



# City Council Meeting

COUNCIL CHAMBERS, 33 SOUTH MAIN STREET, COLFAX, CA

Mayor Joe Fatula · Mayor Pro Tem Marnie Mendoza  
Councilmembers · Kim Douglass · Sean Lomen · Trinity Burruss

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## REGULAR MEETING AGENDA

October 9, 2019

Regular Session: 6:00PM

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1 **CLOSED SESSION** (NO CLOSED SESSION ITEMS)

2 **OPEN SESSION**

2A. **Call Open Session to Order**

2B. **Pledge of Allegiance**

2C. **Roll Call**

2D. **Approval of Agenda Order**

*This is the time for changes to the agenda to be considered including removal, postponement, or change to the agenda sequence.*

**Recommended Action:** By motion, accept the agenda as presented or amended.

3 **AGENCY PARTNER REPORTS**

3A. **Placer County Sheriff**

3B. **CalFIRE**

3C. **CHP**

3D. **Event Liaison**

3E. **Colfax Chamber of Commerce**

3F. **Sierra Vista Community Center**

4 **PRESENTATION**

4A. **Letter of Recognition to the Placer County Sheriff Manny Temorez**

Presented by Mayor Fatula

4B. **Proclamation in Honor of Myrtle Findley**

Presented by Mayor Fatula

5 **PUBLIC HEARING** (NO PUBLIC HEARING)

**Notice to the Public:** *City Council, when considering a matter scheduled for hearing, will take the following actions:*

1. Presentation by Staff
2. Open the Public Hearing
3. Presentation, when applicable, by Applicant
4. Accept Public Testimony
5. When applicable, Applicant rebuttal period
6. Close Public Hearing (No public comment is taken, hearing is closed)
7. Council comments and questions
8. City Council Action

**Public Hearings that are continued will be so noted. The continued Public Hearing will be listed on a subsequent council agenda and posting of that agenda will serve as notice**



## 6 CONSENT CALENDAR

*Matters on the Consent Agenda are routine in nature and will be approved by one blanket motion with a Council vote. No discussion of these items ensues unless specific items are pulled for discussion and separate action. If you wish to have an item pulled from the Consent Agenda for discussion, please notify the Mayor.*

**Recommended Action: Approve Consent Calendar**

### 6A. **Minutes – Regular Meeting of September 25, 2019** (Pages 3-13)

**Recommendation: Approve the Minutes of the Regular Meeting of September 25, 2019.**

## 7 PUBLIC COMMENT

*Members of the audience are permitted to address the Council on matters of concern to the public within the subject matter jurisdiction of the City Council that are not listed on this agenda. Please make your comments as brief as possible; not to exceed three (3) minutes in length. The Council cannot act on items not included on this agenda; however, if action is required it will be referred to staff.*

## 8 COUNCIL AND STAFF

*The purpose of these reports is to provide information to the Council and public on projects, programs, and issues discussed at committee meetings and other items of Colfax related information. No decisions will be made on these issues. If a member of the Council prefers formal action be taken on any committee reports or other information, the issue will be placed on a future Council meeting agenda.*

### 8A. **Committee Reports and Colfax Informational Items – All Councilmembers**

### 8B. **City Operations Update – City Manager**

## 9 COUNCIL BUSINESS

### 9A. **Contract Award to Engineered Soil Repairs Inc. – Pond 3 Fissure** (Pages 14-33)

**Staff Presentation:** Chris Clardy, Community Services Director

**Recommendation:** Adopt Resolution \_\_ - 2019 authorizing the City Manager to enter into a contract with Engineered Soil Repairs Inc. in an amount not to exceed \$424,468.45.

## 10 GOOD OF THE ORDER

*Informal statements, observation reports and inquiries regarding the business of the City may be presented by council members under this agenda item or requests for placement of items of interest on a future agenda. No action will be taken.*

## 11 ADJOURNMENT

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I, Jaelyn Collier, City Clerk for the City of Colfax declare that this agenda was posted at Colfax City Hall and the Colfax Post Office. The agenda is also available on the City website at [www.Colfax-ca.gov](http://www.Colfax-ca.gov).

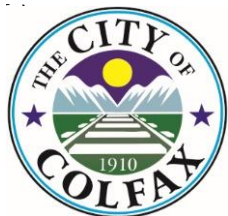
  
\_\_\_\_\_  
Jaelyn Collier, City Clerk

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Administrative Remedies must be exhausted prior to action being initiated in a court of law. If you challenge City Council action in court, you may be limited to raising only those issues you or someone else raised at a public hearing described in this notice/agenda, or in written correspondence delivered to the City Clerk of the City of Colfax at, or prior to, said public hearing.

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# City Council Minutes

Regular Meeting of Wednesday, September 25, 2019  
City Hall Council Chambers  
33 S. Main Street, Colfax CA

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## **1 CLOSED SESSION**

There was no closed session at this meeting.

## **2 OPEN SESSION**

### **2A. Call Open Session to Order**

Mayor Fatula called the open session to order at 6:00PM

### **2B. Pledge of Allegiance**

Abby Frye led the Pledge of Allegiance.

### **2C. Roll Call**

Council Members present: Fatula, Mendoza, Douglass, Burruss, Lomen

### **2D. Approval of Agenda Order**

By MOTION, approve the agenda as presented.

The motion was made by Councilmember Lomen and seconded by Councilmember Burruss and approved by the following voice vote:

**AYES:** Fatula, Mendoza, Douglass, Burruss, Lomen

**NOES:**

**ABSENT:**

## **3 AGENCY REPORTS**

Placer County Sheriff – Colfax Station Commander, Ty Conners

Conners provided an update on staff, introduced Officer Jeremy Cleek and Kyle Worden. He requested residents look out for a possible suspect involved in recent gas thefts, driving a green Taurus, also talked about the Eagle Eye program and how registering devices can assist the department with investigations.

Mayor Fatula asked Conners about the homeless status.

Conners provided an update on laws and ordinances in regards to the homeless population, offered resources to keep trespassers off your property.

CalFIRE – Battalion Chief, Brian Eagan

Eagan requested the public continue to be careful, reminded everyone it is still fire season. He stated information received from neighboring areas is being shared with the city.

Mayor Fatula asked Eagan about rains reducing the risk.

Eagan confirmed only for a very short period of time, not until substantial amounts of rain occurs will the risk be lower. He stated several announcements will be made at the end of fire season, based on moisture.

**CA Highway Patrol – Gold Run area, Chris Nave**

Nave reported Street Vibrations is this weekend, anticipated 50,000 motorcycles on Hwy 80. He reported additional units have been added to patrol asked the public to be aware of their surroundings and not to engage.

Mayor Fatula asked Nave to provide an update on the Hwy 50 closure.

Nave stated he did not have an update. He noted the 3-mile patch paving is complete as of this date, and provided an update on recent truck fires due to brakes.

**Event Liaisons – Fred & Renee Abbott**

Mr. Abbott reported on the success of Railroad Days, thanked citizens and volunteers.

Mrs. Abbott thanked groups and individuals for their assistance, reported on participants and entertainers at the event.

Mr. Abbott stated he would like to form a Colfax Railroad Days committee, meeting October 1<sup>st</sup> at the Depot.

Councilmember Lomen thanked the Abbotts.

Mayor Fatula also thanked the Abbotts and estimated the crowd doubled from last year.

**Sierra Vista Community Center – Foxey McCleary**

McCleary provided an update on BINGO, reported the Flea Market did great during Railroad Days, Lionesses are raising money for the town. She provided an update on the Farmers' Market, VFW Breakfast, Legion Dinner and Open Studio. Requested volunteers to help winterize the SVCC property.

**4 PRESENTATION**

There was no presentation at this meeting.

