TO: Honorable Mayor and Members of the City Council
FROM: Bruce Henz, Public Works Director
SUBJECT: Severn Trent - Wastewater Operations and Maintenance Contract

RECOMMENDED COUNCIL ACTION:
That the City Council approve a new contract for the management of the wastewater operations and maintenance services at the Red Bluff Wastewater Reclamation Plant with Severn Trent Environmental Services Inc.

SUMMARY:
The operations and management of the Red Bluff Waste Water Reclamation Plant is provided by Severn Trent Environmental Services Inc. (Severn Trent). Severn Trent has been providing services to the City since June 1, 2013 after the assumption of the contract service agreement that had previously been entered into with Southwest Water Company (“SWWC”). That 5 year agreement ran through February 1, 2015. Severn Trent has continued performing the operations and maintenance responsibility at the Waste Water Reclamation Plant on a month to month payment basis since February 1

The New Agreement would remain in effect for five (5) years from the Commencement Date (“Initial Term”) unless terminated earlier subject to specified causes. The Agreement may also be renewed for up to two successive terms of five (5) years. The payments for the services defined by this agreement are as follows:

Annual Base Fee:
The Annual Base Fee, paid for the cost of services and payment for the repair and maintenance costs, in the first year of this agreement shall be: $691,019.04, subject to annual CPI adjustments.
Monthly Payments:

The Base Fee shall be payable in twelve (12) equal monthly installments of **$57,584.92** in advance, on the first day of each and every month for the duration of the Agreement, unless adjusted under conditions that are contained within the Agreement.

Repair and Maintenance Limits and Baselines for First Agreement Year:

The Annual Repair and Maintenance Limit (for first Agreement Year): **$50,000.00**.

Severn Trent is responsible for annual maintenance costs up to the limit. Maintenance and repair costs in excess of this limit are the responsibility of the City.

Total budget amount: **$691,019.04**

PREVIOUS COUNCIL ACTION:

The City Council previously authorized a 5 year Master Services Contract with the South West Water Services Inc for the purpose of providing services that are necessary for the proper maintenance and operation of the City of Red Bluff Wastewater Treatment Plant. On May 7, 2013, the Council authorized the City Manager to sign the Assignment and Assumption Agreement that was necessary for the assignment of the Wastewater Treatment Plant Service Contract to Severn Trent Environmental Services Inc.

CITY FISCAL IMPACT:

The current Service Contract with SWWC Services Inc. is funded by the Waste Water Enterprise Fund. (Fund 45/ Dept 43)

There will be no additional General Fund Impact.

ATTACHMENTS:

Attachment “A” - WASTEWATER OPERATION AND MAINTENANCE AGREEMENT

Exhibit “A” - NPDES PERMIT NO. CA0078891 - ORDER NO. R5-2013-0044

WASTE DISCHARGE REQUIREMENTS FOR THE CITY OF RED BLUFF

RED BLUFF WASTEWATER RECLAMATION PLANT

The City of Red Bluff is an Equal Opportunity Provider
THIS WASTEWATER OPERATION AND MAINTENANCE AGREEMENT (the “Agreement”) is made this ________________ day of ________________, 2015, between: The City of Red Bluff, a ____________________________ organized under the laws of the State of California (the “City”); and SEVERN TREAT ENVIRONMENTAL SERVICES, INC., a Texas corporation with its principal place of business at 16337 Park Row, Houston, Texas 77084 (hereinafter the “Operator”).

BACKGROUND
On February 1, 2010 the City entered into a SERVICE CONTRACT with SWWC Services, Inc; a Delaware corporation to provide operation and maintenance services for its wastewater treatment facility located at 700 Messer Street, Red Bluff, California. On or about May 15, 2013, the SERVICE CONTRACT was assigned to the Operator who then commenced providing operation and maintenance services under the terms and conditions of said Agreement. The City desires to retain the Operator to operate and maintain the City’s wastewater treatment plant and all associated facilities as described in Schedule 2 of this Agreement (“Facilities”) and the Operator desires to provide said operations and maintenance services to the City. The definitions set forth in Schedule 3 shall apply wherever defined terms appear in this Agreement.

In consideration of the mutual promises in this Agreement, the parties agree as follows:

1) TERM

1.1 This Agreement shall commence on ________________, 2015 (“Commencement Date”) and shall remain in full force and effect for five (5) years from the Commencement Date (“Initial Term”), unless terminated earlier under clause 6 below. This Agreement may be renewed for up to two successive terms of five (5) years each as follows: in the event that Operator or City intends to renew the Agreement at the end of a term, the party wishing to renew shall notify the other party in writing thereof at least 180 days prior to the then applicable termination date. The Agreement shall then be automatically renewed for an additional five (5) year term unless the party gives notice of election not to renew, in writing, to the first party within sixty (60) days after receipt of said notice to renew from the first party. If no renewal notice is given by either party, the Agreement shall terminate automatically on expiration.

2) SERVICES

2.1 The services to be provided by the Operator are set forth below and in Schedule 1 (collectively the “Services”).

2.2 The Operator shall:
2.2.1 Perform the Services in accordance with the provisions of this Agreement, Applicable Law, and all permits, licenses, and specifications applicable to the operation and maintenance of the Facilities; exercising the degree of skill and care ordinarily exercised by members of Operator’s profession in the geographic region of the Facilities.

2.2.2 Use qualified (and where required, certified) personnel to operate and maintain the Facilities and all its equipment and processes in accordance with relevant operation and, if available, maintenance manuals for the Facilities, Applicable Law, and the Discharge Permits. Operator shall be solely responsible for payment of its agents, employees, contractors, sub-contractors, etc. In the event any of Operator’s agents, employees, contractors, subcontractors, etc. make a claim for damages or wages against City, Operator shall indemnify City as more fully set forth in Section 7.3 of this Agreement.

2.2.3 Perform (or contract with a laboratory certified by the appropriate regulatory body to perform) all sampling and laboratory analysis required by the City’s Discharge Permits or Applicable Law. Laboratory procedures and analysis shall conform to the then current edition of Standard Methods for the Examination of Water and Wastewater, or shall be in accordance with the testing requirements of the City’s Discharge Permits or Applicable Law.

2.2.4 Purchase and maintain an inventory of chemicals routinely used in the operation of the Facility. Chemical inventories will be stored at the Facility in compliance with Applicable Law and all state and federal standards and in quantities sufficient to ensure continuous operation of the Facility.

2.2.5 Subject to the limitations in clause 3 below, perform the maintenance tasks set forth in Schedule 1;

2.2.6 Maintain necessary records of operations, maintenance, repair and improvement activities at the Facilities and shall prepare and submit to the City a monthly report, delivered to the City the following month, including a narrative and summary of operations, maintenance, repair and replacement activities [(including the draw-down against the Annual Repair and Maintenance Limit)] and data required for monthly reporting to local, state and federal agencies;

2.2.7 Prepare a summary report of operations at the conclusion of each Agreement year and present to City within thirty (30) days after the conclusion thereof;

2.2.8 Prepare and submit all operations and compliance reports as may be required by state and federal regulatory agencies or Applicable Law;

2.2.9 Attend scheduled meetings with City as required and promptly respond to all correspondence and/or inquiries from City in a professional manner;

2.2.10 Collect stormwater discharge samples and arrange for laboratory testing and report the results from such testing in accordance with the existing permit and Applicable Law.

2.2.11 Ensure that general housekeeping and building and grounds appearance is maintained in a clean and orderly manner.
2.2.12 Provide emergency response and respond to such emergency calls within one (1) hour from the time of receiving notification or as reasonable under the particular circumstances of the Emergency. Emergency services shall be provided twenty four (24) hours per day; seven (7) days per week.

2.3 For the duration of this Agreement, the City hereby grants to the Operator, free of charge, a license to use the Facilities, including all equipment, structures, facilities and vehicles under City’s ownership and which have been assigned by City to the Facilities.

2.4 At the City’s request and at the option of Operator, Operator shall provide additional services for City. Compensation for such services shall be negotiated on a case-by-case basis.

3) REPAIRS AND MAINTENANCE

3.1 The Operator shall be responsible for all Annual Maintenance Expenditures up to the aggregate Annual Repair and Maintenance Limit set forth in Schedule 5. Any and all costs in excess of the Annual Repair and Maintenance Limit shall be the responsibility of the City.

3.2 Except in the case of an Emergency Event, the Operator shall obtain the prior written approval of the City for any single maintenance-related expense which costs more than two thousand dollars ($2,000). Operator will obtain 3 bids for any maintenance or repair required which costs more than $5,000. When the Operator determines that an Emergency Event exists, it may begin immediately taking any reasonably necessary action, without the City’s prior approval. Any costs reasonably incurred during the Emergency shall be included in the Annual Maintenance Expenditures, subject to the City’s subsequent review and approval which shall not be unreasonably withheld.

3.3 Operator shall maintain up-to-date financial and accounting records as they apply to the Annual Maintenance Expenditures. The records must be kept in accordance with the Operator’s standard accounting practices and made available to the City within thirty (30) working days of City’s written request.

3.4 The Operator will track Annual Maintenance Expenditures incurred against the Annual Repair and Maintenance Limit. Any portion of the Annual Maintenance Limit that has not been spent at the end of the Agreement Year will either be credited, based on direction from the City, either against the following year’s Base Fee or reimbursed to the City within thirty (30) days of the end of the Agreement Year.

3.5 Operator will provide annually, based on a schedule and time frame provided by the City, a recommended list of capital improvements for the Facility. Operator shall not be liable for damages, fines, or penalties to the extent that same arise out of the City’s failure to make any such recommended capital improvements.
3.6 Extraordinary Costs. If at any time during the course of this Agreement, storms, earthquakes, tornados, floods, or other natural disasters occur which adversely affect the Facilities, and which cause extraordinary expenditures reasonably incurred by Operator to ensure, to the best of its ability, the continued operation of the Facilities, Operator shall submit a detailed invoice of any such Expenditures to City. City shall pay to Operator such invoiced amount within thirty (30) days of receipt of such invoice.

3.7 City Owned Equipment. All City owned equipment and property identified in Schedule 7 shall remain on-site for Operator’s use in conjunction with the Services provided by Operator hereunder. All City owned equipment, property and fixtures shall remain the property of the City and shall be returned to the City in good working condition at the termination of this Agreement. The City shall provide appropriate theft, casualty and liability insurance for City owned equipment.

4 CITY OBLIGATIONS

4.1 The City shall:

a) Obtain and maintain all state, federal, and local permits and licenses required for ownership, operation and maintenance of the Facilities, including without limitation, the City’s Discharge Permits;

b) Arrange for and pay: i) all costs related to delivery to and consumption of utilities to the Facility, including electricity, water, gas usage at the Facilities; ii) all property, value-related, franchise, sales, use, excise, gross receipts, transaction privilege or other taxes associated with the Services and the ownership, operation and maintenance of the Facilities, other than taxes imposed on Operator’s net income or payroll; iii) expenses resulting from hydraulic or organic loads exceeding the Baseline Conditions; iv) all costs attributable to the transportation and disposal of Process Residue if any; and, v) all Capital Improvements;

c) Comply with Applicable Law relating to the management, ownership, operation, maintenance, repair and replacement of the Facilities to the extent that said compliance is outside the scope of the Services provided by Operator as described herein and in Schedule 1. The Operator shall not be responsible for City’s failure to comply with any provision of Applicable Law that is outside the scope of the Services provided by Operator as described herein and in Schedule 1;

d) During visits to the Facilities, comply and shall require its agents, licensees of invitees to comply with all reasonable safety rules and regulations adopted by the Operator;

e) Maintain all sewer lines, pipes, force mains, and all other wastewater transportation lines (“City Lines”), that are not part of the Facilities under Operator’s control, in a manner that will prevent, to the extent practicable, any damage to the operation of the Facilities due to leakage of wastewater or infiltration or inflow of storm water from such City Lines;
5 FEES AND PAYMENT

5.1 For the period beginning on the Commencement Date, the City shall pay the Operator an annual fee (the “Base Fee”) as set out in Schedule 5. The amount of the Base Fee shall be adjusted on each Adjustment Date in accordance with the formula set forth in Schedule 5.

5.2 Any and all late payments due to either party from the other party shall accrue interest at the rate of one and one-half percent (1½%) per month or the maximum rate permitted by Applicable Law, whichever is greater, from the original due date and until payment is received.

5.3 In the event of a change in the Services or Applicable Law or other factor which causes an increase in the Operator’s cost of providing the Services, the Operator may provide notice to the City and the parties shall negotiate in good faith to adjust the Base Fee to account for such change in Operator’s costs. The Parties agree that this Agreement is based on the Facility treating an annual average of 2.5 MGD and 209 lbs/day BOD and 209 lbs/day of TSS. Should the actual annual flows or loadings treated changed from these levels by more than ten percent (10%), the price differential for such treatment shall be subject to negotiation by the Parties pursuant to this Section. If the parties are unable to reach a negotiated agreement within thirty (30) days of the date of notice, then the contract may be terminated by either party upon 30 days additional written notice.

5.4 Reduction of the overall scope of the Services performed by the Operator under this Agreement may not, over the entire term of this Agreement, reduce the Base Fee by an amount greater than twenty five percent (25%) of the Base Fee as of the Commencement Date.

6 TERMINATION

6.1 Either party may terminate this Agreement by immediate written notice if the other has failed to comply with a material term, provided that the non-defaulting party has first given the defaulting party written notice to cure their default within forty five (45) days (“Cure Period”) and the defaulting party has not done so. If a default cannot be cured within the Cure Period, the parties may agree to an extension as long as the defaulting party provides evidence within the Cure Period that it has commenced a cure and is pursuing it diligently.

6.2 In the event of the termination of this Agreement under 6.1 above, the City shall pay the Operator for the Services provided and invoiced by Operator up to the effective date of termination plus the unamortized balance of any Capital Improvements financed or paid for by the Operator as reflected on Operator’s financial statements. Payment shall be made within thirty (30) days of the date of termination.
7 FINES AND INDEMNIFICATION

7.1 In the event that water treatment violations occur following the Commencement Date, except as set out in Section 7.2 and 10.5, the Operator shall, in respect to violations that may be imposed by Applicable Law, be responsible for payment of all applicable fines, penalties, or damages. Prior to settlement or payment of any such fines, penalties or damages, the Operator reserves the right to contest government or private actions, suits or proceedings for violations through administrative procedures or otherwise.

7.2 If the Facilities’ loading exceed its design parameters or if influent contains: i) abnormal, toxic or other substances which cannot be removed or treated by the existing Facilities; or ii) discharges which violate applicable sewage ordinances, the Operator will use its best efforts to maximize performance of the Facilities but shall not be responsible for associated effluent characteristics or damages, fines or penalties which result.

7.3 Notwithstanding any provision to the contrary contained in this Agreement, in no event shall either party be liable, either directly or indirectly, for any special, punitive, indirect and/or consequential damages, including damages attributable to loss of use, loss of income or loss of profit even if such party has been advised of the possibility of such damages.

7.4 Unless prohibited by law, the Contractor’s liability shall be limited as set out in this clause 7.5. Except for indemnified claims, the Contractor’s maximum liability under this Agreement shall not exceed an amount equal to 200% the annual Base Fee for the year in which the claim arises. In respect of indemnified claims, the Contractor’s maximum liability shall be $3 million. Notwithstanding the above, the limits of liability stated herein shall not apply to claims brought directly against Operator by independent third parties or claims which arise from Operator’s Gross Negligence or willful misconduct.

7.5 A. Indemnification; General. To the extent due to its negligent actions, omissions or willful misconduct, Operator shall protect, indemnify, defend and hold harmless City, its officers, employees, agents, contractors, consultants, professionals and volunteers, (collectively hereinafter referred to as the “City Indemnitees”) from and against any and all third party loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit, due to, injury to and death of any person and damage to property, arising out of, related to, or occasioned in any way by: (1) the actions, omissions, negligence or willful misconduct of Operator, its officers, employees, agents, and subcontractors in performing services under this Agreement; (2) the failure of Operator, its officers, employees, agents, and subcontractors to comply in any and/or all respects with the provisions of this Agreement, Applicable Law, ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Operator, its officers, employees, agents, and subcontractors in performing Services under this Agreement for which strict liability is imposed by law; (4) otherwise arising out of or resulting in any way from the awarding or execution of or Operator’s performance under this Agreement, including the provision of the Services to City or the public under this Agreement. Operator shall, at its own expense, defend any suit or action founded upon a claim of the foregoing. The foregoing indemnification shall not apply to the extent that the Claim is caused by the negligence or intentional misconduct of City, its
officers, employees, or agents. In the event of any such Claim, Operator, at the reasonable expense of Operator, shall defend (with attorneys reasonably acceptable to City), the City Indemnitees. Operator’s duty to indemnify and defend shall survive the expiration or termination of this Agreement.

B. Labor Code Indemnity. Operator certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Operator expressly represents and warrants to City that it has independently determined that the Prevailing Wage Laws are not applicable to any services performed under this Agreement. Without limiting the generality of and obligations under Section 7.3.A, Operator shall defend, indemnify and hold the City Indemnitees free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of the Operator or its subcontractors to comply with the Prevailing Wage Laws. Operator agrees to release and waive any right to make any demand or claim against City or to institute suit against City seeking reimbursement for any payments or costs associated with any subsequent allegation or determination by any person, entity or court that work performed under this Agreement is and was subject to the Prevailing Wage Laws. Without limiting the generality of and obligations under the foregoing, Operator specifically acknowledges that City has not affirmatively represented to Operator in writing, in the call for bids, or otherwise, that the services performed under this Agreement are not “public works” or “maintenance.” To the fullest extent permitted by law, Operator hereby specifically waives and agrees not to assert, in any manner, any past, present, or future claim for indemnification under Labor Code section 1781. In the event that the Prevailing Wage Laws are finally determined by a court or administrative agency to be applicable to any services performed hereunder, Operator agrees to fully comply with and to require its subcontractors to fully comply with such Prevailing Wage Laws, at Operator’s expense.

8 INSURANCE

8.1 Types and Amounts of Coverage. Operator, at Operator’s sole cost and expense, shall procure from an insurance company or companies licensed to do business in the State of California and maintain in force at all times during the Term, the following types and amounts of insurance:

a. Workers’ Compensation and Employer’s Liability. Operator shall maintain workers compensation insurance covering its employees in statutory amounts and otherwise in compliance with the laws of the State of California. Operator shall maintain employer’s liability insurance in an amount not less than One Million Dollars ($1,000,000) per accident or disease. Provided, however, that Operator shall not be obligated to carry such insurance if (i) it qualifies under California law and continuously complies with its permit obligations to self insure against such risks; (ii) provides a certified copy of its state-issued permit evidencing such qualification; and (iii) provides a certified copy of the permit renewing authorization for such self-insurance at least ten days before expiration of the old permit.
b. **Comprehensive General Liability.** Operator shall maintain Comprehensive General Liability insurance with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence and Three Million Dollars ($3,000,000) aggregate. The insurance required by this subsection shall include:

(i) Premises operations;

(ii) Independent Operators;

(iii) Products and Completed Operations;

(iv) Personal Injury Liability with Employment Exclusion deleted;

(v) Broad Form Blanket Contractual with no exclusion for bodily injury, personal injury or property damage;

(vi) Owned, Non-Owned, and Hired Motor Vehicles; and,

(vii) Broad Form Property Damage, including Completed Operations.

c. **Pollution/Environmental Hazards Insurance.** In addition to all other policies of insurance required to be provided by Operator pursuant to this Agreement, the Operator shall provide and maintain at all times during the term of this Agreement pollution/environmental hazards insurance, in form and content reasonably acceptable to the CITY and its counsel, covering any pollution or contamination on the Facilities' Property attributable to Operator or as to which Operator is responsible under the provisions of this Agreement, in a minimum amount of Five Million Dollars ($5,000,000.00). The policy required by this paragraph may be a “stand-alone” policy or an endorsement to the general liability insurance policy required as provided herein above, and shall be with companies reasonably acceptable to the CITY. Said policy or policies shall name the CITY as an additional insured, and shall contain a provision providing that should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Proof of such insurance shall be furnished by Operator to the CITY by certificates of insurance. Operator’s failure to maintain or to renew such insurance shall be grounds for immediate termination of this Agreement by the CITY without notice.

