ITEM: HVAC EQUIPMENT GYM LIGHTING REPLACEMENT FOR COMMUNITY CENTER (CIP PK 03-03)

RECOMMENDATION: Adopt a Resolution Awarding a Contract to JH Simpson Company for HVAC Equipment Replacement and Riley Electric Company for Gym Lighting Replacement for the Community Center Renovation Project (CIP PK 03-03)

SUMMARY:

Four of the five existing rooftop mechanical units on the Community Center Building have reached the end of their expected service life and need to be replaced. Additionally the Gym Lighting at the community Center has become obsolete and requires replacement. Staff requests City Council authorize a contract with JH Simpson Company for HVAC Equipment Replacement in the amount of $67,655 and Riley Electric for Gym Lighting Replacement in the amount of $12,000 for the Community Center Renovation Project CIP PK 03-03. Staff also requests approval for the construction contract budget to include a 10% contingency in the amount of $7,965 for a total approved construction contract budget of $87,620. Approximately $41,700 of this work is funded using American Recovery and Investment Act of 2009, Energy Efficiency and Community Block Grant Program funds. Remaining funds are budgeted in the Community Center Rehabilitation Project PK 03-03

BACKGROUND:

The Community Center was constructed in the early 1970s and no significant renovations other than minor repairs have been undertaken since that time. The Community Center Renovation project (CIP PK 03-03) is needed to refurbish and upgrade the building to meet building codes, ADA compliance and user needs. Four of the five existing rooftop mechanical units on the Community Center Building are approximately 15 years old and have reached the end of their expected service life. The replacement of this equipment with new, energy efficient units will result in significant increases in the operating performance of the HVAC systems, and will significantly reduce the electricity and natural gas consumption of the building. Additionally replacement bulbs for the Gym lighting system are no longer available thereby making the Gym Lighting System obsolete.

The City has applied and received grant funding through the American Recovery and Investment Act of 2009, Energy Efficiency and Community Block Grant Program. A significant portion of cost of HVAC and lighting replacement for the Community Center Renovation project is funded in part using American Recovery and Investment Act of 2009, Energy Efficiency and Community Block Grant Program funds. In order to meet grant requirements, the City must commit funds immediately or the funds may be reallocated by the State.
ATI has assisted City staff with the preparation of drawings and specifications for the HVAC Equipment Replacement. Staff solicited quotes from three HVAC vendors and only JH Simpson Company provided a competitive, responsive bid in the amount of $67,655 to perform the work. ATI also prepared the specification for replacement of the obsolete Gym lighting and Staff solicited quotes from three vendors of which only Riley Electric provided a competitive, responsive bid in the amount of $12,000. Both bids were deemed acceptable to the State ARRA Energy grant controller for compliance with the Energy Grant as well as below the engineer's estimates for the work. Staff requests City Council authorize a contract with JH Simpson Company for HVAC Equipment Replacement in the amount of $67,655 and Riley Electric for Gym Lighting Replacement in the amount of $12,000 for the Community Center Renovation Project CIP PK 03-03. Staff also requests approval for the construction contract budget to include a 10% contingency in the amount of $7,965 for a total approved construction contract budget of $87,620.

RECOMMENDATION:

Four of the five existing rooftop mechanical units on the Community Center Building have reached the end of their expected service life and need to be replaced and replacement bulbs for the Gym Lighting can no longer be purchased. Staff requests City Council authorize a contract with JH Simpson Company for HVAC Equipment Replacement in the amount of $67,655 and Riley Electric for Gym Lighting Replacement in the amount of $12,000 for the Community Center Renovation Project CIP PK 03-03. Staff also requests approval for the construction contract budget to include a 10% contingency in the amount of $7,965 for a total approved construction contract budget of $87,620.

FISCAL IMPACT

Staff requests City Council authorize a contract with JH Simpson Company for HVAC Equipment Replacement in the amount of $67,655 and Riley Electric for Gym Lighting Replacement in the amount of $12,000 for the Community Center Renovation Project CIP PK 03-03. Staff also requests approval for the construction contract budget to include a 10% contingency in the amount of $7,965 for a total approved construction contract budget of $87,620. This work is funded in part using American Recovery and Investment Act of 2009, Energy Efficiency and Community Block Grant Program funds and funds from PK 03-03.

Grant Funding is estimated at $41,700. The remaining funds are budgeted under PK03-03.

ATTACHMENTS

A. Resolution Awarding a Contract to JH Simpson Company for HVAC Equipment Replacement and to Riley Electric for Gym Lighting replacement for the Community Center Renovation Project (CIP PK 03-03).
B. Construction Contract – Riley Electric
C. Construction Contract – J.H. Simpson
APPROVALS:

Greg Gibson
Senior Civil Engineer

Mary Grace Houlihan
Principal Civil Engineer

Cari James
Acting Director of Finance

Salvador Navarrete
City Attorney

Stephen J. Salvatore
Interim City Manager

5/17/12
Date

5/16/12
Date

5/17/12
Date

5/17/12
Date
RESOLUTION NO. 12-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP
AWARDING A CONTRACT TO JH SIMPSON COMPANY FOR HVAC EQUIPMENT
REPLACEMENT RILEY ELECTRIC FOR GYM LIGHTING REPLACEMENT FOR THE
COMMUNITY CENTER RENOVATION PROJECT (CIP PK 03-03)

WHEREAS, the Community Center Renovation project (CIP PK 03-03) is
needed to refurbish and upgrade the building to meet building codes, ADA
compliance and user needs; and

WHEREAS, four of the five existing rooftop mechanical units on the
Community Center Building have reached the end of their expected service life and
need to be replaced and Gym Lighting has become obsolete and requires
replacement; and

WHEREAS, ATI prepared specifications for both the HVAC Equipment
Replacement and Gym Lighting Replacement Staff solicited quotes from three
vendors for each; and

WHEREAS, Staff received competitive and responsive bids from JH Simpson
Company in the amount of $67,655 and from Riley Electric for replacement of Gym
Lighting in the amount of $12,000 for the Community Center Renovation Project CIP
PK 03-03; and

WHEREAS, Staff requests Council award a contract to JH Simpson Company
for HVAC Equipment Replacement in the amount of $67,655 and to Riley Electric for
replacement of Gym Lighting in the amount of $12,000 for the Community Center
Renovation Project CIP PK 03-03; and

WHEREAS, Staff also requests Council to approve a 10% contingency in the
amount of $7,965 for a total construction budget of $87,620.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of
Lathrop does hereby authorize execution of a contract with JH Simpson Company for
HVAC Equipment Replacement in the amount of $67,655 and to Riley Electric for
replacement of Gym Lighting in the amount of $12,000 for the Community Center
Renovation Project CIP PK 03-03; and

BE IT FURTHER RESOLVED, the City Council of the City of Lathrop does
hereby approve a 10% contingency of $7,965 for a total construction budget of
$87,620.
The foregoing resolution was passed and adopted this 21st day of May/April, 2012, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

J. "CHAKA" Santos, Mayor

APPROVED AS TO FORM:

Salvador Navarrete, City Attorney

ATTEST:

Mitzi Ortiz, City Clerk
CONTRACT

This Contract, dated May 21, 2012, is entered into by and between the City of Lathrop, a municipal corporation of the State of California (City), and Riley Electric, (Contractor), whose Taxpayer Identification Number is ________________.

For and in consideration of the following covenants, terms and conditions, City and Contractor (the parties) agree:

1. **Term.** This Contract shall commence on, and be binding on the parties on, the date of execution of this Contract, and shall expire on the date of recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder, subject to the earlier termination of this Contract.

2. **General Scope of Project and Work.** Contractor shall furnish labor, services, materials and equipment in connection with the construction of the Project and complete the Work in accordance with the covenants, terms and conditions of this Agreement to the satisfaction of City. The project, hereinafter “Project” is defined by the attached Exhibit “A”. The work, hereinafter “Work” is generally described as follows:

The work to be performed under this contract includes but is not limited to: Electrical & Lighting Community Center Gymnasium Lighting Project: Remove (21) 8’ 4" tube florescent light fixtures, install (21) 4’ 6" lamp T8 High bay light fixtures with protective wire grid and any task necessary to accomplish the aforementioned tasks.

The Work shall be complete, and all appurtenant work, materials, and services not expressly included in Exhibit “A” which may be necessary for the complete and proper construction of the Work in good faith shall be performed, furnished, and installed by the Contractor as though originally specified or shown. The Contractor will be compensated for work actual work performed in accordance with the prices and provisions contained in Exhibit “A”.

Base Bid Total: $12,000

3. **Construction Documents.** This Agreement shall include the following documents: the Bid submitted by Riley Electric on May 16, 2012, hereby incorporated as Exhibit “A”.

4. **Compensation.** In consideration of Contractor’s performance of its obligations hereunder, City shall pay to Contractor the amount set forth in Contractor’s Bid in accordance with the provisions of this Contract and upon the receipt of written invoices and all necessary supporting documentation within the time set forth in the Construction Documents. Contractor hereby shall not be permitted to invoice the City nor accept compensation for work not yet complete. In no event, shall the Contractor be entitled to payment for work not included in the approved scope of work, a written task order, or change order signed by the City’s Public Works Director prior to commencement of any work.

5. **Insurance.**
A. The CONTRACTOR shall purchase and maintain the insurance required under this paragraph. Such insurance shall include the specific coverages set out herein and be written for not less than the limits of liability and coverages provided in the Construction Documents, or required by law, whichever are greater. All insurance shall be maintained continuously during the life of the Contract up to the date of Substantial Completion/Notice of Completion as applicable, pursuant to acceptance of the WORK by the CITY'S governing body, but the CONTRACTOR'S liabilities under this Contract shall not be deemed limited in any way to the insurance coverage required. The minimum insurance requirements shall be as follows unless modified in the Supplementary General Conditions:

<table>
<thead>
<tr>
<th>Coverage for Which Insurance is Afforded Number**</th>
<th>Limits of Liability</th>
<th>Policy Policy Number*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worker's Compensation &amp; Employer's Liability</td>
<td>Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Bodily Injury Liability except automobile</td>
<td>$1,000,000.00</td>
<td>Each person</td>
</tr>
<tr>
<td></td>
<td>$1,000,000.00</td>
<td>Each occurrence</td>
</tr>
<tr>
<td>Bodily Injury Liability Automobile</td>
<td>$1,000,000.00</td>
<td>Each person</td>
</tr>
<tr>
<td></td>
<td>$1,000,000.00</td>
<td>Each occurrence</td>
</tr>
</tbody>
</table>

* Policy is effective and expires at 12:01 a.m., Standard Time, at the address of the named insured as stated herein.

** Absence of an entry in these spaces means that insurance is not afforded with respect to the coverage’s opposite thereto.

1. The liability policy shall be on a comprehensive form, including but not limited to Broad Form property Damage, Owners and Contractors Protective Liability, Blanket Contractual Liability, and "XCU hazards' exclusions shall not apply. AUTOS shall include all auto exposure whether owned or non-owned, hired, returned or leased.

2. If the work performed involves the use of mechanical equipment for the purpose of grading of land, excavating, paving or drilling, the policy shall include coverage for liability of the insured for injury to or destruction of
wires, conduits, pipes, mains, sewers, or other similar property, or any apparatus in connection therewith, below surface of the ground, whether owned by third parties or the CITY.

3. The policy includes a "Severability of Interest" provision and Cross Liability coverage.

4. If such policies are canceled or changed during the period of coverage as stated herein in such a manner as to affect this Certificate, thirty (30) days' written notice shall be mailed to the said City of Lathrop.

5. The Contractor shall purchase and maintain the insurance required under this paragraph. Such insurance shall include the specific coverage set out herein and be written for not less than the limits of liability and coverage provided in the General Conditions, or required by law, whichever are greater. All insurance shall be maintained continuously during the life of the Contract up to the date of Substantial Completion or Notice of Completion as applicable, pursuant to acceptance of the Work by the City Council, but the Contractor's liabilities under this contract shall not be deemed limited in any way to the insurance coverage required.

6. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII

7. It is agreed that the contractual insurance liability coverage does not apply to Bodily Injury or Property Damage to the extent such insurance is afforded by the policy to the indemnity as an additional insured

8. The coverage afforded under the above policies is subject to all the terms of the policies designated herein and meets all the provisions called for in Paragraph 5.2B

B. The CONTRACTOR shall furnish the CITY with original endorsements at least as broad as CG 20 10 or its equivalent showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. All of the policies of insurance so required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 30 days' prior written notice has been given to the CITY by certified mail. All such insurance shall remain in effect until date of Substantial Completion/Notice of Completion and at all times thereafter when the CONTRACTOR may be correcting, removing, or replacing defective work in accordance with Paragraph 13.6. In addition, the insurance required herein (except for Worker's Compensation and Employer's Liability) shall name the City of Lathrop, its officials, officers, employees, agents and volunteers, the ENGINEER, and their officers, directors, agents, and employees as "additional insured's" under the policies.
1. **Workers' Compensation and Employer's Liability:** This insurance shall protect the CONTRACTOR against all claims under applicable state workers' compensation laws. The CONTRACTOR shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a workers' compensation law. This policy shall include an "all states" endorsement. The CONTRACTOR shall require each subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the CONTRACTOR'S Workers' Compensation Insurance. In case any class of employees is not protected, under the Workers' Compensation Statute, the CONTRACTOR shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of its employees as are not otherwise protected.

2. **Comprehensive General Liability:** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR against all claims arising from injuries to persons other than its employees or damage to property of the CITY or others arising out of any act or omission of the CONTRACTOR or its agents, employees, or subcontractors. The policy shall also include protection against claims insured by usual personal injury liability coverage, a "protective liability" endorsement to insure the contractual liability assumed by the CONTRACTOR under the indemnification provisions in the General Conditions. To the extent that the CONTRACTOR'S work, or work under its direction, may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of buildings, or damage to underground structures.

3. **Comprehensive Automobile Liability:** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non owned, or hired.

4. **Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance:** The CONTRACTOR shall either require each of its subcontractors to procure and to maintain Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplementary General Conditions or insure the activities of its subcontractors in the CONTRACTOR'S own policy, in like amount.

5. **Builder's Risk:** This insurance shall be of the "all risks" type, shall be written in completed value form, and shall protect the CONTRACTOR, the CITY, and the ENGINEER against risks of damage to buildings, structures, and materials and equipment. The amount of such insurance shall be not less than the insurable value of the WORK at completion. Builder's risk insurance shall provide for losses to be payable to the CONTRACTOR, the CITY, and the ENGINEER as
their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the CONTRACTOR, the CITY, and the ENGINEER. The Builder's Risk policy shall insure against all risks of direct physical loss or damage to property from any external cause including flood and earthquake. Allowable exclusions, if any, shall be as specified in the Supplementary General Conditions.

6. **Indemnification.** Contractor agrees to protect, defend, indemnify and hold City, its City Council members, officers, employees, and engineer, harmless from and against any and all claims, demands, liabilities, losses, damages, costs, expenses, liens, penalties, suits, or judgments, arising in whole or in part, directly or indirectly, at any time from any injury to or death of persons or damage to property as a result of the willful or negligent act or omission of Contractor, or which results from Contractor's noncompliance with any Law respecting the condition, use, occupation or safety of the Project site, or any part thereof, or which arises from Contractor's failure to do anything required under this Contract or for doing anything which Contractor is required not to do under this Contract, or which arises from conduct for which any Law imposes strict liability on Contractor in the performance of or failure to perform the terms and conditions of this Contract, except as may arise from the sole willful or negligent act or omission of City or any of its City Council members, officers, employees. This indemnification shall extend to any and all claims, demands, or liens made or filed by reason of any construction, renovation, or remodeling work performed by Contractor under this Contract at any time during the term of this Contract, or arising thereafter.

7. **Assumption of Risk.** Contractor agrees to voluntarily assume any and all risk of loss, damage, or injury to the property of Contractor which may occur in, on, or about the Project site at any time and in any manner, excepting such loss, injury, or damage as may be caused by the sole willful or negligent act or omission of City or any of its City Council members, officers, or employees.

8. **Waiver.** The acceptance of any payment or performance, or any part thereof, shall not operate as a waiver by City of its rights under this Contract. A waiver by City of any breach of any part or provision of this Contract by Contractor shall not operate as a waiver or continuing waiver of any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the parties in the administration of any part or provision of this Contract be construed to waive or to lessen the right of City to insist upon the performance of Contractor in strict compliance with the covenants, terms and conditions of this Contract.

9. **Compliance with Laws.** Contractor shall comply with all Laws now in force or which may hereafter be in force pertaining to the Project and Work and this Contract, with the requirement of any bond or fire underwriters or other similar body now or hereafter constituted, with any discretionary license or permit issued pursuant to any Law of any public agency or official as well as with any provision of all recorded documents affecting the Project site, insofar as any are required by reason of the use or occupancy of
the Project site, and with all Laws pertaining to nondiscrimination and affirmative action in employment and hazardous materials.

10. **Bonds.** As a condition precedent to City’s obligation to pay compensation to Contractor, and on or before the date of Execution, Contractor shall furnish to the Project Manager a Performance Bond (100%) and a Payment Bond (50%) of contract price.

11. **Representations and Warranties.** In the supply of any materials and equipment and the rendering of labor and services during the course and scope of the Project and Work, Contractor represents and warrants:

(1) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be vested in Contractor;

(2) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be merchantable and fit to be used for the particular purpose for which the materials are required;

(3) Any labor and services rendered and materials and equipment used or employed during the course and scope of the Project and Work shall be free of defects in workmanship for a period of one (1) year after the recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder;

(4) Any manufacturer’s warranty obtained by Contractor shall be obtained or shall be deemed obtained by Contractor for and on behalf of City.