**5 PUBLIC HEARING****Public Hearing for the Colfax Net Variance to allow a reduced setback to permit installation of a 60 to 80-foot-high telecommunication tower with antennas.**

**Staff Presentation:** Amy Feagans, City Planner

**Recommendation:** Decide whether to grant, grant with modifications, or deny the requested variance.

Mayor Fatula recused himself and left the Council Chambers for this discussion due to conflict of interest.

Mayor Pro Tem Mendoza conducted the Public Hearing.

Ms. Feagans reported Colfax Net requesting the variance for the tower, current requirements 2 feet for every foot, a 66-foot tower would need approximately 132 feet. She provided information about the proposed tower with PowerPoint providing the audience a visual aid showing where the tower is proposed. In addition, Ms. Feagans provided an update on the history of the item from previous Council Meetings.

City Attorney, Alfred "Mick" Cabral confirmed Council is not required to open public comment on the matter as this step has already taken place, they are only required to receive a rebuttal from the Applicant. He explained options for receiving public comment, and

informed Council they are not able to consider proposed harmful radio frequency due to law. Mr. Cabral discussed letter received on the matter.

Councilmember Lomen took a poll of the audience for who planned to speak.

Council agreed to hear no more than 10 people in favor and 10 people in opposition.

**PUBLIC COMMENT:**

**Reopened, limit 10 speakers per side.**

Speakers IN FAVOR of approving the variance requested by Colfax Net:

Corey Duchane – Colfax Net customer  
Mary Solomon – Colfax Net customer  
Rich Maddox – Colfax Net customer  
Ms. Frye – Colfax Net customer  
Bill Bean Sr. – Colfax Net customer  
Dillon – Colfax Net employee  
Chris Schiller – Colfax Net customer  
Linda Bating – Colfax Net customer

Speakers IN OPPOSITION of approving the variance requested by Colfax Net:

Rose Swick – Property owner  
Tom Swick – Property owner  
David Ackerman – Property owner  
Tom Dunipace – Attorney representing the neighboring property owner  
Mr. Dunipace questioned the applicant’s ability to request the variance, stating he is not the property owner.

Councilmember Lomen requested the input from City Attorney Alfred “Mick” Cabral.

Mr. Cabral confirmed the owner of the property, on which the variance is being requested, signed the application.

Dwayne Armstrong – DACOMM owner  
Jim Stevenson – Smarter Broadband

Mr. Stevenson stated he did not represent either side but that he was interested in knowing what the final decision is made, talked about allowing other companies to build additional towers.

Mr. Cabral stated each variance is a case by case.

Mr. Stevenson stated they too are local and would like special considerations.

Cory Juchau – Colfax Net owner and applicant requesting proposed variance  
Mr. Juchau spoke in favor of approving the variance.

Monti Reynolds – Attorney for Colfax Net

Mr. Reynolds referenced letters previously submitted, talked to Council about having the legal authority to make this decision, requested they use their knowledge to decide, not statements from either side. He requested Council review the impacts of this decision, stated the setback is a rule on the Swick

property and property owner rights are not being taken away as there is no right to keep a view or property value.

Mayor Pro Tem Mendoza closed the Public Hearing.

Mayor Pro Tem Mendoza requested input from Council Members.

Councilmember Burruss requested input from Mr. Cabral on Mr. Reynold's statements.

Mr. Cabral provided information clarifying Council having the right to make a determination either way.

Councilmember Lomen thanked everyone for their input. Talked about Colfax Net, stated he has worked with them as well as the opposed parties involved. He stated he has worked hard to research information from both sides and that there are other options available. Councilmember Lomen spoke in favor of denying the requested variance.

Councilmember Douglass requested clarification on the scenario of the applicant, Corey Juchau, leaving, and if Colfax Net internet service would continue. He inquired about putting a pole up next to the dead tree.

Councilmember Lomen spoke about what would be required to allow the pole next to the tree.

Councilmember Burruss talked about the potential of putting up a lattice tower.

Corey Juchau stated the Swicks and Amick do not support a fake tree tower. He reported a tree tower would cost \$100,000 plus foundation and additional costs. He stated there is an existing road that does not need to be cleared. Mr. Juchau stated he offered to purchase trees to block the view of most of the tower.

Councilmember Burruss confirmed the false tree is no longer an option. She stated the airport land use board she also serves on provides her experience for approval or denial of variances. Councilmember Burruss pointed out the same level of consideration should be used when making a similar decision and requested the public consider that.

Mayor Pro Tem Mendoza requests the decision be finalized.

By MOTION, deny the requested variance.

The MOTION was made by Councilmember Lomen, seconded by Councilmember Burruss and approved by the following roll call vote:

**AYES:** Lomen, Douglass, Burruss, Mendoza

**NOES:**

**ABSENT:** Fatula

Motion passes 4-0 – Variance Denied.

Mayor Pro Tem Mendoza called a short recess at 7:32PM

Mayor Fatula called the meeting back to order at 7:38PM



**6 CONSENT CALENDAR**

**6A. Minutes – Regular Meeting of September 11, 2019**

**Recommendation:** Approve the Minutes of the Regular Meeting of September 11, 2019.

**6B. Cash Summary Report – August 2019**

**Recommendation:** Accept and file.

**6C. Award of Contract – Wastewater Treatment Plant Fencing**

**Recommendation:** Adopt Resolution 43-2019 authorizing the City Manager to enter into a contract with STA-BULL Fence Company Inc. in an amount not to exceed \$33,189.

By MOTION, approve the consent calendar as presented.

The MOTION was made by Mayor Pro Tem Mendoza and seconded by Councilmember Burruss and approved by the following voice vote:

**AYES:** Fatula, Mendoza, Douglass, Burruss, Lomen

**NOES:**

**ABSENT:**

**7 PUBLIC COMMENT**

*Linda Habay, Business owner*

Requested the city start planning for winter months.

Mayor Pro Tem Mendoza stated she reached out to CalTrans and reported they are working on getting porta-potties in Colfax and further up the hill.

Mayor Fatula stated last year’s signs would be put out again.

**8 COUNCIL AND STAFF REPORTS**

Councilmember Lomen

Councilmember Lomen attended the Colfax Honor Game. He attended the WACMAC meeting. He also stated Placer County plans to revise rules at Sugar Pine which will become a no wake zone. Councilmember Lomen reports there will be public meetings in October to discuss short-term rentals, AirB&B type rentals. He stated Supervisor Gustafson will be at the library the second Tuesday of every month. Reported the County is trying to update housing codes to reflect state changes in requirements.

Councilmember Douglass

Councilmember Douglass stated Channel 13 advertised Railroad Days, reported Placer County economic development meeting on mixed housing, SACOG discussed housing plan from Washington, Middle Housing and reported Project GO funding to food closets. Councilmember Douglass attended Railroad Days, the Flea Market and the Chamber Mixer, stated Pioneer Energy rate change vote is going to happen Monday. He talked about the success of Railroad Days.

Mayor Pro Tem Mendoza

Mayor Pro Tem Mendoza attended coffee with Supervisor Gustafson and stated she talked about wildfire safety and ways to prepare the Interstate 80 corridor. She

attended and states she enjoyed Railroad Days, also attended the Mixer at Railhead Saloon.

#### Councilmember Burruss

Councilmember Burruss provided an update on AB 1413, the bill is on the Governor's desk. PCPTA meeting passed the 2019-2020 Local Transportation Funds and approved State Transit Assistance Funding.

#### Mayor Fatula

Mayor Fatula attended Railroad Days, talked about the quilt show. He stated he met with John Baggett, Principal at Colfax Elementary, about mentorships. Mayor Fatula stated he attended the Chamber Mixer and met with Channel 13 as well.

