

ITEM 4.9

CITY MANAGER'S REPORT JANUARY 8, 2024 CITY COUNCIL REGULAR MEETING

ITEM: **APPROVE PROJECT FUNDING AGREEMENT WITH LATHROP MOSSDALE INVESTORS, LP ASSOCIATED WITH CIP WW 20-17, SURFACE WATER DISCHARGE, AND APPROVE A QUITCLAIM DEED TO TRANSFER OWNERSHIP OF REAL PROPERTY TO K. HOVNANIAN HOMES**

RECOMMENDATION: **Adopt Resolution Approving a Project Funding Agreement with Lathrop Mossdale Investors, LP associated with CIP WW 20-17, Surface Water Discharge and Approve a Quitclaim Deed to Transfer Ownership of Real Property (APN: 191-190-32) to K. Hovnanian Homes**

SUMMARY:

On January 27th, 2003, Council approved the Vesting Tentative Map (VTM) for Tract 3225 (Tract 3225) by Resolution No. 03-1382. The developer, Lathrop Mossdale Investors, LP (LMI), was required, in the City Manager's Report for the approval of Tract 3225 (CMR), to use the Low Density Residential area (S1) of Tract 3225 as recycled water storage ponds (Pond) until a river discharge permit was obtained from the Regional Water Quality Control Board (RWQCB).

Pursuant to the approval for Tact 3225, LMI transferred title to Pond (S1), as depicted in Attachment "B", and retained a reversionary right to regain title to the land when it is no longer needed by the City as a storage pond. The conditions of approval for Tract 3225 also specify that final maps for Pond S1 cannot be approved until alternative disposal area can be found for the Pond.

LMI has agreed to fund a portion of the Surface Water Discharge Project (Project) in the amount of \$975,035 for the pro-rata share of the S1 pond to replace the disposal capacity provided by the S1 pond in the amount of 224,580 gallons per day as detailed in the Project Funding Agreement for the City's Project Costs Related to the Surface Water Discharge Project CIP WW 20-17 (Funding Agreement), included as Attachment "D". The City has now received the permit from RWQCB to discharge highly treated wastewater into the San Joaquin River and the Surface Water Discharge Project (Project) is operational. LMI has requested that the City Council find that the S1 Pond site is no longer needed by the City for storage and transfer the S1 Pond site to K. Hovnanian Homes for future development.

Staff requests Council approve the Funding Agreement with LMI and a Quitclaim deed, included as Attachment "E", to transfer ownership of real property (APN: 191-190-32) to K. Hovnanian Homes upon receipt of funds for pro-rata share of the Project.

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JANUARY 8, 2024 CITY COUNCIL REGULAR MEETING
APPROVE PROJECT FUNDING AGREEMENT WITH LATHROP MOSSDALE
INVESTORS, LP ASSOCIATED WITH CIP WW 20-17, SURFACE WATER
DISCHARGE, AND APPROVE A QUITCLAIM DEED TO TRANSFER OWNERSHIP
OF REAL PROPERTY TO K. HOVNANIAN HOMES

BACKGROUND:

On January 27th, 2003, Council and Planning commission approved the Mossdale Landing Project entitlements, which included the compliance with California Environmental Quality Act (CEQA) and adoption of Urban Design Concept (UDC), VTM for Tract 3142, VTM for Tract 3225, included as Attachment "C", and a Development Agreement for the Mossdale Landing Project (DA).

The UDC outlined the need for Ponds for the Mossdale Landing Project. Wastewater treated at the Consolidated Treatment Facility (CTF) would be sent back to the Mossdale Landing Area and stored in the Ponds until the water was used for landscape irrigation.

LMI has agreed to fund a portion of the Surface Water Discharge Project (Project) in the amount of \$975,035 for the pro-rata share of the S1 pond to replace the disposal capacity provided by the S1 pond in the amount of 224,580 gallons per day as detailed in the Project Funding Agreement for the City's Project Costs Related to the Surface Water Discharge Project CIP WW 20-17 (Funding Agreement), included as Attachment "D". The City has now received the permit from RWQCB to discharge highly treated wastewater into the San Joaquin River and the Surface Water Discharge Project (Project) is operational. LMI has requested that the City Council find that the S1 Pond site is no longer needed by the City for storage and transfer the S1 Pond site to K. Hovnanian Homes for future development.