(5) Any information submitted by Contractor prior to the award of Contract, or thereafter, upon request, whether or not submitted under a continuing obligation by the terms of the Contract to do so, is true and correct at the time such information is submitted or made available to the City;

(6) Contractor has not colluded, conspired, or agreed, directly or indirectly, with any person in regard to the terms and conditions of Contractor’s Bid, except as may be permitted by the Notice to Contractors;

(7) Contractor has the power and the authority to enter into this Contract with City, that the individual executing this Contract is duly authorized to do so by appropriate resolution, and that this Contract shall be executed, delivered and performed pursuant to the power and authority conferred upon the person or persons authorized to bind Contractor;

(8) Contractor has not made an attempt to exert undue influence with the Project Manager or any other person who has directly contributed to City’s decision to award the Contract to Contractor;

(9) There are no unresolved claims or disputes between Contractor and City which would materially affect Contractor’s ability to perform under the Contract;
(10) Contractor has furnished and will furnish true and accurate statements, records, reports, resolutions, certifications, and other written information as may be requested of Contractor by City from time to time during the term of this Contract;

(11) Contractor and any person performing labor and services under this Project is duly licensed as a contractor with the State of California as required by California Business & Professional Code Section 7028, as amended; and

(12) Contractor has fully examined and inspected the Project site and has full knowledge of the physical conditions of the Project site.

12. **Assignment.** This Contract and the performance required hereunder is personal to Contractor, and it shall not be assigned by Contractor. Any attempted assignment shall be null and void.

13. **Claims of Contractor.** The Contract Price shall only be changed by a Change Order. Any claim for an increase in the Contract Price shall be based on written notice delivered by the CONTRACTOR to the CITY promptly (but in no event later than 30 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within 60 days after such occurrence (unless the CITY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the CONTRACTOR'S written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the CONTRACTOR is entitled as a result of the occurrence of said event.

Extra work ordered on the basis of time and materials will be paid for at the actual necessary cost as determined by the CITY'S REPRESENTATIVE, plus allowances for overhead and profit. For extra work involving a combination of increases and decreases in the WORK the actual necessary cost will be the arithmetic sum of the additive and deductive costs. The allowance for overhead and profit shall include full compensation for superintendence, bond and insurance premiums, taxes, office expense, and all other items of expense or cost not included in the cost of labor, materials, or equipment provided including extended overhead and home office overhead. The allowance for overhead and profit will be made in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Actual Necessary Cost</th>
<th>Overhead and Profit Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor</td>
<td>15percent</td>
</tr>
<tr>
<td>Materials</td>
<td>10percent</td>
</tr>
<tr>
<td>Equipment</td>
<td>10percent</td>
</tr>
<tr>
<td>Subcontractor</td>
<td>5percent</td>
</tr>
</tbody>
</table>

It is understood that labor, materials, and equipment may be furnished by the CONTRACTOR or by the subcontractor on behalf of the CONTRACTOR. When all or any part of the extra work is performed by a subcontractor, the allowance specified herein shall be applied to the labor, materials, and equipment costs of the subcontractor, to
which the CONTRACTOR may add 5 percent of the subcontractor’s total cost for the extra work. Regardless of the number of hierarchical tiers of subcontractors, the 5 percent increase above the subcontractor’s total cost which includes the allowances for overhead and profit specified herein may be applied one time only for each separate work transaction.

14. **Audits by City.** During the term of this Contract and for a period of not less than three (3) years after the expiration or earlier termination of this Contract, City shall have the right to audit Contractor’s Project-related and Work-related writings and business records, as such terms are defined in California Evidence Code Sections 250 and 1271, as amended, during the regular business hours of Contractor, or, if Contractor has no such hours, during the regular business hours of City.

15. **Notices.** All contracts, agreements, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail, postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) days by delivery of a hard copy of the material sent by facsimile transmission, in accordance with (1), (2) or (3) above. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City:  
City of Lathrop  
City Clerk  
390 Towne Centre Drive  
Lathrop, CA 95330

Copy to:  
City of Lathrop  
Department of Public Works  
390 Towne Centre Drive  
Lathrop, CA 95330

(209)941-7430  
FAX: (209) 941-7449  
ATTN: Mary Grace Houlihan  
Principal Engineer
To Contractor: __________________________________________

________________________________________________________________

Phone: __________________________________________

Fax: __________________________________________

ATTN: __________________________________________


(1) Bailee Disclaimer. The parties understand and agree that City does not purport to be Contractor’s bailee, and City is, therefore, not responsible for any damage to the personal property of Contractor.

(2) Consent. Whenever in this Contract the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.

(3) Controlling Law. The parties agree that this Contract shall be governed and construed by and in accordance with the Laws of the State of California.

(4) Definitions. The definitions and terms are as defined in these specifications.

(5) Force Majeure. Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Contract, which directly results from an Act of God or an act of a superior governmental authority.

(6) Headings. The paragraph headings are not a part of this Contract and shall have no effect upon the construction or interpretation of any part of this Contract.

(7) Incorporation of Documents. All documents constituting the Construction Documents described in Section 3 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in this Contract and shall be deemed to be part of this Contract.

(8) Integration. This Contract and any amendments hereto between the parties constitute the entire contract between the parties concerning the Project and Work, and there are no other prior oral or written contracts between the parties that are not incorporated in this Contract.
Modification of Contract. This Contract shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.

Provision. Any contract, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Contract shall define or otherwise control, establish, or limit the performance required or permitted or to be required of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.

Resolution. Contractor shall submit with its Bid a copy of any corporate or partnership resolution or other writing, which authorizes any director, officer or other employee or partner to act for or on behalf of Contractor or which authorizes Contractor to enter into this Contract.

Severability. If a court of competent jurisdiction finds or rules that any provision of this Contract is void or unenforceable, the provisions of this Contract not so affected shall remain in full force and effect.

Status of Contractor. In the exercise of rights and obligations under this Contract, Contractor acts as an independent contractor and not as an agent or employee of City. Contractor shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of City, and Contractor expressly waives any and all claims to such rights and benefits.

Successors and Assigns. The provisions of this Contract shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.

Time of the Essence. Time is of the essence of this Contract and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday, or any Day observed as a legal holiday by City, the time for performance shall be extended to the following Business Day.

Venue. In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.

Recovery of costs. The prevailing party in any action brought to enforce the terms of this Contract or arising out of this Contract, including the enforcement of the indemnity provision(s), may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.
(18) Contractor and subcontractors must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC1368), Executive Order 11738, and Environmental Protection Agency Regulations at 40 CFR Part 15.

(19) Contractors and subcontractors must comply with mandatory standards and policies relating to the energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation ACT (Public Law 94-163, 89 stat 871).

(20) The Contractor shall provide access to the site for the Environmental Protection Agency and its duly authorized representatives, and the City.