#### City Manager, Wes Heathcock

City Manager Heathcock provided an update on the agreement for the \$500,000 planning grant with \$6 million construction grant. He stated we need to mitigate the amount of water that gets into the system. City Manager Heathcock reported paving will start tomorrow on the West side for the roundabout, traffic will shift Sunday. He reports we are still on target for completion date of November 1<sup>st</sup> and are still \$30,000 under budget.

Mayor Fatula requested information from City Attorney Cabral on the vegetation ordinance.

City Manager Heathcock reported construction on Culver Street will begin the week of October 7<sup>th</sup>. Downtown striping is scheduled for nights of October 9<sup>th</sup> and 10<sup>th</sup>, notices have gone out.

## **9 COUNCIL BUSINESS**

### **9A Planning Grants Program Funds**

**Staff Presentation:** Amy Feagans, City Planner

**Recommendation:** Adopt Resolution 44-2019 authorizing the following:

**SECTION 1.** The City Council of the City of Colfax hereby authorizes the City Manager to apply for, receive, and submit to the Department, the 2019 Planning Grants Program (PGP) application in the amount of \$160,000.

**SECTION 2.** In connection with the PGP grant, if the application is approved by the Department, the City Manager is authorized to enter into, execute, and deliver a State of California Agreement (Standard Agreement) for the amount of \$160,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the PGP grant, City's obligation related thereto, and all amendments thereto (collectively, the "PGP Grant Documents").

**SECTION 3.** The City shall be subject to the terms and conditions as specified in the Standard Agreement, the SB2 Planning Grants Program and Guidelines, and any applicable PGP guidelines published by the Department. Funds are to be used for allowable expenditures as specifically identified in the Standard Agreement. Any and all activities funded, information provided and timelines represented in the application will be enforceable through the executed Standard



Agreement. The City Council hereby agrees to pursue the funds for eligible uses in the manner presented in the application as approved by the Department and in accordance with the Planning Grants NOFA, the Planning Grants Program Guidelines, and 2019 Planning Grants Funding Program Application.

**SECTION 4.** The City Manager is authorized to execute the City of Colfax Planning Grants application, the PGP Grant Documents, and any amendments thereto on behalf of the City of Colfax as required by Department upon receipt of the PGP Grant.

City Planner, Amy Feagans reported the city is entitled to \$160,000 by filling out the application, stated the funds must be used to improve housing development and provided examples of eligible projects. She stated the application is due by November 30<sup>th</sup>, 2019.

City Manager Wes Heathcock stated this is another grant funding source discovered by staff.

By MOTION, adopt Resolution 44-2019 authorizing sections 1-4 listed above.

The MOTION was made by Mayor Pro Tem Mendoza, seconded by Councilmember Lomen and approved by the following voice vote:

**AYES:** Fatula, Mendoza, Douglass, Burruss, Lomen

**NOES:**

**ABSENT:**

**9B Proposed Location for the Colfax Skate Park**

**Staff Presentation:** Wes Heathcock, City Manager

**Recommendation:** Adopt a Resolution approving locating the Colfax Skate Park adjacent to the Splash Park.

Ty Conners stated he has spearheaded this project since 2014, he provided a brief history of the skate park project, acknowledged Colfax Green Machine and thanked them for their help and support. Mr. Conners spoke about the versatility of the proposed park and that the skate park could be used by any wheeled option – bikes, rollerblades, skateboards. Mr. Conners reports he has big companies wanting to support this project, spoke about this bringing more tourism. He talked about Skate MD serving special needs children and them wanting to move up here, as well as Project Lifelong which takes at risk youth on skate trips in other communities. Mr. Conners stated skateboarding will be in the 2020 Olympics and how a brand-new skate park could bring people in. He reported finalizing a location has been a process, Sierra Vista Community Center denied the skate park, he also confirmed this project is on the Master Plan for Placer County stating they want to help support with Parks and Rec funding. Mr. Conners requested a current resolution and location to assist in receiving funds. He thanked Homie Joe's and Chevron for their support in raising funds.

Councilmember Lomen inquired about offering 2 pieces of property.

Mr. Conners talked about the City Corp Yard not being sufficient and provided examples of why – including children crossing the road between the baseball field and the Corp Yard.

City Manager Heathcock clarified the approval would allow Mr. Conners to move forward to receive funding and obtain engineered plans.

**PUBLIC COMMENT:**

Larry Hillberg (resident) expressed appreciation of Mr. Conners and the consideration given to the vote on the previous item. He provided a survey of Colfax youth and spoke in favor of providing a swimming pool. Mr. Hillberg talked about the City applying for grants to put in a pool, going to Placer County for funding of the pool, and read a resolution that the Splash Park was phase 1 of the pool project. He talked about previous council meetings that had the pool discussion on the agenda that he felt were not noticed properly. Mr. Hillberg spoke in opposition of a skate park near his home, and mentioned past crimes in the purposed area.

Councilmembers Burruss and Lomen talked about current safety issues with the empty lot.

Mr. Hillberg pointed out costs that could be incurred for security and lights, stated he was upset about not being notified of this discussion.

Councilmember Lomen requested input on finding mitigation.

Mayor Fatula asked Mr. Conners what is currently being done about security.

Mr. Conners provided data for call outs to the entire park, 4 since January 2018 that were initiated by citizens. He clarified this is not a Sheriff project, and stated he talked to Paul Lundberg, the Principal at Colfax High School, who is trying to get a pool at the high school.

Mayor Fatula suggested we look at the previously requested funding.

City Manager Heathcock stated we could offer a resolution of support contingent on reviewing previous funding from Placer County.

Mayor Fatula inquired about the obligation to provide notice to neighbors of the location.

Mr. Conners stated he has delivered letters to surrounding neighbors and talked to residents.

Mr. Hillberg talked about neighbors' issues with erosion and requested the question be opened up to the citizens. He again spoke in opposition of the skate park.

Linda Habay (business owner) stated she can see both sides, spoke in support of a skate park for the youth. She talked about liabilities of a pool and suggested diverting funds to assist the high school build their pool. Ms. Habay talked about the benefits of a skate park.

Will Stockwin (resident) inquired about the current population of skaters in town, the long-term costs to the City, whether or not a skate park would decrease home values and if the City would be able to mitigate that issue. He asked whether or not the skate park would deter the skater population in town and mentioned cannabis retailers are required to have a 200-foot setback.

Bill Bean Sr. (resident) spoke in support of the pool coming back. He talked about the enjoyment of the pool in that location previously, stated a skate park does not belong there and how building a pool at the high school is an extensive process.

Councilmember Burruss requested clarification on the structural integrity of the site to hold a pool.

City Manager Heathcock was unable to clarify.

Councilmember Burruss inquired on a setback requirement for the skate park.

City Manager Heathcock and City Planner Feagans stated they were not aware of a setback requirement for a skate park.

Mayor Pro Tem Mendoza asked about phase 1 and phase 2 of the pool, stated she is in support of the Skate Park but would like more information on the grant funding.

Mayor Fatula inquired about the long-term maintenance cost for a skate park and cost of security, inquired about the previous grant and noticing neighbors within 300-feet.

Councilmember Lomen requested a comparison of a skate park vs. a pool, suggested obtaining the information from another municipality.

All Council Members spoke in favor of a skate park in Colfax.

Councilmember Burruss stated she would like more information on the project and funding going forward. She clarified that approving this resolution would allow review of the site for issues but does not lock in the site, stated the first step is a long process.

Mayor Fatula requested this item be pushed to allow more research. He requested a motion in favor and a motion to obtain more information.

By MOTION, approve a skate park to be located on City property.