The Comprehensive General Liability and Pollution/Environmental Hazards insurance required under this Agreement shall be written on an "occurrence", rather than a "claims made" basis, if such coverage is obtainable. If it is not obtainable, no later than six (6) months prior to the termination of this Agreement, Operator must arrange for "tail coverage" to protect CITY from claims filed after the expiration or termination of this Agreement relating to incidents that occurred prior to such expiration or termination. Any excess or umbrella policies shall be on a "following form" basis and shall be subject to the acceptance of CITY and its legal counsel. In the event of termination of this Agreement before the full term hereof and any extensions, Operator shall promptly secure and tender to CITY the policy of “tail coverage” described above and in the event that a policy is not obtained within 60 days of any such termination, CITY may purchase same and deduct the cost from the performance security provided by Operator under this Agreement. To the
extent that for any reason the performance security does not cover the cost of any such policy of “tail coverage", Operator shall be liable to CITY for any such additional costs.

d. **Sudden and Accidental Coverage During Hazardous Materials Storage and Transport.** Operator shall maintain insurance coverage of not less than $1,000,000 per location for personal injury or property damage arising out of the sudden and accidental release of any Hazardous Materials or Wastes during temporary storage at the Facilities and transport of such materials by vehicles owned, operated or controlled by Operator in the performance of the services required under this Agreement.

e. **Physical Damage.** Operator shall maintain comprehensive (fire, theft and collision) physical damage insurance covering (a) the operator owned vehicles and equipment used in providing service to CITY under this Agreement.

f. **Insurance Company Rating.** The insurance required by this Agreement shall be with insurers which are Best A: VII rated or better, and licensed to do business in California. The CITY shall be an additional insured on each of the policies and policy endorsements (except for Workers’ Compensation). The insurance required by this Agreement is in addition to, and not in lieu or limitation of, the indemnification provisions above. Regardless of the foregoing, the insurance limits and coverage required by this Agreement and as outlined above may be met by Operator with any combination of primary, umbrella, excess insurance or deductibles.

2. **Required Endorsements.**

   a. The Workers’ Compensation policy shall contain endorsements in substantially the following form:

   (i) “Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Such notice shall be sent to:

   City of Red Bluff
   City Manager
   555 Washington St.
   Red Bluff, CA  96080”

   (ii) “Insurer waives all rights of subrogation against CITY and its officers and employees arising from work performed for CITY.”

   b. The General Liability policy shall contain endorsements in substantially the following form:

   (i) “Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Such notice shall be sent to:

   City of Red Bluff
   City Manager
   555 Washington St.
   Red Bluff, CA  96080”

*The City of Red Bluff is an Equal Opportunity Provider*
(ii) “This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by the CITY, including any self-insured retention or "program of self-insurance, and any other such insurance shall be considered excess insurance only.”

(ii) “Insurer waives all rights of subrogation against CITY and its officers and employees arising from work performed for CITY.”

c. The physical damage policy shall contain the following endorsements:

(i) Notice of cancellation, reduction in coverage or non-renewal;

(ii) Severability of Interest Endorsement;

(iii) Waiver of subrogation against CITY;

3. Delivery of Proof of Coverage. No later than the Effective Date, Operator shall furnish CITY certificates of insurance and copies of required endorsements required hereunder, in form and substance satisfactory to CITY. Such evidence shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements. Copies of certificates and all endorsements, shall be (1) delivered to CITY within fifteen (15) days of the receipt of any such policy by Operator.

4. Other Insurance Requirements.

a. In the event any services are delegated to a subcontractor, Operator shall require such subcontractor to provide statutory worker's compensation insurance and employer's liability insurance for all of the subcontractor's employees engaged in the work. The liability insurance required by this Agreement shall cover all subcontractors or the subcontractor(s) must furnish evidence of insurance provided by it meeting all of the requirements of this Agreement.

b. Operator shall comply with all requirements of the insurers’ issuing policies. The carrying of insurance shall not relieve Operator from any obligation under this Agreement, including the indemnity provisions. If any claim is made by any third person against Operator on account of any occurrence related to this Agreement, Operator shall promptly report the facts in writing to the insurance carrier and to the CITY. If Operator fails to procure and maintain any insurance required by this Agreement, CITY may take out and maintain, at Operator's expense, such insurance as it may deem proper and deduct the cost thereof from any monies due Operator.

9 DISPUTES

9.1 In the event of any disputes, the parties shall first attempt to resolve the situation by good faith discussions which shall take place in a timely manner. If the dispute cannot be resolved within sixty (60) days, the parties shall mediate their dispute before a mediator acceptable to both parties, if they cannot agree, they shall ask the Director of the Federal Mediation and Conciliation Service to nominate a mediator. The parties shall bear their own costs of the mediation but the parties shall share equally the costs of the mediator and the mediation facilities.
10 MISCELLANEOUS

10.1 The relationship of the Operator to the City is that of independent Operator for all purposes under this Agreement. This Agreement is not intended to create, and shall not be construed as creating, between Operator and City, the relationship of principal and agent, joint venturers, co-partners or any other similar relationship, the existence of which is hereby expressly denied.

10.2 This Agreement contains the entire agreement between the City and the Operator and supersedes all prior or contemporaneous communications, representations, understandings or agreements. This Agreement may be modified only by a written amendment signed by both parties.

10.3 The failure on the part of either party to enforce its rights as to any provision of this Agreement shall not be construed as a waiver of its rights to enforce such provisions in the future.