(21) If during the course of construction evidence of deposit of historical or archaeological interest is found, the Contractor shall cease operation affecting the find and shall notify the City, who shall notify the EPA and the State Historic Preservation Officer. No further disturbance of the deposits shall ensue until the Contractor has been notified by the City that construction may proceed. The City will issue a notice to proceed only after the state official has surveyed the find and made a determination to the EPA and the City. Compensation to the contractor, if any, for lost time or changes in construction to avoid the find, shall be determined in accordance with changed conditions or change order provisions of the Construction Documents.

(22) Notice to Proceed. Prior to commencing work under this Contract, CONTRACTOR shall receive a written “Notice to Proceed” from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONTRACTOR for any services prior to issuance of the Notice to proceed.

(23) Signatures. The individuals executing this Contract represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Contract on behalf of the respective legal entities of the CONTRACTOR and the CITY. This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

(24) This project is a public works project: Contractor shall comply with requirements of California Labor Code § 1700 and following, and prevailing wages shall be paid for work performed on this project.

(25) The statutory provisions for penalties for failing to comply with the State of California wage and labor laws be enforced, as well as that for failing to pay prevailing wages.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above stated in Lathrop, California.
APPROVED:

__________________________
Stephen J. Salvatore
Interim City Manager

Contractor:

By: __________________________

Name: __________________________
Title: __________________________

APPROVED AS TO FORM:

__________________________
City Attorney

Taxpayer I.D. No. ________________________
Riley Electric
CA LIC. #402413
115 Lupton Street
Manteca, CA 95337

Name / Address
City of Lathrop
Mary Grace Hounihan
399 Teowe Centre Dr.
Lathrop Ca.
95330

<table>
<thead>
<tr>
<th>Description</th>
<th>Qty</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electrical &amp; Lighting COMMUNITY CENTER GYMNASIUM LIGHTING PROJECT: Remove (21) 8' 4 tube fluorescent light fixtures. Install (21) 4' 6 lamp T8 High bay light fixtures with protective wire grid. Parts and Labor Price per week Scissor lift</td>
<td>1</td>
<td>11,500.00</td>
<td>11,500.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>500.00</td>
<td>500.00</td>
</tr>
</tbody>
</table>

Total $12,000.00

Phone # 20981 537561
Attachment C

CONTRACT

This Contract, dated May 21, 2012, is entered into by and between the City of Lathrop, a municipal corporation of the State of California (City), and Relf & Rosato Inc., dba J. H. Simpson Co., (Contractor), whose Taxpayer Identification Number is ________________.

For and in consideration of the following covenants, terms and conditions, City and Contractor (the parties) agree:

1. Term. This Contract shall commence on, and be binding on the parties on, the date of execution of this Contract, and shall expire on the date of recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder, subject to the earlier termination of this Contract.

2. General Scope of Project and Work. Contractor shall furnish labor, services, materials and equipment in connection with the construction of the Project and complete the Work in accordance with the covenants, terms and conditions of this Agreement to the satisfaction of City. The project, hereinafter “Project” is defined by the attached Exhibit “A”. The work, hereinafter “Work” is generally described as follows:

The work to be performed under this contract includes but is not limited to: Disconnect all utilities to the four roof top units, haul away from site and dispose of properly; rebuild the two large unit curbs with a new 2x12 frame and 3/4” plywood, lagged to the existing roof framing; make four new sheet metal cub caps for the unit platforms; set the four new roof top units and anchor them to the curbs; make the necessary ductwork modifications to tie into the new units and all ductwork will be lined with 1 1/2” liner; hook up the existing electrical disconnects and controls; install new seal tight conduit from the rigid conduit to the units as required; hook up the gas and condensate piping for all four units; start up the units and check for proper operation of the systems; one year parts and labor warranty provided regular maintenance is performed; and any task necessary to accomplish the aforementioned tasks.

The Work shall be complete, and all appurtenant work, materials, and services not expressly included in Exhibit “A” which may be necessary for the complete and proper construction of the Work in good faith shall be performed, furnished, and installed by the Contractor as though originally specified or shown. The Contractor will be compensated for work actual work performed in accordance with the prices and provisions contained in Exhibit “A”.

Base Bid Total: $67,655.00

3. Construction Documents. This Agreement shall include the following documents: the Bid submitted by Relf & Rosato Inc., dba J. H. Simpson Co. on May 9, 2012, hereby incorporated as Exhibit “A”.

4. Compensation. In consideration of Contractor’s performance of its obligations hereunder, City shall pay to Contractor the amount set forth in Contractor’s Bid in
accordance with the provisions of this Contract and upon the receipt of written invoices and all necessary supporting documentation within the time set forth in the Construction Documents. Contractor hereby shall not be permitted to invoice the City nor accept compensation for work not yet complete. In no event, shall the Contractor be entitled to payment for work not included in the approved scope of work, a written task order, or change order signed by the City’s Public Works Director prior to commencement of any work.

5. **Insurance.**

A. The CONTRACTOR shall purchase and maintain the insurance required under this paragraph. Such insurance shall include the specific coverages set out herein and be written for not less than the limits of liability and coverages provided in the Construction Documents, or required by law, whichever are greater. All insurance shall be maintained continuously during the life of the Contract up to the date of Substantial Completion/Notice of Completion as applicable, pursuant to acceptance of the WORK by the CITY’S governing body, but the CONTRACTOR’S liabilities under this Contract shall not be deemed limited in any way to the insurance coverage required. The minimum insurance requirements shall be as follows unless modified in the Supplementary General Conditions:

<table>
<thead>
<tr>
<th>Coverage for Which Insurance is Afforded</th>
<th>Limits of Liability</th>
<th>Policy Policy Number*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worker's Compensation &amp; Employer's Liability</td>
<td>Compensation</td>
<td>Statutory</td>
</tr>
<tr>
<td>Bodily Injury Liability except automobile</td>
<td>$1,000,000.00</td>
<td>Each person</td>
</tr>
<tr>
<td></td>
<td>$1,000,000.00</td>
<td>Each occurrence</td>
</tr>
<tr>
<td>Bodily Injury Liability Automobile</td>
<td>$1,000,000.00</td>
<td>Each person</td>
</tr>
<tr>
<td></td>
<td>$1,000,000.00</td>
<td>Each occurrence</td>
</tr>
</tbody>
</table>

* Policy is effective and expires at 12:01 a.m., Standard Time, at the address of the named insured as stated herein.