The MOTION was made by Councilmember Lomen, seconded by Mayor Pro Tem Mendoza and approved by the following voice vote:

**AYES:** Fatula, Mendoza, Douglass, Burruss, Lomen

**NOES:**

**ABSENT:**

Council voted unanimously in support of a skate park being located on City property.

By MOTION, defer the item to the next meeting.

The MOTION was made by Mayor Fatula, seconded by Councilmember Douglass and passed by the following voice vote:

**AYES:** Fatula, Mendoza, Douglass, Burruss

**NOES:**

**OBSTAIN:** Lomen

**ABSENT:**

Council requested time to notice property owners and research costs and impacts a skate park at this location would have.

City Manager Heathcock requested ample time to notice.

**9C Conduct Discussion and Adopt a Policy for Annual Selection of Mayor and Mayor Pro Tem**

**Staff Presentation:** Wes Heathcock, City Manager

**Recommendation:** Discuss and consider adopting a policy for annual selection of Mayor and Mayor Pro Tem.

City Attorney Cabral provided information about the current selection process.

Councilmember Burruss requested the policy allow Council to have discretion.

Mayor Fatula requested Mr. Cabral read the policy.

Mr. Cabral read the policy aloud.

Councilmember Burruss requested to strike the number of votes and to allow Mayor Pro Tem to be decided by Council not tenure. She asked verbiage be added requiring public comment to be considered.

Councilmember Lomen agreed.

Mr. Cabral stated he would bring back a revised policy.

**PUBLIC COMMENT:**

Tom Parnham (resident) talked about the process of becoming council and being rushed to determine a Mayor. He pointed out the ability Council has to change policy and that it is a waste to set a policy that can be changed.

Mayor Fatula requested confirmation that Council currently has a guideline.

By MOTION, continue the item to the next meeting and add changes.

The MOTION was made by Councilmember Douglass, seconded by Councilmember Lomen and passed by the following voice vote:

**AYES:** Fatula, Douglass, Burruss, Lomen

**NOES:** Mendoza

**ABSENT:**

**10 GOOD OF THE ORDER**

Councilmember Douglass mentioned the City Manager becoming an alternate for Pioneer Energy.

Mayor Pro Tem Mendoza requested to look at the TOT Tax.

City Manager Heathcock asked Mayor Pro Tem Mendoza to clarify if she is considering increasing the TOT Tax.

City Attorney Cabral clarified it would have to go to an election.

Councilmember Burruss talked about the Ordinance for the business district at Whitcomb through Main Street prohibiting skating of any kind and that she would like to see that amended.


Mayor Fatula stated skating downtown is a concern, provided an example of a skater crashing into a window, talked about types of windows.

Councilmember Burruss mentioned allowing skating but not on sidewalks.

**11 ADJOURNMENT**

As there was no further business on the agenda, Mayor Fatula adjourned the meeting, without objection at 9:09PM.

Respectfully submitted to City Council this 9<sup>th</sup> day of October, 2019.

  
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Jaclyn Collier, City Clerk



# Staff Report to City Council

## FOR THE OCTOBER 9, 2019 REGULAR CITY COUNCIL MEETING

**From:** Wes Heathcock, City Manager  
**Prepared by:** Chris J. Clardy, Community Services Director  
**Subject:** Contract Award to Engineered Soil Repairs Inc. – Pond 3 Fissure

*Budget Impact Overview:*

<b>N/A:</b>	<b>Funded:</b> √	<b>Un-funded:</b>	<b>Amount:</b> \$424,468.45	<b>Fund(s):</b> 566-95
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**RECOMMENDED ACTION:** Adopt Resolution \_\_-2019 authorizing the City Manager to enter into a contract with Engineered Soil Repairs Inc. in an amount not to exceed \$424,468.45.

### Summary/Background

In January 2017 wastewater treatment plant staff discovered that a portion of the southwesterly bank of pond 3 had failed. The events are outlined in the staff report of the August 9, 2017 regular City Council meeting. Resolution 33-2017 was adopted by City Council authorizing the City Manager to execute a professional services agreement with Holdrege & Kull for geotechnical engineering services.

At the March 21, 2018 regular City Council meeting, City Council adopted Resolution 17-2018 designating the City Manager as authorized agent to execute and file applications with the California Governor’s Office of Emergency Services for the purpose of obtaining federal financial assistance and/or state financial assistance.

During the term of the agreement with Holdrege & Kull the company became increasingly less responsive to staff and the project timeline. A decision was made to end the agreement with H&K, and in order to be compliant with federal requirements for funding the City re-advertised a RFQ for consultant services. City Council adopted Resolution 08-2019 authorizing the City Manager to enter into a consultant services agreement with Geocon Consultants, Inc.

In June 2019 the City, with guidance from Geocon, advertised a RFP for collaborative design-build services for the stabilization/repair of the Pond 3 embankment. The RFP request resulted in responsive proposals from Lorang Brothers Construction, GeoStabilization International, and Geopier Foundation Company/Engineered Soil Repairs Inc. The proposals were reviewed/scored, by a five member group, with GeoStabilization International (GSI) being rated the top firm.



After receiving GSI's cost proposal City Staff reviewed the proposal and requested a revised cost. After four weeks of review and negotiation of GeoStabilization International's cost proposal it was determined to be in the best interest of the City to move forward to Geopier Foundation Company/Engineered Soil Repairs Inc. (GFC/ESR), the next highest rated and responsive proposal.

GFC/ESR has submitted a proposal for an in-situ stabilization approach with an array of plate piles to the pond 3 embankment fill slope that will give the slope a safety factor of 1.5, up from a safety factor of less than 1. Factor of safety, defined as the ratio of the shear strength (or, alternatively, an equivalent measure of shear resistance or capacity) to the shear stress (or other equivalent measure) required for equilibrium. If the value of factor of safety is less than 1.0, the slope is unstable. Also included in the proposal are drainage improvements to the embankment bench top allowing storm water to properly drain and not seep into the ground behind the embankment. The proposed cost of the project is \$369,103.00 and has a timeline of eight weeks for completion.

### **RECOMMENDATION**

Staff recommends the City Council authorize the City Manager to enter into a contract with Engineered Soil Repairs Inc. for the stabilization/repair of the Wastewater Treatment Plants Pond 3 embankment in an amount not to exceed \$424,468.45 which includes a 15% contingency above the cost estimate.

### **FINANCIAL AND/OR POLICY IMPLICATIONS**

Staff contacted the City insurance carrier Small Cities Organized Risk Effort Joint Powers Authority (SCORE) to file property damage claim for the Pond 3 Fissure incident. SCORE requested repair costs estimates to approve the property damage claim. The City contracted with H&K to develop a recommended remediation methodology and a cost estimate. SCORE has since approved the insurance claim and provided the City with a \$300,000 partial payment on the estimated cost, which includes FEMA disaster funds for repairs that are specific to preventative measures.

The cost of the Project is \$369,103.00 with a 15% contingency of \$55,365.45 for a total of \$424,468.45 from fund 566-95

#### **ATTACHMENTS:**

1. Resolution \_\_-2019
2. Contract
3. Proposal

# City of Colfax

## City Council

Resolution No. \_\_-2019

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**AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH  
ENGINEERED SOIL REPAIRS INC. IN AN AMOUNT NOT TO EXCEED \$424,468.45**

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**WHEREAS**, the Pond 3 embankment failed in January 2017 due to heavy rain events; and,

**WHEREAS**, the City Council of the City of Colfax adopted resolution 33-2017 authorizing the City Manager to execute a professional services agreement with Holdrege and Kull; and,

**WHEREAS**, the City Council of the City of Colfax adopted resolution 17-2018 designating the City Manager as the authorized agent to execute and file applications with the California Governor's Office of Emergency Services; and,

**WHEREAS**, Staff contacted the City insurance carrier Small Cities Organized Risk Effort Joint Powers Authority (SCORE) to file property damage claim for the Pond 3 Fissure incident and SCORE has since approved the insurance claim and provided the City with a \$300,000 partial payment on the estimated cost, which includes FEMA disaster funds for repairs that are specific to preventative measures; and,

**WHEREAS**, the City Council of the City of Colfax adopted resolution 08-2019 authorizing the City Manager to enter into a consultant services agreement with Geocon Consultants Inc.; and,

**WHEREAS**, the City advertised a RFP for collaborative design-build services and had three responsive proposals in which GeoStabilization International was the highest rated and Geopier Foundation Company/Engineered Soil Repairs Inc. second highest; and,

**WHEREAS**, the City could not come to terms with GeoStabilization International and requested a proposal from Geopier Foundation Company/Engineered Soil Repairs Inc.; and,

**WHEREAS**, Staff recommends the City Council authorize the City Manager to enter into a contract with Engineered Soil Repairs Inc. for the stabilization/repair of the Wastewater Treatment Plants Pond 3 embankment in an amount not to exceed \$424,468.45 which includes a 15% contingency above the cost estimate; and,

**NOW, THEREFORE, BE IT RESOLVED** the City Council of the City of Colfax authorizes the City Manager to enter into a contract with Engineered Soil Repairs Inc. in an amount not to exceed \$424,468.45.

**THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED** at the Regular Meeting of the City Council of the City of Colfax held on the 9<sup>th</sup> day of October 2019 by the following vote of the Council:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

---

**Joe Fatula, Mayor**

**ATTEST:**

---

**Jaclyn Collier, City Clerk**

**Attachment 2****AGREEMENT FOR CONTRACT SERVICES**

THIS AGREEMENT is made and entered into on this 10<sup>th</sup> day of October, 2019 by and between the City of Colfax, a municipal corporation of the State of California (“City”) and Engineered Soil Repairs Inc. (“Contractor”).

**RECITALS**

- A. The City desires to retain Contractor to provide the Services set forth in detail in Exhibit A hereto (the “Services”) subject to the terms and conditions of this Agreement.
- B. Contractor is duly licensed and sufficiently experienced to undertake and perform the Services in a skilled and workmanlike manner and desires to do so in accordance with the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants, promises and conditions set forth in this Agreement, the City and Contractor agree as follows:

**Section 1. Services.**

Subject to the terms and conditions set forth in this Agreement, Contractor shall furnish and perform all of the Services described in detail in Exhibit A hereto and incorporated herein by this reference (the “Services”) to the satisfaction of the City. Contractor shall not perform any work exceeding the scope of the Services described in Exhibit A without prior written authorization from the City.

**Section 2. Time of Completion.**

Contractor’s schedule for performance of the Services is set forth in Exhibit A hereto which is incorporated herein by this reference. Contractor shall commence performance of the Services promptly upon receipt of written notice from the City to proceed. Performance of the Services shall progress and conclude in accordance with the schedule set forth in Exhibit A. During the performance of the Services, Contractor shall provide the City with written progress reports at least once each month and at such additional intervals as City may from time to time request.

**Section 3. Compensation.**

A. Except as may otherwise be provided in Exhibit A or elsewhere in this Agreement or its exhibits, Contractor shall invoice City once each month for the Services performed during the preceding month. Such invoices shall itemize all charges in such detail as may reasonably be required by City in the usual course of City business but shall include at least (i) the date of performance of each of the Services, (ii) identification of the person who performed the Services, (iii) a detailed description of the Services performed on each date, (iv) the hourly rate at which the Services on each date are charged, (v) an itemization of all costs incurred and (vi) the total charges for the Services for the month invoiced. As long as the Contractor performs the Services to the satisfaction of the City, the City shall pay the Contractor an all inclusive compensation that shall not exceed the amount as detailed in Exhibit A except pursuant to an authorized written change

## **Attachment 2**

order issued pursuant to Section 15 of this Agreement before the Services requiring additional compensation are performed. City shall pay Contractor no later than thirty (30) days after approval of the monthly invoice by City's staff.

B. The Contractor's compensation for the Services shall be full compensation for all indirect and direct personnel, materials, supplies, equipment and services incurred by the Contractor and used in carrying out or completing the Services. Payments shall be in accordance with the payment schedule established in Exhibit A or elsewhere in this Agreement or its exhibits.

C. The City shall have the right to receive, upon request, documentation substantiating charges billed to the City pursuant to this Agreement. The City shall have the right to perform an audit of the Contractor's relevant records pertaining to the charges.

D. Any Services performed more than sixty (60) days prior to the date upon which they are invoiced to the City shall not be compensable.

### **Section 4. Professional Ability; Standard of Quality.**

City has relied upon the professional training and ability of Contractor to perform the Services described in Exhibit A as a material inducement to enter into this Agreement. Contractor shall therefore provide properly skilled professional and technical personnel to perform all Services under this Agreement. All Services performed by Contractor under this Agreement shall be in a skillful, workmanlike manner in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.

### **Section 5. Indemnification.**

Contractor shall hold harmless and indemnify, including without limitation the cost to defend, the City and its officers, agents and employees from and against any and all claims, demands, damages, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of Contractor and/or its agents in the performance of the Services. This indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, arising from the sole negligence, willful misconduct or material defects in design by the City or its agents, servants employees or independent contractors other than Contractor who are directly responsible to the City, or arising from the active negligence of the City officers, agents, employees or volunteers

### **Section 6. Insurance.**

Without limiting Contractor's indemnification obligations provided for above, Contractor shall take out before beginning performance of the Services and maintain at all times during the life of this Agreement the following policies of insurance with insurers possessing a Best rating of not less than A. Contractor shall not allow any subcontractor, professional or otherwise, to commence work on any subcontract until all insurance required of the Contractor has also been obtained by the subcontractor.

**Attachment 2**

- A. Workers' Compensation Coverage. Statutory Workers' Compensation insurance and Employer's Liability Insurance to cover its employees. In the alternative, Contractor may rely on a self-insurance program to meet its legal requirements as long as the program of self-insurance complies fully with the provisions of the California Labor Code. Contractor shall also require all subcontractors, if such are authorized by the City, to similarly provide Workers' Compensation insurance as required by the Labor Code of the State of California for all of the subcontractor's employees. All Workers' Compensation policies shall be endorsed with the provision that the insurance shall not be suspended, voided, or cancelled until thirty (30) days prior written notice has been provided to City by the insurer. The Workers' Compensation insurance shall also contain a provision whereby the insurance company agrees to waive all rights of subrogation against the City and its elected or appointed officials, officers, agents, and employees for losses paid under the terms of such policy which arise from the Services performed by the insured for the City.
- B. General Liability Coverage. General liability insurance, including personal injury and property damage insurance for all activities of the Contractor and its subcontractors, if such are authorized by the City, arising out of or in connection with the Services. The insurance shall be written on a comprehensive general liability form and include a broad form comprehensive general liability endorsement. In the alternative, the City will accept, in satisfaction of these requirements, commercial general liability coverage which is equivalent to the comprehensive general liability form and a broad form comprehensive general liability endorsement. The insurance shall be in an amount of not less than \$1 million combined single limit personal injury and property damage for each occurrence. The insurance shall be occurrence based insurance. General liability coverage written on a claims made basis shall not be acceptable absent prior written authorization from the City.
- C. Automobile Liability Coverage. Automobile liability insurance covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than \$1 million combined single limit for each occurrence.
- D. Policy Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following provisions:
1. The City, and its elected or appointed officials, employees and agents shall be named as insureds or additional insureds with regard to damages and defenses of claims arising from activities performed by or on behalf of the Contractor.
  2. The insurance afforded by each policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limits of liability.
  3. The insurance shall be primary insurance as respects the City and its elected or appointed officers, officials, employees and agents. Any other insurance maintained by the City or its elected or appointed officers, officials, employees, agents or volunteers shall be in excess of this insurance and shall not contribute with it.