10.4 Neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

10.5 A party’s performance of any obligation under this Agreement shall be excused if, and to the extent that, the party is unable to perform because of any event of Force Majeure. In any such event, the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or cause that excused performance hereunder.

10.6 The Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties agree that the venue of any action arising from this Agreement shall be in the appropriate State court having competent jurisdiction located in the judicial district in which the City is located.

10.7 In the event that the City receives notice of or undertakes the defense or prosecution of any legal or administrative action or proceeding in connection with the ownership, operation and/or maintenance of the Facilities and/or this Agreement, the City shall give the Operator prompt notice of such proceedings and shall inform the Operator in advance of all hearings. In the event the Operator receives notice of any action, claim, suit, administrative or arbitration proceeding or investigation in connection with the ownership, operation and/or maintenance of the Facilities and/or this Agreement, the Operator shall give City prompt notice of such proceedings.

10.8 All notices will be in writing and shall be deemed given when mailed by first class mail or delivered in person. Notices required to be given to the parties by each other will be addressed to:

The City of Red Bluff is an Equal Opportunity Provider
10.9 Should any part of this Agreement for any reason be declared invalid or void, such declaration will not affect the remaining parts of this Agreement, which will remain in full force and effect as if the Agreement had been executed with the invalid portion eliminated.

10.10 This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.

10.11 Both parties warrant and represent to the other that they have full power and authority to enter into and perform this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement effective as of the date at the top of this Agreement.

CITY: 

By: .........................................................
Title: .................................................................

SEVERN TRENT ENVIRONMENTAL SERVICES, INC.

By: .........................................................
Title: .................................................................

The City of Red Bluff is an Equal Opportunity Provider
Schedule 1: The Services

The Services include:

(a) Treatment of wastewater influent delivered to the Facilities in compliance with the City’s Permits and Applicable Law;

(b) Routine preventive and corrective maintenance of the Facilities;

(c) Repair and replacement of the Facilities’ equipment;

(d) Laboratory testing and analysis; and

(e) Preparation and prompt delivery of all applicable and required filings, including discharge reports, to City and to regulatory agencies as prescribed by Applicable Law.

(f) All Services described in Section 2 of this Agreement.

(g) Compliance with all requirements of Applicable Law and City’s Discharge Permits in the operation of the Facilities.

Unless otherwise agreed, the Operator shall provide labor, tools, utilities and materials, including an on-site routine stock of chemicals necessary for the operation and maintenance of the Facilities.

**Routine preventive and corrective maintenance**

(i) routine preventive and corrective maintenance in accordance with the operators experience, acceptable industry practice and approved operating and maintenance procedures developed for equipment and processes of the Facilities;

(ii) routine preventive maintenance in accordance with manufacturers’ specifications and approved operating and maintenance procedures developed for equipment and processes of the Facilities;

(iii) clean and lubricate equipment;

(iv) make equipment inspections and needed adjustments;

(v) perform building and grounds janitorial services for the Facilities and cleaning of all equipment and vehicles;

(vi) perform plumbing maintenance;

(vii) maintain vehicles and light duty service trucks necessary for daily operations;

(viii) maintain all of the Facilities’ instrumentation, including instrumentation provided to the Operator by the City under this Agreement;
(ix) schedule and track all preventative and corrective maintenance and perform spare parts inventory control in accordance with standard industry practice.

**Schedule 2: The Facilities**

The City owns and has a National Pollution Discharge Elimination System (NPDES) Permit No. CA0078891 R5-2013-0044 for a wastewater treatment plant (“Facility”) located at 700 Messer Street, Red Bluff California.

The Facility is a conventional biological tertiary treatment system which includes the following unit processes:

- Influent Screening
- Extended aeration activated sludge
- Secondary clarification
- Tertiary filters
- Chlorine gas disinfection
- Sodium bisulfite dechlorination
- One grit/decant lagoon
- Three sludge retention lagoons
- Effluent from the facility is discharged into Sacramento River.
Schedule 3: Definitions

"Adjustment Date" means each anniversary of the Commencement Date.

"Agreement Year" means any consecutive twelve (12) month period during the term of the Agreement (including the renewal options) that begins on the Commencement Date and subsequently ends on each anniversary of that date.

"Annual Maintenance Expenditures" means the total of all expenses incurred annually by the Operator in connection with the performance of its maintenance responsibilities under this Agreement. The Annual Maintenance Expenditures shall: i) exclude Operator’s direct labor expenses and related benefits for its personnel assigned exclusively to the operations and maintenance of the Facilities and whose cost is included in the Base Fee; ii) include, but not be limited to, all materials, supplies, parts, tools, outside sub-Operators, specialized services, rental equipment and all of the Operator's overtime costs and related benefits, as well as the cost of Operator’s personnel not exclusively assigned to the operation and maintenance of the Facilities at an agreed hourly billing rate.

"Annual Repair and Maintenance Limit" means the total of all Annual Maintenance Expenditures in an amount up to a maximum of the amount in Schedule 5 for the first Agreement Year. For each Agreement Year thereafter, the Annual Repair and Maintenance Limit shall be increased on each Adjustment Date by the Price Index Increase.