As a precondition to record the Quit Claim Deed, LMI must satisfy the Escrow Instructions, included as Attachment "F", by depositing the necessary sums to complete payment of the their share of the Project and providing required documents.

REASON FOR RECOMMENDATION:

LMI has agreed to pay the Pond S1 share of the Surface Water Discharge Project and has requested the City transfer the Pond S1 site to K.Hovnanian Homes upon LMI's deposit of \$975,035. K Hovnanian Homes plans to develop the land into 66 single family homes.

FISCAL IMPACT:

There is no cost to the City to execute the deed. Savings should be expected due to a decrease in maintenance costs for Pond S1. All costs for City staff time will be paid by LMI.

JANUARY 8, 2024 CITY COUNCIL REGULAR MEETING

APPROVE PROJECT FUNDING AGREEMENT WITH LATHROP MOSSDALE INVESTORS, LP ASSOCIATED WITH CIP WW 20-17, SURFACE WATER DISCHARGE, AND APPROVE A QUITCLAIM DEED TO TRANSFER OWNERSHIP OF REAL PROPERTY TO K. HOVNANIAN HOMES

ATTACHMENTS:

- A. Resolution Approving a Project Funding Agreement with Lathrop Mossdale Investors, LP Associated with CIP WW 20-17, Surface Water Discharge, and a Quitclaim Deed to Transfer Ownership of Real Property (APN: 191-190-32) to K. Hovnanian Homes
- B. Vicinity Map of Ponds S1
- C. Vesting Tentative Map - Tract 3225
- D. Project Funding Agreement for the City's Project Costs Related to the Surface Water Discharge Project CIP WW 20-17
- E. Draft Quitclaim Deed from City to K. Hovnanian Homes
- F. Escrow Instructions for Recordation of Quitclaim Deed

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INVESTORS, LP ASSOCIATED WITH CIP WW 20-17, SURFACE WATER
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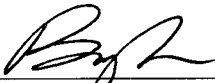
APPROVALS



Bellal Nabizadah
Assistant Engineer

12/21/23

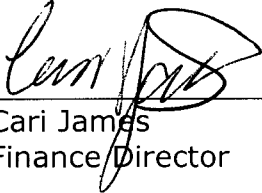
Date



Brad Taylor
City Engineer

12/21/2023

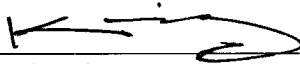
Date



Cari James
Finance Director

12/21/2023

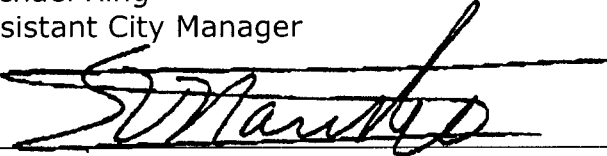
Date



Michael King
Assistant City Manager

12.26.2023

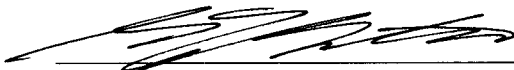
Date



Salvador Navarrete
City Attorney

12/21/2023

Date



Stephen J. Salvatore
City Manager

1/3/23

Date

RESOLUTION NO. 24-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING A PROJECT FUNDING AGREEMENT WITH LATHROP MOSSDALE INVESTORS, LP ASSOCIATED WITH CIP WW 20-17, SURFACE WATER DISCHARGE, AND A QUITCLAIM DEED TO TRANSFER OWNERSHIP OF REAL PROPERTY (APN: 191-190-32) TO K. HOVNIANIAN HOMES

WHEREAS, on January 27th, 2003, Council and Planning commission approved the Mossdale Landing Project entitlements, which included the compliance with California Environmental Quality Act (CEQA) and adoption of Urban Design Concept (UDC), Vesting Tentative Map (VTM) for Tract 3142, VTM for Tract 3225 (Tract 3225) included as Attachment "C" to the City Manager's Report, and the Development Agreement for the Mossdale Landing Project (DA); and

