized to grant, in writing, up to two extensions of time for action by the permittee for a period not exceeding one hundred eighty (180) days each time upon payment of appropriate fees and a written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. The Building Official may extend a permit for a period not exceeding 1 year upon written request by the permittee explaining that circumstances beyond control of the applicant have prevented action from being taken. In no circumstances shall a permittee request an extension beyond a code change effective date unless plans consistent with California Building Codes: California Code of Regulations Title 24, Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 9, 10, 11, 12, code updates are submitted along with the written extension request. Such extension request must occur prior to permit expiration.~~

This proposed amendment is consistent with State Law, ensuring that permit extensions beyond the triennial Code update scheduled for January 1, 2020 will require developers to comply with the updated building code, and provides reasonable assurance to developers that their investment in plan preparation, plan check, and impact fees are protected from unforeseen circumstances beyond their control.

REASON FOR RECOMMENDATION:

These proposed amendments will provide greater flexibility to residents, contractors, and developers and greater protection to the City as described above.

CITY COUNCIL GOALS ADVANCED BY THIS AGENDA ITEM:

Promoting a feeling of safety and economic growth by providing codes that are current with construction needs and requirements.

FISCAL IMPACT:

There is no fiscal impact to the City of Lathrop, only staff time to prepare the report.

ATTACHMENT: 1. Ordinance Approving Municipal Code Amendments


**CITY MANAGERS REPORT
JUNE 25, 2018 CITY COUNCIL SPECIAL MEETING
AMENDMENT TO MUNICIPAL CODE SECTION 15.00.050**

APPROVALS:



Mark Meissner
Assistant Community Development Director

6-19-18
Date



Salvador Navarrete
City Attorney

6-19-18
Date



Stephen J. Salvatore
City Manager

6-20-18
Date

ORDINANCE NO. 18-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP ADOPTING AMENDMENTS TO THE LATHROP MUNICIPAL CODE TITLE 15, BUILDINGS AND CONSTRUCTION, CHAPTER 15.00, BUILDING AND HOUSING ADMINISTRATIVE CODE, SECTION 15.00.050 PERMITS.

WHEREAS, the City of Lathrop City Council held a duly noticed public hearing at a special meeting on June 25, 2018 to review and consider this ordinance; and

WHEREAS, Health and Safety Code Section 17958 mandates that the City of Lathrop shall adopt ordinances or regulations imposing the same requirements as are contained in the regulations adopted by the State pursuant to Health and Safety Code Section 17922 and Government Code Section 50002; and

WHEREAS, the Health and Safety Code Sections 18941.5 and 17958 permits the City to make such changes or modifications to the City adopted Codes as are reasonably necessary because of local conditions; and

WHEREAS, the City desires to provide for different time limitations on Building Permits than the model code language contained within the model California Building Code; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the City Council has reviewed all written evidence and oral testimony presented to date.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The Lathrop Municipal Code, Title 15, Chapter 15.00 Building and Housing Administrative Code, Section 15.00.050 Permits, Subsection E, entitled "Expiration", is hereby amended as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of one hundred eighty (180) days after the time the work is commenced. ~~The building official is authorized to grant, in writing, up to two extensions of time for action by the permittee for a period not exceeding one hundred eighty (180) days each time upon payment of appropriate fees and a written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. The Building Official may extend a permit for a period not exceeding 1 year upon written request by the permittee explaining that circumstances beyond control of the applicant have prevented action from being~~

taken. In no circumstances shall a permittee request an extension beyond a code change effective date unless plans consistent with forthcoming code updates are submitted along with the written extension request. Such extension request must occur prior to permit expiration.

Section 2. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. Severability. If any section, subsequent subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section 4. Effective Date. This Ordinance shall take legal effect 30 days from and after the date of its passage.

Section 5. Publication. The City Clerk shall certify to the adoption of this ordinance and shall publish a summary thereof and post a certified copy of the full ordinance in the office of the City Clerk at least five days prior to the adoption of the proposed ordinance; and within fifteen days after adoption, the City Clerk shall publish a summary of the ordinance with the names of the members of the City of Lathrop City Council voting for and against the same.

THIS ORDINANCE was introduced at a meeting of the City Council of the City of Lathrop on the 25th day of June 2018, and was PASSED AND ADOPTED at a regular meeting of the City Council of the City of Lathrop on the 13th day of August, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:


ABSENT:

SONNY DHALIWAL, MAYOR

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney