

**MEMORANDUM OF UNDERSTANDING FOR INTERIM WASTEWATER SERVICE
BETWEEN CITY OF RIVERSIDE AND CITY OF COLTON**

THIS MEMORANDUM OF UNDERSTANDING FOR INTERIM WASTEWATER SERVICE ("MOU") is made and entered into this _____ day of _____, 2018 ("Effective Date"), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation ("Riverside"), and City of Colton, a municipal corporation ("Colton"), collectively referred to herein as "Parties".

RECITALS

A. Riverside, through its Public Works Department, provides wastewater collection and treatment service within its city limits.

B. Colton, through its Public Utilities Department, provides wastewater service within its city limits.

C. The Parties have identified a certain area of Colton, generally known as 1901 Center Street, San Bernardino County Assessor's Parcel Numbers 0277-022-67 and 68, which will be consolidated into one parcel comprised of approximately 13.2 acres, to which Colton is temporarily unable to provide wastewater service (the "Temporary Service Area"). That Temporary Service Area is further depicted and described in the map and legal descriptions attached hereto as Exhibit A and incorporated herein by reference.

D. Riverside currently provides interim retail water service to the Temporary Service Area pursuant to that certain Memorandum of Understanding for Interim Retail Water Service Between the City of Riverside and City of Colton, dated August 29, 2018 ("Water MOU").

E. The Parties agree that Riverside currently has a sewer line in Center Street, in the vicinity of the Temporary Service Area. Colton is in the process of planning and building sewer collection infrastructure which will serve the Temporary Service Area. Until Colton's sewer infrastructure is installed and operational, Riverside is temporarily better situated to provide wastewater services, in addition to the services provided under the Water MOU, to properties located within the Temporary Riverside Water Service Area, upon written request by Colton and in accord with the terms and conditions set forth in this MOU.

F. Riverside's wastewater service to Temporary Service Area is not subject to Riverside and Colton obtaining approval of the Local Agency Formation Commission pursuant to California Government Code Section 56133.

G. The Temporary Service Area will remain outside of Riverside's corporate boundaries.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. TERM. The term of this MOU shall become effective on the date first written above and shall terminate upon mutual consent by the parties hereto (the "Effective Date"). This MOU shall terminate upon written notification by either party. Such notification shall be provided to the non-terminating party a minimum of 60 days prior to the date that temporary wastewater service will terminate within the Temporary Service Area. Notwithstanding the foregoing, this MOU will not terminate prior to a 20-year term or upon Colton's installation of wastewater service for the specified Parcels, whichever occurs first. Upon written request by Colton, temporary wastewater service from Riverside Public Works can be extended to these Parcels annually thereafter at the sole discretion of Riverside Public Works. Colton will work diligently to provide permanent wastewater service to the specified Parcels from the Colton wastewater system and install all facilities and equipment necessary to provide such retail wastewater service to the Parcels. In the event the MOU terminates prior to permanent retail wastewater services, Colton agrees to provide the required wastewater services to the Parcels. The Parties acknowledge and agree that notwithstanding any other provision in this MOU, in the event the Water MOU is terminated, this MOU shall automatically terminate.

2. PROVISION OF WASTEWATER SERVICE. The purpose of this MOU is for Riverside to temporarily accept, treat and dispose of wastewater generated by the Temporary Service Area. As of the Effective Date, and upon written request from Colton, Riverside will provide wastewater service to all or a portion of the Temporary Service Area. Riverside shall provide such wastewater service in accord with this MOU until Colton is capable of providing wastewater services to the Temporary Service Area. Colton shall give Riverside ninety (90) days' notice of its intent to provide such wastewater services. Colton shall be responsible for abandoning any facilities installed to serve the Temporary Service Area, or a portion thereof, as applicable, and Colton shall also be responsible for installing facilities to provide wastewater service by Colton.

3. MONTHLY SERVICE FEES. Riverside hereby agrees to provide wastewater services to property owners located within the Temporary Service Area ("Owner"), as set forth below. As consideration, Riverside shall bill to and Owner shall pay a monthly sewer fee to Riverside based on the quantity and quality of sewage delivered to the RWQCP.

3.1 Base Quantity. The amount of wastewater generated by the Temporary Service Area shall not exceed One Million (1,000,000) gallons per day.

3.2 Quantity Exceedance by Colton. At Owner's expense, Riverside shall meter such wastewater at the mutually agreed upon Point of Connection, as set forth in Section 6.17. When the amount of such wastewater for the Temporary Service Area exceeds Seven Hundred Fifty Thousand (750,000) gallons per day, Riverside shall provide written notice to Colton. The Parties shall then meet and confer, in good faith, and enter into an agreement, if necessary, to take certain measures to mitigate any future increased growth which shall or may generate wastewater in excess of the amount set forth in Section 3.1, including the establishment of a temporary moratorium on development in the Temporary Service Area until either Riverside or another

entity is able to provide wastewater treatment for the amounts in excess of the amount set forth in Section 3.1.

3.3 Measurement and Records of Wastewater. Riverside shall meter and determine the quantity and quality of wastewater, which is delivered into RWQCP by the Temporary Service Area, and shall also measure and determine both the quantity and quality of effluent discharged from RWQCP. Colton shall construct a metering station at the “Point of Connection” for this purpose.

4. PAYMENT AND FEES.

4.1 Based on the measurement of quantity and quality of wastewater delivered to RWQCP, each applicable Owner shall pay a monthly service charge based on Riverside’s fee rate schedule for “Industrial User Rates – Non-pumping,” set forth in Resolution 21712, including any future amendments, plus a fifty percent (50%) surcharge.

4.2 Riverside shall levy a “Capacity Charge(s)” equivalent to Riverside’s “Capacity Charge for Industrial Customers” in effect at the time of connection plus an additional fifty percent (50%) surcharge. The “Capacity Charge” covers payments for all capacity upgrades and capital improvements to Riverside’s wastewater collection and treatment facilities.

4.3 Connection fees shall be paid prior to any discharge to Riverside. If in the future Colton builds additional facilities to reroute flows from the POC to Colton’s collection system, Riverside will reimburse Colton in an amount equal to the original connection fee amounts less 20% for each year (based on 365 days per year or fraction thereof) that Colton was connected to the Riverside Connection. Said right to reimbursement shall expire on the date which is 5 years from the date of this agreement.

5. **CONDITIONS FOR PROVISION OF WASTEWATER SERVICE.** Riverside shall only be required to provide wastewater service to a specified parcel located within the Temporary Service Area under this MOU upon compliance of the Owner with the following terms and conditions. If Owner fails to comply with any or all of the conditions, Riverside shall provide Colton with written notice that Riverside declines to provide wastewater service to the specified parcel:

5.1 Owner shall be responsible for the design and installation of all public wastewater facilities, in accord with Riverside standards and subject to Riverside approval, as required to provide wastewater service to the specified parcel.

5.2 Owner has complied with all environmental laws arising out of or in connection with any and all development of owner’s parcel.

5.3 In accord with the City of Riverside Waste Water Rules and Rates, as amended from time to time, Owner shall be responsible for all applicable fees and charges required to install all wastewater facilities required by Riverside for the provision of wastewater service to the specified parcel.

5.4 Owner shall agree to not store, except for incidental use, any oils, lubricants, pesticides, volatile organic compounds, radioactive materials or any such materials that would present possible threat to the safety or security of the regional water supply. All tanks for fuels, oils, etc., shall be above ground with adequate provisions for spill containment.

5.5 At such time as Colton has adequate wastewater facilities to provide service, Colton shall assess to all fees and charges required by Colton in order to transfer wastewater service to Colton. Furthermore, Owner shall pay all applicable fees and charges to Riverside for the abandonment of Riverside facilities installed to provide the wastewater service to the specified parcel.

5.6 Owner shall be a customer of Riverside and the wastewater rate charged to the Owner will be Riverside's applicable wastewater customer rate for service to the specific property.

5.7 Owner shall pay to Riverside a fee for the cost for Riverside to abandon any Riverside facilities installed to provide the wastewater service to the specified parcel at the termination of this Agreement.

5.8 Any Owner receiving wastewater service from Riverside shall faithfully participate within the scope of the Northside Interjurisdictional Specific Plan process and acknowledge Riverside's commitment to upholding the public integrity of the Northside Interjurisdictional Specific Plan process as contained within the letter from Mayor Bailey to Colton dated April 3, 2018, attached hereto as Exhibit B and incorporated herein by reference.

6. ENVIRONMENTAL LAWS. This MOU shall not become effective until each Party has complied with all environmental laws arising out of or in connection with the acceptance and treatment of wastewater under this MOU. The term "environmental laws," as used in this MOU, shall include, without limitation, the California Environmental Quality Act and all other applicable state and federal environmental laws.

6.1 POINT OF CONNECTION. Colton shall be responsible for or cause the construction, operation and maintenance of conveyance facilities required for the delivery of the wastewater to the RWQCP, including the construction of a metering station to comply with section 3.3. Such conveyance shall consist of any facilities necessary for the delivery of wastewater from the Temporary Service Area. Such delivery shall take place at a designated "Point of Connection" that shall be mutually agreed upon, in writing, by both Parties.