WHEREAS, the UDC outlined the need for recycled water storage ponds (Ponds) for the Mossdale Landing Project. Wastewater that has been treated at the Consolidated Treatment Facility (CTF) would be sent back to the Mossdale Landing Area and stored in the Ponds until the water was used for landscape irrigation; and

WHEREAS, Lathrop Mossdale Investors, LP (LMI), the developer for Tract 3225, has agreed to fund a portion of the Surface Water Discharge Project (Project) in the amount of \$975,035 for the pro-rata share of the S1 pond to replace the disposal capacity provided by the S1 pond in the amount of 224,580 gallons per day as detailed in the Project Funding Agreement for the City's Project Costs Related to the Surface Water Discharge Project CIP WW 20-17 (Funding Agreement), included as Attachment "D" to the City Manager's Report that accompanied this Resolution; and

WHEREAS, the City has now received the permit from RWQCB to discharge highly treated wastewater into the San Joaquin River and the Surface Water Discharge Project (Project) is operational; and

WHEREAS, LMI has requested that the City Council find that the S1 Pond site is no longer needed by the City for storage and transfer the S1 Pond site to K. Hovnianian Homes for future development; and

WHEREAS, as a precondition to record the Quit Claim Deed, LMI must satisfy the Escrow Instructions, included as Attachment "F", by depositing the necessary sums to complete payment of the their share of the Project and providing required documents; and

WHEREAS, staff recommends Council approve the Project Funding Agreement for CIP WW 20-17, Surface Water Discharge, and the proposed Quitclaim Deed to transfer ownership of real property (APN 191-190-32) to K. Hovnianian Homes upon deposit of \$975,035 by LMI.

NOW, BE IT RESOLVED, by the City Council of the City of Lathrop does hereby approve the Project Funding Agreement with LMI for CIP WW 20-17, Surface Water Discharge, included as Attachment "D" to the City Manager's Report that accompanied this Resolution; and

BE IT FURTHER RESOLVED, by the City Council of the City of Lathrop does hereby approve the use of the funding amount of \$975,035 towards the Project, therefore, LMI is entitled to request the City to transfer S1 pond site to its designee, K. Hovnanian Homes; and

BE IT FURTHER RESOLVED, by the City Council of the City of Lathrop does hereby authorize the City Manager to execute the proposed Quitclaim Deed to transfer ownership of the S1 Pond site to K. Hovnanian Homes, included as Attachment "E" to the City Manager's Report that accompanies this Resolution.

PASSED AND ADOPTED by the City Council of the City of Lathrop this 8th day of January 2024 by the following vote:

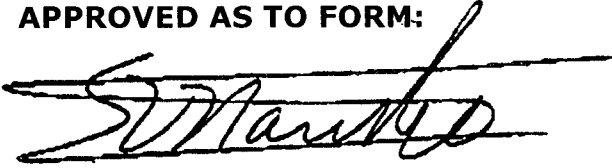
AYES:
NOES:
ABSTAIN:
ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

Teresa Vargas
City Clerk

APPROVED AS TO FORM:



Salvador Navarrete
City Attorney

Attachment "B"

Vicinity Map for S1



**PROJECT FUNDING AGREEMENT BY AND BETWEEN THE CITY OF LATHROP,
A MUNICIPAL CORPORATION OF THE STATE OF CALIFORNIA AND
LATHROP MOSSDALE INVESTORS LP FOR
THE CITY'S PROJECT COSTS RELATED TO THE
SURFACE WATER DISCHARGE PROJECT CIP WW 20-17**

This Project Funding Agreement (the "Agreement") is made and entered into this ____ day of January, 2024 ("Execution Date"), by and between the CITY OF LATHROP, a municipal corporation (hereinafter "CITY") and Lathrop Mossdale Investors LP, a California limited partnership (hereinafter "DEVELOPER"). The CITY and DEVELOPER are referred to herein individually as "party" and collectively as the "parties." The Effective Date shall be the date upon which both DEVELOPER and CITY execute this Agreement.