**Attachment 2**

4. The insurance shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to the City.
  5. Any failure to comply with the reporting requirements of any policy shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, or agents.
- E. Professional Liability Coverage. If required by the City, Contractor shall also take out and maintain professional liability, errors and omissions insurance in an amount not less than \$1 million. The professional liability insurance policy shall be endorsed with a provision stating that it shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days written notice has been provided to the City.
- F. Insurance Certificates and Endorsements. Prior to commencing the Services under this Agreement, Contractor shall submit to the City documentation evidencing the required insurance signed by the insurance agent and the companies named. This documentation shall be on forms which are acceptable to the City and shall include all required endorsements and verify that coverage is actually in effect. This Agreement shall not be effective until the required insurance forms and endorsements are submitted to and approved by the City. Failure to provide these forms within the time period specified by City may result in the award of this Agreement to another Contractor should the City, in its sole discretion, decide to do so. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.
- G. Deductible and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City.
- H. Termination of Insurance. If the City receives notification that Contractor's insurance will be suspended, voided, cancelled or reduced in coverage or in limits, and if the Contractor does not provide for either the reinstatement of that insurance or for the furnishing of alternate insurance containing all of the terms and provisions specified above prior to the termination of that insurance, City may either terminate this Agreement for that breach, or City may secure the required insurance to satisfy the conditions of this Agreement and deduct the cost thereof from compensation which would otherwise be due and payable to the Contractor for Services rendered under the terms of this Agreement.

**Section 7. Subcontracts.**

Contractor may not subcontract any portion of the Services without the written authorization of City. If City consents to a subcontract, Contractor shall be fully responsible to the City and third parties for all acts or omissions of the subcontractor to which the Services or any portion thereof are subcontracted. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor, nor shall it create any obligation on the part of the City to pay or cause the payment of any monies due to any such subcontractor except as otherwise is required by law.

## **Attachment 2**

### **Section 8. Assignment.**

Contractor shall not assign any right or obligation under this Agreement without the City's prior written consent. Any attempted assignment of any right or obligation under this Agreement without the City's prior written consent shall be void.

### **Section 9. Entire Agreement.**

This Agreement represents the entire understanding of City and Contractor as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

### **Section 10. Jurisdiction.**

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction over any litigation arising from this Agreement shall be in the Superior Court of the State of California with venue in Placer County, California.

### **Section 11. Suspension of Services.**

Upon written request by Contractor, City may suspend, in writing, all or any portion of the Services if unforeseen circumstances beyond the control of the City and Contractor make normal progress of the Services impossible, impractical or infeasible. Upon written City approval to suspend performance of the Services, the time for completion of the Services shall be extended by the number of days performance of the Services is suspended.

### **Section 12. Termination of Services.**

City may at any time, at its sole discretion, terminate all or any portion of the Services and this Agreement upon seven (7) days written notice to Contractor. Upon receipt of notice of termination, Contractor shall stop performance of the Services at the stage directed by City. Contractor shall be entitled to payment within thirty (30) days for Services performed up to the date of receipt of the written notice of termination. Contractor shall not be entitled to payment for any Services performed after the receipt of the notice of termination unless such payment is authorized in advance in writing by the City.

Should Contractor fail to perform any of the obligations required of Contractor within the time and in the manner provided for under the terms of this Agreement, or should Contractor violate any of the terms and conditions of this Agreement, City may terminate this Agreement by providing Contractor with seven (7) days written notice of such termination. The Contractor shall be compensated for all Services performed prior to the date of receipt of the notice of termination. However, the City may deduct from the compensation which may be owed to Contractor the amount of damage sustained or estimated by City resulting from Contractor's breach of this Agreement.

## **Attachment 2**

Contractor's obligations pursuant to Sections 5 and 6 of this Agreement shall survive termination, and continue in effect for as long as necessary to fulfill the purposes of Sections 5 and 6.

### **Section 13. Independent Contractor.**

Contractor shall in all respects be an independent contractor and not an agent or employee of City. Contractor has and shall retain the right to exercise full control and supervision of the means and methods of performing the Services. Contractor shall receive no premium or enhanced pay for Services normally understood as overtime; nor shall Contractor receive holiday pay, sick leave, administrative leave or pay for any other time not actually expended in the performance of the Services. It is intended by the parties that Contractor shall not be eligible for benefits and shall receive no compensation from the City, except as expressly set forth in this Agreement. Contractor shall submit completed W-9 and Report of Independent Contractor forms upon execution of this Agreement and prior to the payment of any compensation hereunder.

### **Section 14. Ownership of Documents.**

Within thirty (30) days after the Contractor substantially completes performance of the Services, or within thirty (30) days after the termination of this Agreement, the Contractor shall deliver to the City all files, records, materials and documents drafted or prepared by Contractor's in the performance of the Services. It is expressly understood and agreed that all such files, records, materials and documents are the property of the City and not the property of the Contractor. All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of performing the Services shall become the sole property of the City upon payment to Contractor for the Services, and the City shall have the exclusive right to use such materials in its sole discretion without further compensation to Contractor or to any other party. Contractor shall, at Contractor's expense, provide such reports, plans, studies, documents and writings to City or any party the City may designate, upon written request. Contractor may keep file copies of all documents prepared for City. Use of any such documents by the City for projects that are not the subject of this Agreement or for purposes beyond the scope of the Services shall be at the City's sole risk without legal liability or expense to Contractor.

### **Section 15. Changes and/or Extra Work.**

Only the City Council may authorize extra and/or changed Services, modification of the time of completion of the Services, or additional compensation for the tasks to be performed by Contractor. Contractor expressly recognizes that other City personnel are without authorization to order extra and/or changed Services or to obligate the City to the payment of additional compensation. The failure of Contractor to secure the prior written authorization for such extra and/or changed Services shall constitute a waiver of any and all right to adjustment in the contract price due to such unauthorized Services, and Contractor thereafter shall not be entitled to any compensation whatsoever for the performance of such extra or changed Services. In the event Contractor and City agree that extra and/or changed Services are required, or that additional compensation shall be awarded to Contractor for performance of the Services under this Agreement, a supplemental agreement providing for such compensation shall be prepared and shall be executed by the

## **Attachment 2**

Contractor and the necessary City officials before the extra and/or changed Services are provided.

### **Section 16. Compliance with Federal, State and Local Laws.**

Contractor shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations affecting the Services, including without limitation laws requiring licensing and prohibiting discrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability, national origin or other prohibited bases. City shall not be responsible or liable for Contractor's failure to comply with applicable laws, statutes, ordinances, rules or regulations.

### **Section 17. Retention of Records.**

Contractor and any subcontractors authorized by the terms of this Agreement shall keep and maintain full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to the Services, and Contractor shall make such documents available for review and/or audit by City and City's representatives at all reasonable times during performance of the Services and for at least four (4) years after completion of the Services and/or termination of this Agreement.