6.2 Removal of Point of Connection. After Colton has completed the construction of a sewage pump station or other facilities to convey wastewater to its treatment facility, Colton shall cause to be removed the Point of Connection to Riverside's sewage collection system. The complete removal of the connection shall be at Colton's expense and shall be such as to not permit any further sewage flow from the Colton System.

7. PRETREATMENT PROGRAM. Riverside operates RWQCP pursuant to NPDES Permit No. CA0105350 (A NPDES Permit issued by the California Regional Water Quality Control Board B Santa Ana Region) which requires Riverside to enter into contractual agreements with all contributory agencies to the RWQCP to give Riverside the authority to

implement and enforce an EPA-approved Pretreatment program within Riverside's wastewater system service area, including those portions of any community's service area that is tributary to the RWQCP. City will apply and enforce all applicable Pretreatment Permits and requirements, and Temporary Service Area owners and occupants agree to comply with and be bound by Riverside's Pretreatment requirements, including but not limited to Riverside Municipal Code Title 14.

8. EASEMENTS AND RIGHTS OF WAY. Colton shall allow Riverside to use any of Colton's public rights-of-way or easements that Riverside deems necessary to implement this MOU. Colton will cooperate with Riverside and obtain additional public rights-of-way to implement this MOU including, as necessary, exercising Colton's power of eminent domain.

9. RECIPROCAL ACCESS RIGHTS. Each Party shall have the rights of ingress and egress over property owned or controlled by the other Party for access to facilities, equipment and appurtenances for the purpose of implementing this MOU. Each Party agrees to indemnify, defend and hold harmless the other Party from any costs incurred or suffered as a result of damage or injury to persons or property as a result of the other Party exercising its rights to ingress and egress.

10. NON-DISCRIMINATION. Except as provided in Section 12940 of the California Government Code, during the performance of this MOU, neither party shall discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical handicap, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, genetic information, gender, gender identity, gender expression, sex, sexual orientation, military or veterans status in use of the Property during the term of this MOU. Further, the parties agree to conform to the requirements of the Americans with Disabilities Act in the performance of this MOU.

11. GOVERNING LAW AND JURISDICTION. The parties agree that in the exercise of this MOU, the parties shall comply with all applicable federal, state, county and local laws, and regulations in connection with the Property. The existence, validity, construction, operation and effect of this MOU and all of its terms and provisions shall be determined in accordance with the laws of the State of California. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this MOU shall be tried in the Superior Court in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

12. NOTICES. Service of any notices, or other documents required or permitted under this MOU shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows:

City

City of Riverside
Attn: Public Works Director
3900 Main Street
Riverside, CA 92522

Colton

City of Colton
Attn: Public Utilities General Manager
650 N. La Cadena Drive
Colton, CA

13. SEVERABILITY. Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this MOU shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in this MOU is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this MOU and shall not affect any other provision, term, condition, covenant, and/or restriction, of this MOU and the remainder of the MOU shall continue in full force and effect.

14. PARAGRAPH TITLES. The paragraph titles of this MOU are (i) inserted only for the convenience of the parties, (ii) are not intended to describe, define, limit, or otherwise affect the provisions in the portions of the MOU to which they pertain, and (iii) in no way describe, define, limit, or otherwise affect the scope or intent of this MOU or in any way affect the agreement of the parties set out in this MOU.

15. AMENDMENTS. This MOU may be amended or supplemented only by written documents signed by all parties.

16. AUTHORITY. The individuals executing this MOU and any instruments referenced herein each represent and warrant that they have the legal power, right and actual authority to bind their respective parties to the terms and conditions hereof and thereof.

[signatures on next page]

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be duly executed on the date and year first written above.

CITY OF RIVERSIDE

CITY OF COLTON

By: _____
City Manager

By: _____
City Manager

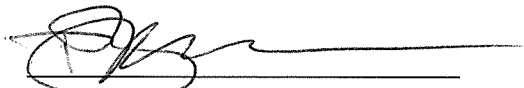
ATTEST:

ATTEST:

By: _____
City Clerk

By: _____
City Clerk

APPROVED AS TO FORM:



Deputy City Attorney
A - Beaman

EXHIBIT A

TEMPORARY SERVICE AREA

EXHIBIT B

NORTHSIDE INTERJURISDICTIONAL SPECIFIC PLAN PROCESS