RECITALS

- A. CITY currently operates the Lathrop Consolidated Treatment Facility ("LCTF"). CITY, DEVELOPER, and the Other Developers have modified the LCTF and constructed a pipeline to dispose of highly treated effluent ("Recycled Water") from the LCTF via a surface water discharge to the San Joaquin River (the "River"). This included acquisition of a National Pollutant Discharge Elimination System ("NPDES") permit from the Central Valley Regional Water Quality Control Board ("CVRWQCB") plus permits from several other State of California and Federal agencies to construct the pipeline.
- B. The Surface Water Discharge Project CIP WW 20-17 (the "Project") was designed to deliver recycled water to the River and included the construction of improvements at the LCTF to de-chlorinate the recycled water, construction of a pipeline from the LCTF to and over the River levee, and construction of an outfall structure within the River.
- C. As a condition of receiving the NPDES permit, the RWQCB will require CITY to maximize use of recycled water for urban irrigation, including parks and street landscaping. The Project costs therefore include the cost of permanent storage ponds to allow the recycled water system to operate when the city is built-out. This Agreement was created because DEVELOPER requested CITY to deed the Pond S1 parcel, as described in Exhibit B ("Pond S1"), to DEVELOPER's authorized designee, K. Hovnanian Homes Northern California, Inc., a California corporation ("Hovnanian"), in exchange for DEVELOPER funding the Pond S1 share of the Project. If DEVELOPER chooses to not pay the Pond S1 share of the Project, Pond S1 will be retained by the City for continued use in the Project until such time as DEVELOPER pays their share of the Project.
- D. Once DEVELOPER'S S1 Pond share of the Project Costs (as defined below) have been paid by DEVELOPER in accordance with Exhibit A, then development within the S1 Pond parcel shall not pay any future wastewater disposal fees or charges towards the Project on future building permits to the extent DEVELOPER acquires and retains surface water discharge disposal capacity with this Agreement.

- E. CITY, with funding from CITY sewer connection fees, contracted for the design, permitting and construction of the Project. The cost for this work, as detailed in Section 2 of this Agreement, comprises the total funding obligation of all stakeholders participating in the Project.
- F. DEVELOPER, as well as the other stakeholders who have requested capacity in the Project, is required to fund their pro-rata share of the design, permitting, program management, CEQA preparation and construction as detailed in the attached Exhibit A and under the terms and conditions of this Agreement.
- G. CITY has already completed construction of the Project, and CITY has temporarily advanced DEVELOPER's share of Project Costs. DEVELOPER's full payment of DEVELOPER's pro-rata Project Costs for Pond S1 shall be placed in escrow with First American Title Company ("Escrow") with Quit Claim deed attached hereto as Exhibit C (the "Deed") from the City to Hovnanian with irrevocable escrow instructions attached hereto as Exhibit D (the "Escrow Instructions") for the S1 Pond parcel after City Council approval of this Agreement.
- H. CITY has been given approval to operate the Project by CVRWQCB, and the CVRWQCB waste discharge permit has been amended to remove the need for certain storage ponds and spray fields as noted in Exhibit A, and allowing the ponds and spray fields to be used for development purposes. Once DEVELOPER deposits its share of the Pond S1 Project Costs into Escrow, Escrow will record the Deed in accordance with the Escrow Instructions.
- I. If the closing occurs between DEVELOPER and Hovnanian as set forth in the Escrow Instructions, then any costs required to remove constructed facilities on S1 Pond will be paid solely by Hovnanian; provided, however, if the closing between DEVELOPER and Hovnanian fails to occur, then Hovnanian shall have no obligation to pay any costs arising under this Agreement. Pond S1 will be transferred in "As Is" condition.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, CITY and DEVELOPER hereby agree as follows:

AGREEMENT

1. Incorporation of Recitals. The parties agree that the foregoing Recitals are true and correct, and are incorporated as a part of this Agreement as if set forth in full herein.
2. Pond S1 Pro-Rata Share. DEVELOPER agrees to provide Nine Hundred Seventy-Five Thousand, Thirty-Five Dollars and Zero Cents (\$975,035.00) in Escrow as the Pond S1 pro-rata share of the total Project Costs as detailed in Exhibit A. This amount must be provided in Escrow after City Council approval of this Agreement. If Council rejects this Agreement, the deposited Pond S1 pro-rata share of total Project Costs will be returned to DEVELOPER.