** Absence of an entry in these spaces means that insurance is not afforded with respect to the coverage’s opposite thereto.
1. The liability policy shall be on a comprehensive form, including but not limited to Broad Form property Damage, Owners and Contractors Protective Liability, Blanket Contractual Liability, and "XCU hazards’ exclusions shall not apply. AUTOS shall include all auto exposure whether owned or non-owned, hired, returned or leased.

2. If the work performed involves the use of mechanical equipment for the purpose of grading of land, excavating, paving or drilling, the policy shall include coverage for liability of the insured for injury to or destruction of wires, conduits, pipes, mains, sewers, or other similar property, or any apparatus in connection therewith, below surface of the ground, whether owned by third parties or the CITY.

3. The policy includes a "Severability of Interest" provision and Cross Liability coverage.

4. If such policies are canceled or changed during the period of coverage as stated herein in such a manner as to affect this Certificate, thirty (30) days’ written notice shall be mailed to the said City of Lathrop.

5. The Contractor shall purchase and maintain the insurance required under this paragraph. Such insurance shall include the specific coverage set out herein and be written for not less than the limits of liability and coverage provided in the General Conditions, or required by law, whichever are greater. All insurance shall be maintained continuously during the life of the Contract up to the date of Substantial Completion or Notice of Completion as applicable, pursuant to acceptance of the Work by the City Council, but the Contractor’s liabilities under this contract shall not be deemed limited in any way to the insurance coverage required.

6. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A: VII

7. It is agreed that the contractual insurance liability coverage does not apply to Bodily Injury or Property Damage to the extent such insurance is afforded by the policy to the indemnitee as an additional insured

8. The coverage afforded under the above policies is subject to all the terms of the policies designated herein and meets all the provisions called for in Paragraph 5.2B

B. The CONTRACTOR shall furnish the CITY with original endorsements at least as broad as CG 20 10 or its equivalent showing the type, amount, class of operations covered, effective dates and dates of expiration of policies. All of the policies of insurance so required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 30 days’ prior
written notice has been given to the CITY by certified mail. All such insurance shall remain in effect until date of Substantial Completion/Notice of Completion and at all times there-after when the CONTRACTOR may be correcting, removing, or replacing defective work in accordance with Paragraph 13.6. In addition, the insurance required herein (except for Worker's Compensation and Employer's Liability) shall name the City of Lathrop, its officials, officers, employees, agents and volunteers, the ENGINEER, and their officers, directors, agents, and employees as "additional insured’s" under the policies.

1. Workers' Compensation and Employer's Liability: This insurance shall protect the CONTRACTOR against all claims under applicable state workers' compensation laws. The CONTRACTOR shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a workers' compensation law. This policy shall include an "all states" endorsement. The CONTRACTOR shall require each subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the CONTRACTOR'S Workers' Compensation Insurance. In case any class of employees is not protected, under the Workers' Compensation Statute, the CONTRACTOR shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of its employees as are not otherwise protected.

2. Comprehensive General Liability: This insurance shall be written in comprehensive form and shall protect the CONTRACTOR against all claims arising from injuries to persons other than its employees or damage to property of the CITY or others arising out of any act or omission of the CONTRACTOR or its agents, employees, or subcontractors. The policy shall also include protection against claims insured by usual personal injury liability coverage, a "protective liability" endorsement to insure the contractual liability assumed by the CONTRACTOR under the indemnification provisions in the General Conditions. To the extent that the CONTRACTOR'S work, or work under its direction, may require blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of buildings, or damage to underground structures.

3. Comprehensive Automobile Liability: This insurance shall be written in comprehensive form and shall protect the CONTRACTOR against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non owned, or hired.

4. Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance: The CONTRACTOR shall either require each of its subcontractors to procure and to maintain Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in the Supplementary General Conditions or insure the
activities of its subcontractors in the CONTRACTOR'S own policy, in like amount.

5. **Builder's Risk:** This insurance shall be of the "all risks" type, shall be written in completed value form, and shall protect the CONTRACTOR, the CITY, and the ENGINEER against risks of damage to buildings, structures, and materials and equipment. The amount of such insurance shall be not less than the insurable value of the WORK at completion. Builder's risk insurance shall provide for losses to be payable to the CONTRACTOR, the CITY, and the ENGINEER as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the CONTRACTOR, the CITY, and the ENGINEER. The Builder's Risk policy shall insure against all risks of direct physical loss or damage to property from any external cause including flood and earthquake. Allowable exclusions, if any, shall be as specified in the Supplementary General Conditions.

6. **Indemnification.** Contractor agrees to protect, defend, indemnify and hold City, its City Council members, officers, employees, and engineer, harmless from and against any and all claims, demands, liabilities, losses, damages, costs, expenses, liens, penalties, suits, or judgments, arising in whole or in part, directly or indirectly, at any time from any injury to or death of persons or damage to property as a result of the willful or negligent act or omission of Contractor, or which results from Contractor's noncompliance with any Law respecting the condition, use, occupation or safety of the Project site, or any part thereof, or which arises from Contractor's failure to do anything required under this Contract or for doing anything which Contractor is required not to do under this Contract, or which arises from conduct for which any Law imposes strict liability on Contractor in the performance of or failure to perform the terms and conditions of this Contract, except as may arise from the sole willful or negligent act or omission of City or any of its City Council members, officers, employees. This indemnification shall extend to any and all claims, demands, or liens made or filed by reason of any construction, renovation, or remodeling work performed by Contractor under this Contract at any time during the term of this Contract, or arising thereafter.

7. **Assumption of Risk.** Contractor agrees to voluntarily assume any and all risk of loss, damage, or injury to the property of Contractor which may occur in, on, or about the Project site at any time and in any manner, excepting such loss, injury, or damage as may be caused by the sole willful or negligent act or omission of City or any of its City Council members, officers, or employees.

8. **Waiver.** The acceptance of any payment or performance, or any part thereof, shall not operate as a waiver by City of its rights under this Contract. A waiver by City of any breach of any part or provision of this Contract by Contractor shall not operate as a waiver or continuing waiver of any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the parties in the administration of any part or provision of this Contract be construed to waive or to lessen
the right of City to insist upon the performance of Contractor in strict compliance with the covenants, terms and conditions of this Contract.