### **Section 18. Alternative Dispute Resolution**

- A. Before resorting to mediation, arbitration or other legal process, the primary contacts of the parties shall meet and confer and attempt to amicably resolve any dispute arising from or relating to this Agreement subject to the following provisions. Any party desiring to meet and confer shall so advise the other party pursuant to a written notice. Within 15 days after provision of that written notice by the party desiring to meet and confer, the primary contacts for each party shall meet in person and attempt to amicably resolve their dispute. Each primary contact, or the person acting in their absence with full authority to resolve the dispute, shall attend the meeting and shall be prepared to devote an entire day thereto. If any dispute remains unresolved at the end of the meeting, any party to this Agreement shall have the right to invoke the mediation process provided for in the subparagraph B below.
- B. Subject to the provisions of subparagraph A, any dispute that remains unresolved after the meet and confer shall immediately be submitted to non-binding neutral mediation, before a mutually acceptable, neutral retired judge or justice at the Sacramento Office of the Judicial Arbitration and Mediation Service ("JAMS"). If within five days after the meet and confer the parties are unable to agree upon the selection of a neutral mediator, then the first available retired judge or justice at the Sacramento office of JAMS shall serve as the neutral mediator. The parties agree to commit to at least one full day to the mediation process. Additionally, to expedite the resolution of any dispute that is not resolved by mediation, the parties agree to each bring to the neutral mediation a list of at least five neutral arbitrators, including their resumes, whose availability for an arbitration hearing within 30 days after the mediation has been confirmed.
- C. If mediation is unsuccessful, before the mediation concludes, the parties shall mediate the

## Attachment 2

selection of a neutral arbitrator to assist in the resolution of their dispute. If the parties are unable to agree on an arbitrator, the parties agree to submit selection of an arbitrator to the mediator, whose decision shall be binding on the parties. In that case, the mediator shall select a neutral arbitrator from the then active list of retired judges or justices at the Sacramento Office of the JAMS. The arbitration shall be conducted pursuant to the provisions of the California Arbitration Act, sections 1280-1294.2 of the California Code of Civil Procedure. In such case, the provisions of Code of Civil Procedure Section 1283.05 and 1283.1 shall apply and are hereby incorporated into this Agreement.

- D. This section 18 shall survive the termination or expiration of this Agreement. If there is no Sacramento office of JAMS, then the office of JAMS closest to the City shall be used instead of a Sacramento office.

### **Section 19. Severability.**

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by an arbitrator or by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by the mutual written consent of the parties.

### **Section 20. Entire Agreement; Amendment.**

This Agreement, including all exhibits hereto, constitutes the complete and exclusive expression of the understanding and agreement between the parties with respect to the subject matter hereof. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement. This Agreement may be amended or extended from time to time only by written agreement of the parties hereto.

### **Section 21. Time of the Essence.**

Time is of the essence in the performance of the Services. The Contractor will perform its Services with due and reasonable diligence consistent with sound professional practices and shall devote such time to the performance of the Services as may be necessary for their timely completion.

### **Section 22. Written Notification.**

Except as otherwise specified in this Agreement, any notice, demand, request, consent, approval or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by first class mail, postage prepaid and addressed as follows. Either party may change its address by notifying the other party in writing of the change of address. Notice shall be deemed communicated within two business days from the time of mailing if mailed within the State of California as provided in this Section.

If to City:	City of Colfax 33 S. Main Street Colfax, CA 95713
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**Attachment 2**

If to Contractor:

Engineered Soil Repairs Inc.  
1267 Springbrook Road  
Walnut Creek, CA 94597

**Section 23. Execution.**

This Agreement may be executed in original counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one original counterpart is signed by both parties hereto. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**Section 24. Successors.** This Agreement shall be binding on and inure to the benefit of the respective parties hereto except to the extent of any contrary provision in this Agreement.

**Section 25. Attorney's Fees.** If any party to this Agreement commences legal proceedings to enforce any of its terms or to recover damages for its breach, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and the expenses of expert witnesses, including any such fees costs and expenses incurred on appeal.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written:

CITY

CONTRACTOR

Signature\_\_\_\_\_

Signature\_\_\_\_\_

Printed Name\_\_\_\_\_

Printed Name\_\_\_\_\_

Title\_\_\_\_\_

Title\_\_\_\_\_

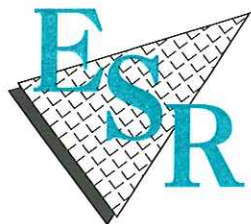
Date\_\_\_\_\_

Date\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney



Exhibit A

# ENGINEERED SOIL REPAIRS, INC.

FOUNDATIONS • DRAINAGE • RETAINING WALLS • SLIDE REPAIRS

October 2, 2019

Mr. Adam Killinger, PE, GE  
Geopier Foundation Company  
2499 Hillsdale Road  
Meadow Vista, CA 95722

RE: SRT Project No: SNC-31  
Colfax Water Treatment Plant  
Pond 3 Embankment Slope  
Colfax, CA

Dear Mr. Killinger:

In accordance with your request, we have prepared an updated proposal to install plate piles to stabilize the western embankment slope of Pond 3 where a slide occurred for the Colfax Water Treatment Facility at the above-referenced address. This proposal has been updated to reflect our phone discussions with Mr. Chris Clardy last week. These discussions concentrated on the means and methods that ESR would employ in completing the work considering the time of the year and the approaching 2019/2020 winter storm season. Specifically,

- The plate pile installation will progress in three principal phases. The first phase will be filling the tension crack in the soil above the pond with bentonite and installing the plate piles for half the embankment slope starting above the water level (seventh row of plate piles) in the retention pond.
- The second phase would be the bottom 6 rows of the plate piles once the water level has been drawn down the 2-million-gallon water elevation level. The start of the second phase could temporarily interrupt the first or third phase since the second phase is the critical path of the project.
- The third phase will be the plate pile installation for the second half of embankment slope.
- The section of the liner impacted by each phase will be cut and rolled up above the fence. Prior to any rains, this section of liner would be rolled back down and sealed to the in-place liner with waterproof tape. The liner would be rolled back up with the return of dry weather and restarting of the work.

**Exhibit A**

Mr. Adam Killinger, PE, GE  
Geopier Foundation Company  
October 2, 2019  
Page 2 of 7

RE: SRT Project No: SNC-31  
Colfax Water Treatment Plant  
Pond 3 Embankment Slope  
Colfax, CA

- ESR will work Saturdays given considering the time of the year and the approaching 2019/2020 winter storm season.
- Where the new drainage improvements are installed control density fill will be placed if the excavated soil is too wet for placement.

These plate piles will be installed to stabilize in place the section of the western embankment slope of Pond 3 where the slide occurred. A 10-year performance warranty is included with the installation of this work. Based on my examination of the property, discussions with you and review of the provided documents by email, we have prepared a proposal to do the following work.

A section of the pond embankment slope for Pond 3 has experienced a slope failure. This failure occurred during the 2016 - 2017 winter storm season. The approximate location of the failure is shown in Figure 2 of the Geocon Consultants, Inc. report, dated March 31, 2019. The failure of the slope is evidenced by a series of long linear tension cracks in the access maintenance bench at the top of the pond embankment slope. During our inspection of the project, we noticed a slight vertical offset was present in some of these tension cracks. At the present time, there has not been a collapse/rotation slip failure of the pond embankment fill slope or run out of the slide materials. The factor of safety against slide of the embankment slope is assumed to be at or near 1.0.

The repair approach will be an in-situ stabilization of the pond embankment fill slope. Our approach is to utilize an array of plate piles to stabilize the pond embankment fill slope in place. The advantage of the plate piles over the soil nails is that upon installation of the piles there is an immediate benefit of an increased factor of safety against sliding. For soil nails this benefit is not realized until after the concrete/grout has achieved its design strength. The installation of the plate piles will start from the bottom of the embankment and progress up the embankment slope. The installed plate piles will help support the weight of the excavator as the installation progresses up the pond embankment slope.

The pond embankment fill soils will be stabilized in place with an array of 650 plate piles. These plate piles will be installed in a gridwork pattern of staggered rows. The horizontal spacing of the plate piles within the row will be 4 feet on center and transverse spacing of the rows (as measured horizontally) will be 8 feet on center. It is the soil arching between the array of plate piles that provides for the ground improvement and increased the factor of safety against sliding of the pond embankment fill soils. Prior to installation, the location of the individual piles will be carefully laid out. A total station will be utilized to determine the elevation and layout the plate pile row locations. The pile locations within the rows will be laid out with a tape measure.