3. Default.

- a. If any party materially breaches or fails to comply with any of its obligations under this Agreement, such breaching party shall have thirty (30) days after receipt of written notice of breach from a non-defaulting party (the "Breach Notice") to cure such breach or noncompliance (as such period may be extended as set forth below, the "Cure Period"). If such breaching party does not cure such breach or noncompliance within the Cure Period, it shall be deemed in default ("Default") under this Agreement; provided, however, that if the nature of the breach or noncompliance reasonably requires more than thirty (30) days to cure, the breaching party shall not be in Default under this Agreement so long as the breaching party commences such cure within the Cure Period and diligently prosecutes such cure, and provided further that the Breach Notice shall set forth in reasonable detail the nature of the breach, noncompliance or default, as the case may be.
 - b. Subject to the provisions of Section 4(c) below, upon a Default pursuant to Section 4(a), the parties shall first mediate the dispute in good faith using a mutually acceptable mediator, which mediation shall be scheduled and concluded not later than 60 days after expiration of the Cure Period. The mediation shall be conducted in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Claims, controversies or disputes not resolved by mediation shall be decided by binding arbitration unless the parties mutually agree otherwise. Arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party and the American Arbitration Association. Notwithstanding the foregoing, any party may seek injunctive or other immediate equitable relief, if applicable, in a court of law, pending resolution of the dispute through mediation or arbitration.
 - c. Notwithstanding the foregoing, in the event of a payment default hereunder that is not cured within ten (10) business days after any DEVELOPER's receipt of a Breach Notice from CITY:
 - (i) CITY may immediately suspend such Developer's ability to use its discharge capacity; and
 - (ii) CITY may sell such Developer's discharge capacity to repay Developers that funded the Project Costs.
5. Counterparts. This Agreement may be executed in counterparts, including electronic (pdf) and facsimile counterparts, each of which shall be considered an original and all of which together shall be considered the same document.
6. Advice of Counsel. Each of the parties has received the advice of legal counsel prior to signing this Agreement. Each party acknowledges no other party or agent or attorney has made a promise, representation, or warranty whatsoever, express or implied, not contained herein concerning the subject matter herein to induce another party to execute this Agreement. The parties agree no provision or provisions may be subject to any rules of construction based upon any party being considered the party drafting this Agreement.
7. Governing Law. The validity, interpretation and effect of this Agreement are governed by and shall be construed in accordance with the laws of the State of California.

8. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable but the remainder of the Agreement can be enforced without failure of material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect. If, however, the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, all parties shall meet and negotiate in good faith not less frequently than every ten (10) days and formulate new terms that substitute the stricken clause with other provisions that provide substantially similar terms as the stricken clause. If the parties are unable to agree, then the parties shall resolve the issues through mediation as set forth in Section 11.b.
9. Authorization. Without any personal liability therefor, each person executing this Agreement on behalf of the applicable party hereto warrants that (i) such party is duly organized and existing, (ii) such person has been duly authorized to execute and deliver this Agreement on behalf of the applicable party, (iii) the execution of this Agreement by such person shall bind the applicable party to the terms of this Agreement, and (iv) to such person's knowledge, the execution of this Agreement does not violate any agreement as to which such party is bound. CITY represents and warrants that CITY has obtained any necessary approvals to execute this Agreement and be bound by the terms hereof.
10. Other Agreements Not Affected. This Agreement constitutes the entire agreement between the parties hereto with respect to the Project Costs and supersedes all prior understandings or agreements with respect to the subject matter hereof. This Agreement may be modified only by specific reference describing a mutual intent and agreement to amend this Agreement in written documents signed by all parties hereto.
11. Notices. All notices which are allowed or required to be given hereunder shall be in writing and (i) shall be deemed given and received when personally delivered or (ii) shall be deemed given when the same are deposited in the United States Mail, with sufficient postage prepaid, to be sent by registered or certified mail or overnight mail service, addressed to the designated person by one party to another in writing, and shall be deemed received on the fourth business day after such mailing. Any notice shall be given to all of the following:

CITY

City of Lathrop
390 Towne Centre Drive
Lathrop, CA 95330
Attn. City Manager
With a copy to:
City of Lathrop
390 Towne Centre Drive
Lathrop, CA 95330
Attn: City Attorney