9. Compliance with Laws. Contractor shall comply with all Laws now in force or which may hereafter be in force pertaining to the Project and Work and this Contract, with the requirement of any bond or fire underwriters or other similar body now or hereafter constituted, with any discretionary license or permit issued pursuant to any Law of any public agency or official as well as with any provision of all recorded documents affecting the Project site, insofar as any are required by reason of the use or occupancy of the Project site, and with all Laws pertaining to nondiscrimination and affirmative action in employment and hazardous materials.

10. Bonds. As a condition precedent to City’s obligation to pay compensation to Contractor, and on or before the date of Execution, Contractor shall furnish to the Project Manager a Performance Bond (100%) and a Payment Bond (50%) of contract price.

11. Representations and Warranties. In the supply of any materials and equipment and the rendering of labor and services during the course and scope of the Project and Work, Contractor represents and warrants:

(1) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be vested in Contractor;

(2) Any materials and equipment which shall be used during the course and scope of the Project and Work shall be merchantable and fit to be used for the particular purpose for which the materials are required;

(3) Any labor and services rendered and materials and equipment used or employed during the course and scope of the Project and Work shall be free of defects in workmanship for a period of one (1) year after the recordation of the Notice of Substantial Completion, or, if no such notice is required to be filed, on the date that final payment is made hereunder;

(4) Any manufacturer’s warranty obtained by Contractor shall be obtained or shall be deemed obtained by Contractor for and on behalf of City.

(5) Any information submitted by Contractor prior to the award of Contract, or thereafter, upon request, whether or not submitted under a continuing obligation by the terms of the Contract to do so, is true and correct at the time such information is submitted or made available to the City;

(6) Contractor has not colluded, conspired, or agreed, directly or indirectly, with any person in regard to the terms and conditions of Contractor’s Bid, except as may be permitted by the Notice to Contractors;

(7) Contractor has the power and the authority to enter into this Contract with City, that the individual executing this Contract is duly authorized to do so by appropriate resolution, and that this Contract shall be executed, delivered and
performed pursuant to the power and authority conferred upon the person or persons authorized to bind Contractor;

(8) Contractor has not made an attempt to exert undue influence with the Project Manager or any other person who has directly contributed to City’s decision to award the Contract to Contractor;

(9) There are no unresolved claims or disputes between Contractor and City which would materially affect Contractor’s ability to perform under the Contract;

(10) Contractor has furnished and will furnish true and accurate statements, records, reports, resolutions, certifications, and other written information as may be requested of Contractor by City from time to time during the term of this Contract;

(11) Contractor and any person performing labor and services under this Project is duly licensed as a contractor with the State of California as required by California Business & Professional Code Section 7028, as amended; and

(12) Contractor has fully examined and inspected the Project site and has full knowledge of the physical conditions of the Project site.

12. **Assignment.** This Contract and the performance required hereunder is personal to Contractor, and it shall not be assigned by Contractor. Any attempted assignment shall be null and void.

13. **Claims of Contractor.** The Contract Price shall only be changed by a Change Order. Any claim for an increase in the Contract Price shall be based on written notice delivered by the CONTRACTOR to the CITY promptly (but in no event later than 30 days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within 60 days after such occurrence (unless the CITY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the CONTRACTOR’S written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the CONTRACTOR is entitled as a result of the occurrence of said event.

Extra work ordered on the basis of time and materials will be paid for at the actual necessary cost as determined by the CITY’S REPRESENTATIVE, plus allowances for overhead and profit. For extra work involving a combination of increases and decreases in the WORK the actual necessary cost will be the arithmetic sum of the additive and deductive costs. The allowance for overhead and profit shall include full compensation for superintendence, bond and insurance premiums, taxes, office expense, and all other items of expense or cost not included in the cost of labor, materials, or equipment provided including extended overhead and home office overhead. The allowance for overhead and profit will be made in accordance with the following schedule:
<table>
<thead>
<tr>
<th>Actual Necessary Cost</th>
<th>Overhead and Profit Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor................</td>
<td>15 percent</td>
</tr>
<tr>
<td>Materials .............</td>
<td>10 percent</td>
</tr>
<tr>
<td>Equipment..............</td>
<td>5 percent</td>
</tr>
<tr>
<td>Subcontractor.........</td>
<td></td>
</tr>
</tbody>
</table>

It is understood that labor, materials, and equipment may be furnished by the CONTRACTOR or by the subcontractor on behalf of the CONTRACTOR. When all or any part of the extra work is performed by a subcontractor, the allowance specified herein shall be applied to the labor, materials, and equipment costs of the subcontractor, to which the CONTRACTOR may add 5 percent of the subcontractor’s total cost for the extra work. Regardless of the number of hierarchical tiers of subcontractors, the 5 percent increase above the subcontractor’s total cost which includes the allowances for overhead and profit specified herein may be applied one time only for each separate work transaction.

14. Audits by City. During the term of this Contract and for a period of not less than three (3) years after the expiration or earlier termination of this Contract, City shall have the right to audit Contractor’s Project-related and Work-related writings and business records, as such terms are defined in California Evidence Code Sections 250 and 1271, as amended, during the regular business hours of Contractor, or, if Contractor has no such hours, during the regular business hours of City.

15. Notices. All contracts, agreements, appointments, approvals, authorizations, claims, demands, Change Orders, consents, designations, notices, offers, requests and statements given by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if (1) personally served, (2) sent by the United States mail, postage prepaid, (3) sent by private express delivery service, or (4) in the case of a facsimile transmission, if sent to the telephone FAX number set forth below during regular business hours of the receiving party and followed with two (2) days by delivery of a hard copy of the material sent by facsimile transmission, in accordance with (1), (2) or (3) above. Personal service shall include, without limitation, service by delivery and service by facsimile transmission.

To City:
City of Lathrop
City Clerk
390 Towne Centre Drive
Lathrop, CA 95330
16. **Miscellaneous.**

   (1) **Bailee Disclaimer.** The parties understand and agree that City does not purport to be Contractor’s bailee, and City is, therefore, not responsible for any damage to the personal property of Contractor.