"Applicable Law" means laws, rules, regulations, codes, administrative and judicial orders, directives, guidelines, judgments, rulings, interpretations or similar requirements or actions of any federal, state, local government, agency or executive or administrative body of any of the above, in each case that relate to the (a) parties’ respective responsibilities under this Agreement; (b) operation or maintenance of the Facilities; (c) health and welfare of individuals working at or visiting the Facilities; and (d) the collection, delivery, treatment and disposal of the City’s Process Residue and/or related wastes.

"Baseline Conditions" means the hydraulic influent flow of wastewater received and/or processed at the Facilities and the maximum wastewater influent loading limits contained in such influent wastewater, all as outlined in Schedule 6. The Baseline Conditions shall be reset and adjusted on each and every Adjustment Date to reflect the actual influent hydraulic flows and loadings processed at the Facilities during the Agreement Year just ended.

"Capital Improvements" means any modifications, additions or upgrades to the Facilities made by or on behalf of the City or with its prior approval.

"Capital Maintenance and Repair" shall mean any non –preventive maintenance, repair or replacement that costs two thousand dollars or more, or which is caused by a Force Majeure event.

"Corrective maintenance” shall mean any non –preventive maintenance, repair or replacement that costs more than two thousand ($2,000) dollars.
“Emergency Event” means an event which threatens the immediate shutdown of (or the substantial reduction in the operational capacity of, any of the Facilities, or the life, health or property of the City and/or the Operator, their employees and/or agents or others.

“Facilities Property” means the Facilities and property described in Schedule 2.

“Force Majeure” means an event which is beyond the reasonable control of a party, including without limitation: (a) acts of God; (b) flood, fire, earthquake, hurricane or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances, other than those involving the affected parties employees;] (i) shortage of adequate power or transportation facilities.

“City’s Discharge Permit(s)” and/or “Discharge Permit(s)” means all permits and licenses issued to City and required for the discharge of wastewater from the Facilities. Copies of all Discharge Permits are attached as Schedule 4 of this Agreement.

“Price Index” means the Consumer Price Index for all Urban Consumers (CPI-U) for the U.S. City Average for all Items, 1982-84=100 as published monthly by the U.S. Department of Commerce, Bureau of Labor Statistics, or any replacement to that index from time to time.

“Price Index Increase” means the percentage increase between the Price Index in effect as of the month of each and every Adjustment Date over the Price Index in effect as of the month of the Commencement Date. The Price Index Increase shall be calculated as of each and every Adjustment Date for the purpose of adjusting the Base Compensation, the Annual Repair and Maintenance Limit, the Baseline Power Rate and the Baseline Tip Fee.
Schedule 4: City’s Discharge Permits

See Exhibit “A”, a separate attachment to this contract.
Schedule 5: Annual Base Fee and Compensation Formula

1) Repair and Maintenance Limits and Baselines for First Agreement Year:

Annual Repair and Maintenance Limit (for first Agreement Year): $50,000.

2) Annual Base Fee:

The Annual Base Fee in the first year of this agreement shall be: $691,019.04

The Base Fee shall be payable in twelve (12) equal monthly installments of $57,584.92 in advance, on the first day of each and every month for the duration of the Agreement, as adjusted under clause 5 of this Agreement.

3) Annual CPI Adjustment:

The Annual Base Fee and the Repair and Maintenance Limit shall be reviewed annually for compensation increase/decrease based on the San Francisco-Oakland-San Jose CPI Index as published by the Bureau of Labor Statistics. The annual average increase reported will be utilized to increase the compensation of the year following the reported year. The CPI Index published for the period February to February of each subsequent year shall be utilized to establish the new compensation rate. Rate increase shall become effective in accordance with the CITY fiscal year period commencing on July 1st of each subsequent Agreement Year. The first adjustment shall take place on July 1, 2015. In the event that the CPI adjustment would result in a decrease in the annual base fee, Operator may, with 30 days' written notice, request that the parties renegotiate the base price and/or an adjustment in the scope of services. If the parties are unable to reach a mutual agreement during such negotiations, either party may terminate the agreement with an additional 90 days' written notice.
Schedule 6: Baseline Conditions

The Parties agree that this Agreement is based on the Facility treating an annual average of 2.5 MGD and 209 lbs/day BOD and 209 lbs/day of TSS.
Schedule 7: City Equipment

PLANT EQUIPMENT

2 Backwash Pumps and Motors
2 #3 Water Pumps
3 Filter Pumps and Motors
1 Cl2 Flash Mixer
4 LMI Sodium Bisulfite Pumps
2 Samplers
2 Bisulfite Holding Tanks
1 Traveling Bridge Filter
2 Small Secondary Clarifiers with Drives
2 RAS Pumps
1 Secondary Clarifier with Drive
2 RAS Pumps
4 Aeration Basins
4 Blowers
2 Bar Screens
2 Primary Clarifiers
2 Primary Clarifier Drives
1 Air Gap Tank
1 Pneumatic Tank
2 #1 Water Pumps
2 Raw Sludge Pumps
1 Grit Pump
1 Grit Tank
1 Grit Tank Blower
1 Aerobic Digester
2 Aerobic Digester Pumps
4 Aerobic Digester Surface Aerators
4 Small Surface Aerators
3 Sludge Holding Ponds
1 6 Bay Filter
1 Smith and Lovelace Lift Station
2 Sample Pumps in the Sodium Bisulfate Room
4 Drying Beds
5 VFD Drives