**Exhibit A**

Mr. Adam Killinger, PE, GE  
Geopier Foundation Company  
October 2, 2019  
Page 3 of 7

RE: SRT Project No: SNC-31  
Colfax Water Treatment Plant  
Pond 3 Embankment Slope  
Colfax, CA

The plate piles will consist of a S3x5.7 beam and a ¼-inch thick by 12-inch wide by 48-inch long plate. This plate will be stitch welded to the S-beam. The plate will be located 6 inches below the top of the pile. The design plate pile length is 13.25 feet and will be anchored (socketed) into the underlying metasedimentary rock (metagraywacke) bedrock materials. The plate piles will be fabricated to a length of 14.75 feet to allow for deeper embedment if the depth to bedrock is deeper than what was assumed.

Due to the hardness of the bedrock materials, pilot holes will be pre-drilled before the installation of the plate pile to ensure the piles will reach the minimum embedment depth of 13.75 feet as measured from finished grade. The total depth to bedrock of each pilot hole will be documented. The benefits of the pilot hole drilling are to determine the necessary pile length prior to installation and to ensure the required pile depth will be readily achieved without delays due to difficult driving. After the installation of the plate piles any remaining void from the pilot hole will be filled with lean grout.

The installation of the piles will be done as noted in the bullet points of the first two pages of this proposal. This approach will allow the plate piles to help support the weight of the excavator as the plate pile installation advances up the pond embankment slope. A digital smart level will be utilized to ensure the pilot holes and plate piles are installed at the correct inclination. The inclination of each plate pile will be documented. Initially the piles will be pushed into a pilot hole that has been drilled into the ground. Once resistance has been encountered a hammer attached to the excavator will drive the pile to its final depth.

The top of the plate pile will be embedded at least 6 inches below the finished grade. After the completion of the installation of the plate piles the slope will be track walked (up/down direction) to compact the surficial soils above the plate piles and provide a smooth and uniform slope prior to the re-installation of the HDPE pond liner. The 6-inch minimum embedment depth of the top of the pile and the compaction of the surficial soils will ensure the top of the pile will not damage and/or puncture the HDPE pond liner when and after it has been re-installed.

Specifically, we propose to do the following work:

*PLATE PILE FABRICATION:*

1. Order the beams and the plate materials from the mill and have it delivered to our yard in Walnut Creek.
2. Cut the beams and plates to size. The beams and plates will be cut with a torch. Based on the pile and plate dimensions, there will be little to no wasted material.
3. Align the plate to be 6 inches down from the top of the pile and weld the plates to the piles to fabricate the 650 plate piles.

**Exhibit A**

Mr. Adam Killinger, PE, GE  
Geopier Foundation Company  
October 2, 2019  
Page 4 of 7

RE: SRT Project No: SNC-31  
Colfax Water Treatment Plant  
Pond 3 Embankment Slope  
Colfax, CA

***MOBILIZATION AND SITE PREPARTION WORK:***

1. Deliver the manufactured plate piles to the work site for installation to stabilize the portion of the western pond embankment slope in question.
2. Access to the slide area will be along the access maintenance bench at the top of the embankment slope.
3. Dismantle and remove the fence along the top of the slope embankment as required for equipment access.
4. Cut and roll up the existing HDPE liner in sections as noted in the bullet points of the first two pages of this proposal. The liner will be removed starting from the bottom of the pond.
5. Dismantle and remove the effluent piping system that is located within the limits of where the pond embankment is to be repaired for its associated phase.

***PLATE PILE INSTALLATION:***

1. Use a total station to layout and mark the location where the rows of plate piles are to be installed for the western embankment of Pond 3. The piles will be laid out in a grid work of staggered rows. The horizontal spacing of the plate piles (within the rows) will be 4 feet on center. The transverse row spacing as measured horizontally will be 8 feet on center.
2. Due to the hardness of the underlying metasedimentary rock (metagraywacke), pre-drill the holes to ensure the plate pile will reach the full embedment depth.
3. Use a large track mounted excavator to install 650 plate piles at the marked locations. The plate piles will be driven into the ground until the top of the plate pile is 6 inches below the ground surface of the embankment slope.
4. Smooth out and track walk the hillside slope where the plate piles have been installed to compact any loose surficial soils.
5. Backfill the tension cracks that are in the 15-foot wide bench at the top of the embankment slope with bentonite soil mixture.



**Exhibit A**

Mr. Adam Killinger, PE, GE  
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RE: SRT Project No: SNC-31  
 Colfax Water Treatment Plant  
 Pond 3 Embankment Slope  
 Colfax, CA

***DRAINAGE IMPROVEMENTS AND SITE RESTORATION:***

1. Install the new catch basin and outlet within the stabilized repaired area per the Grading and Repair Plan (Exhibit 4 of the RFP).
2. Regrade the top of the bench at the top of the embankment per the *Grading and Repair Plan* (Exhibit 4 of the RFP).
3. Re-install the rolled sections of the HDPE liner.
4. Re-install the fence where it was removed.
5. Re-install the effluent piping system that was removed.
6. Place and compact the aggregate base surfacing on the access bench at the top of the embankment slope per the *Grading and Repair Plan* (Exhibit 4 of the RFP).
7. Dispose of any construction related debris and clean up the work areas.

***PROJECT CLOSEOUT AND FINAL DOCUMENTATION:***

1. Address any punch list items identified by the City of Colfax.
2. Prepare and submit a final affidavit report summarizing the services performed and provide a statement of compliance with the approved project design.
3. Provide the details of the 10-year performance warranty associated with the work.

**Lump Sum Bid**

We will provide all material, labor and equipment to do this work for the lump sum bid of \$369,103.00. The bid amounts above include engineering, drawing and permit fees. The bid amount above does not include costs associated with modification of our standard insurance certificate. Should you require special conditions such as additional insured endorsement, there will be an additional charge at cost.

**Closure**

Our evaluation has been completed in accordance with our interpretation of the "Standard of Practice" for the industry. Our recommendations have been made based on the conditions we have observed, and only enough information has been presented to give you a clear understanding as to our interpretation of the problem and how we propose to correct it. Since it is only a bid proposal and does not contain any engineering details, it

**Exhibit A**

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should not be used by other contractors for bidding or construction purposes. Any use by other contractors is at their sole risk.

This repair proposal is made for your acceptance within 90 days of the proposal date, unless withdrawn by ESR at a sooner date. If you wish to proceed with the work, please sign and date below, as well as the Standard Terms and Conditions pages. Return the signed/dated documents back to us in the enclosed envelope.

If you have any questions concerning this proposal, please contact us.

Sincerely,



Steven O'Connor  
Principal Engineer

SOC/wh/mo

Enclosures: Standard Terms and Conditions  
Notice to Owner  
Notice of Right to Cancel

**Exhibit A**

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APPROVED:

Contract (including Proposal, Standard Terms and Conditions, Notice to Owner and Notice of Right to Cancel) acknowledged, read and accepted by owner or their authorized agent. Upon authorization by the signatures below, it will constitute a complete and binding agreement between the parties.

Install the 650 Plate Piles  
to Stabilize In-Place the  
Slide Portion of the Western  
Embankment Slope of Pond 3  
(\$369,103.00)

\_\_\_\_\_  
(Signature)

DATE: \_\_\_\_\_

\_\_\_\_\_  
Preferred Telephone Number (Required)

\_\_\_\_\_  
Alternate Telephone Number

\_\_\_\_\_  
Email Address