   (2) **Consent.** Whenever in this Contract the approval or consent of a party is required, such approval or consent shall be in writing and shall be executed by a person having the express authority to grant such approval or consent.

   (3) **Controlling Law.** The parties agree that this Contract shall be governed and construed by and in accordance with the Laws of the State of California.

   (4) **Definitions.** The definitions and terms are as defined in these specifications.

   (5) **Force Majeure.** Neither party shall be deemed to be in default on account of any delay or failure to perform its obligations under this Contract, which directly results from an Act of God or an act of a superior governmental authority.

   (6) **Headings.** The paragraph headings are not part of this Contract and shall have no effect upon the construction or interpretation of any part of this Contract.
(7) Incorporation of Documents. All documents constituting the Construction Documents described in Section 3 hereof and all documents which may, from time to time, be referred to in any duly executed amendment hereto are by such reference incorporated in this Contract and shall be deemed to be part of this Contract.

(8) Integration. This Contract and any amendments hereto between the parties constitute the entire contract between the parties concerning the Project and Work, and there are no other prior oral or written contracts between the parties that are not incorporated in this Contract.

(9) Modification of Contract. This Contract shall not be modified or be binding upon the parties unless such modification is agreed to in writing and signed by the parties.

(10) Provision. Any contract, covenant, condition, clause, qualification, restriction, reservation, term or other stipulation in the Contract shall define or otherwise control, establish, or limit the performance required or permitted or to be required of or permitted by either party. All provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.

(11) Resolution. Contractor shall submit with its Bid a copy of any corporate or partnership resolution or other writing, which authorizes any director, officer or other employee or partner to act for or on behalf of Contractor or which authorizes Contractor to enter into this Contract.

(12) Severability. If a court of competent jurisdiction finds or rules that any provision of this Contract is void or unenforceable, the provisions of this Contract not so affected shall remain in full force and effect.

(13) Status of Contractor. In the exercise of rights and obligations under this Contract, Contractor acts as an independent contractor and not as an agent or employee of City. Contractor shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of City, and Contractor expressly waives any and all claims to such rights and benefits.

(14) Successors and Assigns. The provisions of this Contract shall inure to the benefit of, and shall apply to and bind, the successors and assigns of the parties.

(15) Time of the Essence. Time is of the essence of this Contract and each of its provisions. In the calculation of time hereunder, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. If the time in which an act is to be performed falls on a Saturday, Sunday, or any Day observed as a legal holiday by City, the time for performance shall be extended to the following Business Day.
(16) Venue. In the event that suit is brought by either party hereunder, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Joaquin or in the United States District Court for the Eastern District of California.

(17) Recovery of costs. The prevailing party in any action brought to enforce the terms of this Contract or arising out of this Contract, including the enforcement of the indemnity provision(s), may recover its reasonable costs, including reasonable attorney's fees, incurred or expended in connection with such action against the non-prevailing party.

(18) Contractor and subcontractors must comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC1368), Executive Order 11738, and Environmental Protection Agency Regulations at 40 CFR Part 15.

(19) Contractors and subcontractors must comply with mandatory standards and policies relating to the energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation ACT (Public Law 94-163, 89 stat 871).

(20) The Contractor shall provide access to the site for the Environmental Protection Agency and its duly authorized representatives, and the City.

(21) If during the course of construction evidence of deposit of historical or archaeological interest is found, the Contractor shall cease operation affecting the find and shall notify the City, who shall notify the EPA and the State Historic Preservation Officer. No further disturbance of the deposits shall ensue until the Contractor has been notified by the City that construction may proceed. The City will issue a notice to proceed only after the state official has surveyed the find and made a determination to the EPA and the City. Compensation to the contractor, if any, for lost time or changes in construction to avoid the find, shall be determined in accordance with changed conditions or change order provisions of the Construction Documents.

(22) Notice to Proceed. Prior to commencing work under this Contract, CONTRACTOR shall receive a written "Notice to Proceed" from CITY. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay CONTRACTOR for any services prior to issuance of the Notice to proceed.

(23) Signatures. The individuals executing this Contract represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Contract on behalf of the respective legal entities of the CONTRACTOR and the CITY. This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
(24) This project is a public works project: Contractor shall comply with requirements of California Labor Code § 1700 and following, and prevailing wages shall be paid for work performed on this project.

(25) The statutory provisions for penalties for failing to comply with the State of California wage and labor laws be enforced, as well as that for failing to pay prevailing wages.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above stated in Lathrop, California.

APPROVED:  

__________________________________________  Contractor:

By: ____________________________

Stephen J. Salvatore  
Interim City Manager

Name: ____________________________

Title: ____________________________

APPROVED AS TO FORM:  

______________________________  Taxpayer I.D. No. ____________________________

City Attorney
May 9, 2012

City of Lathrop
390 Towne Centre Drive
Lathrop, Ca. 95330

Attention: Mary Grace Houlihan

Subject: Community Center HVAC Replacement

Mary Grace:

We are pleased to submit our quotation on the above referenced project. It is as follows:

We propose to replace four roof top HVAC units to include the following:

1. We will disconnect all utilities to the four roof top units and haul away from the site and dispose of properly.
2. We will rebuild the two large unit curbs with a new 2 x 12 frame and ¾” plywood, the new curbs will be lagged the existing roof framing.
3. We will make four new sheet metal curb caps for the unit platforms.
4. Set the four new roof top units and anchor them to the curbs.
5. Make the necessary ductwork modifications to tie into the new units and all ductwork will be lined with 1 ½ “liner.
6. Hook up the existing electrical disconnects and controls. We will install new seal tight conduit from the rigid conduit to the units as required.
7. Hook up the gas and condensate piping for all four units.
8. Start up the units and check for proper operation of the systems.
9. A one year parts and labor warrantee is included provided the maintenance is done on a regular basis.

**OUR PRICE - $67,655.00**

Qualifications: We exclude the following from our scope of work:

- Premium rates or overtime rates.
- Permits or permit fees.
- Structural engineering.
- Roof repair for the new curbs.
- Dry rot repair.
- Balancing of the systems replaced.
- VFD’s or convenience outlets on the units.
- Painting prime or finish.

Respectfully submitted,

**Mark Leiting**
Mark Leiting
J.H. Simpson Company, Inc.