CONTROL BUILDING
6 Office Chairs
5 Desks
1 Table & 8 Chairs
1 TV/VCR
3 Dell Computers and 1 PLS Dell Computer
2 HP Printers
1 Canon Copy and Fax machine
1 One ton Cl2 repair kit

The City of Red Bluff is an Equal Opportunity Provider
5 Filing cabinets
1 Stove/ 1 Refrigerator
11 Fire Extinguishers
1 First Aide Kit
1 Chemical Spill Kit

LABORATORY
1 IEC Centro-HN
1 Fischer Scientific Isotemp Oven Model 615F
Miscellaneous Glass Ware for Lab
1 Barnstead NanoPure II
1 Thermo Orion Model 720 pH meter
1 Accumet Model 30 Conductivity Meter
2 Stir Plates (One Heated) Thermolyne Model LS 7225 and Nuova II
1 Hach Turbidity Meter Model 2100A
1 Labconco Basic 47 Fume Hood
2 Chemical Mixers CaFramo and IKA RW 20 Digital
1 Thermolyne Type 1500 Furnace
1 YSI 5000 DO Meter
3 Escape Mask
1 Micrometer Fischer Scientific Microscope
1 Harvey Hydroclave MC 10
1 VWR IS40 Incubator
1 Cold Spot Refrigerator
1 Coliform Incubator- Precision
1 Blue M Sterilizing Oven
1 Thelco Oven
1 Mettler AS 100 Balance
1 Mettler PJ Balance
DR 3900

SHOP

Air Compressor- Farm Hand
   L4/14/2005-00775
Dodge Ram 2500/ Utility Bed
   CA 1092734   Miscellaneous Hand Tools
John Deere 955 Tractor
   Front Loader 70A
   Flail Mower 25A
John Deere Mower L130
Kubota Tractor B7100
   Bush Hog Flail Mower
PBM Pull Tank Sprayer 50 gallon
Toyota Fork Lift- Gas
   City Property # 0523
Miller Welder 250X
Lincoln Welder 225 Amp

The City of Red Bluff is an Equal Opportunity Provider
Buzz Box
Oxy-Acetylene Torch Set
Snapper Equipment Hoist  S. No. 6632
Ellis Band Saw
    Model 1600
    Serial 16071599
Davis Emu- Submersible Pump 5.4 H.P
    Model # FA 108100
    Serial # 47328
Generator- Spectrum 300  Detroit Diesel- Plant Standby Generator
    Model 300 DS
    Serial 395303
Rigid Pipe Threading Set ¼-2 inch- 8 Pieces
    2- Cutters
    1- Reamer
    1- Pipe Vise
Drill Press- Alltrade  Serial # 95263
Honda Pressure Washer
    (1) Shop Vacuum
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

CENTRAL VALLEY REGION

364 Knollcrest Drive, Suite 205 Redding, California 96002
Phone (530) 224-4845 • Fax (530) 224-4857
http://www.waterboards.ca.gov/centralvalley

ORDER NO. R5-2013-0044
NPDES NO. CA0078891

WASTE DISCHARGE REQUIREMENTS FOR THE
CITY OF RED BLUFF
RED BLUFF WASTEWATER RECLAMATION PLANT
TEHAMA COUNTY

The following Discharger is subject to waste discharge requirements as set forth in this Order:

Table 1. Discharger Information

<table>
<thead>
<tr>
<th>Discharger</th>
<th>City of Red Bluff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Facility</td>
<td>Red Bluff Wastewater Reclamation Plant</td>
</tr>
<tr>
<td>Facility Address</td>
<td>700 Messer Drive</td>
</tr>
<tr>
<td></td>
<td>Red Bluff, CA 96080</td>
</tr>
<tr>
<td></td>
<td>Tehama County</td>
</tr>
</tbody>
</table>

The U.S. Environmental Protection Agency (USEPA) and the Regional Water Quality Control Board have classified this discharge as a major discharge.

The discharge by the City of Red Bluff from the discharge points identified below is subject to waste discharge requirements as set forth in this Order:

Table 2. Discharge Location

<table>
<thead>
<tr>
<th>Discharge Point</th>
<th>Effluent Description</th>
<th>Discharge Point Latitude</th>
<th>Discharge Point Longitude</th>
<th>Receiving Water</th>
</tr>
</thead>
<tbody>
<tr>
<td>EFF-001</td>
<td>Advanced-Secondary Treated Wastewater</td>
<td>40° 09' 45&quot; N</td>
<td>122° 13' 00&quot; W</td>
<td>Sacramento River</td>
</tr>
</tbody>
</table>

Table 3. Administrative Information

| This Order was adopted by the Regional Water Quality Control Board on: | 30 May 2013 |
| This Order shall become effective on:                                  | 19 July 2013 |
| This Order shall expire on:                                           | 1 July 2018 |
| The Discharger shall file a Report of Waste Discharge in accordance with title 23, California Code of Regulations, as application for issuance of new waste discharge requirements no later than: | 2 January 2018 |

I, PAMELA C. CREEDON, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 30 May 2013.

ORIGINAL SIGNED BY

PAMELA C. CREEDON, Executive Officer

The City of Red Bluff is an Equal Opportunity Provider