DEVELOPER

Lathrop Mossdale Investors, LP
1480 Moraga Road, STE C #421
Moraga, CA 94556
Attn: Bruce Myers

12. Further Assurances. The parties agree to perform such further acts and to execute and deliver such further instruments as are reasonably necessary to accomplish the intent and purpose of this Agreement.
13. Assignment and Transfer. This Agreement shall inure to the benefit of and bind the successors and permitted assigns of the parties. Except for an assignment to an Affiliate (defined below) of a Developer, no Developer may assign this Agreement without the prior written consent of CITY, which shall not be unreasonably withheld, conditioned or delayed. Without limiting the foregoing, prior to any Developer assignment, (i) the assigning Developer shall notify CITY of the proposed assignment and provide reasonable information to CITY regarding the proposed assignee and (ii) any potential assignee must reasonably demonstrate to the CITY's satisfaction that the proposed assignee has the financial ability and experience to fulfill the assigning Developer's obligations under this Agreement. Any Developer may assign this Agreement to an Affiliate, with notice to the other parties hereto. As used herein, the term "Affiliate" means any person, entity or organization as to which any Developer has a controlling interest. As used herein, "controlling interest" means the right to control the management decisions of such person or entity, whether by contract or otherwise.
14. Time of the Essence. Time is of the essence of this Agreement.
15. Construction. All parties have been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision(s) to which they pertain.
16. No Joint Venture or Partnership. Nothing in this Agreement or in any document executed in connection with this Agreement shall be construed as creating a joint venture, partnership, or any agency relationship between CITY and DEVELOPER or all Developers.
17. Waiver. No waiver of any provision of this Agreement shall be effective unless such waiver is in writing and signed by a duly authorized representative of the party against whom enforcement is sought.
18. Table of Exhibits. The following exhibits are attached hereto and made a part hereof:
 - Exhibit A: Discharge Capacities, Project Costs, Reimbursements, Developer's Share and Land Available for Return to Developers
 - Exhibit B: Legal Description of Property to be Deeded to Developer
 - Exhibit C: Quitclaim Deed
 - Exhibit D: Escrow Instructions

[signatures on following pages]

In witness whereof, the CITY and DEVELOPER have executed this Agreement as of the date first written above.

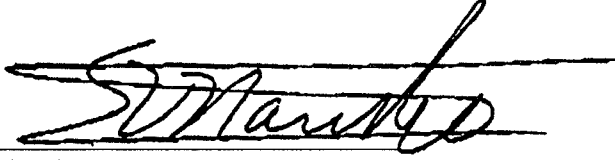
CITY OF LATHROP,
a Municipal Corporation of the State of California

BY: _____
Stephen J. Salvatore
City Manager

ATTEST:

BY: _____
Teresa Vargas
City Clerk

APPROVED AS TO FORM BY THE CITY OF LATHROP CITY ATTORNEY:

BY: 
Salvador V. Navarrete
City Attorney

LATHROP MOSSDALE INVESTORS LP
a California limited partnership (DEVELOPER)

BY: Lathrop Mossdale Ventures Inc.,
a California corporation
Its: General Partner

BY: _____
Bruce Myers
Vice President/Secretary

EXHIBIT A
("Project Costs")

Surface Water Discharge Capacity Allocated

River Islands	65.2%	2,843,719.	gpd
Saybrook CLSP, LLC	9.8%	427,255.	gpd
Richland (Crossroads)	7.6%	330,000.	gpd
Lathrop Mossdale Investors, LP (S1)	5.13%	224,580.	gpd
Lathrop Mossdale Investors, LP (S2)	2.67%	116,883.	gpd
City of Lathrop	9.5%	414,287.	gpd
Total	100 %	4,357,724.	gpd

Project ESTIMATED Costs

1) Permitting & Environmental	\$927,979.
2) CEQA	\$675,622.
3) Improvements at the CTF	\$ 4,385,327.
4) Construction of a pipeline to the river	\$ 4,030,756.
5) Design, construction management, etc.	\$ 2,436,568.
6) Miscellaneous (Fees)	\$ 24,129.
7) Reimbursements	\$ 6,515,399.
Total Estimated Project Cost	\$18,995,780.

Credits Due for Advance Funding of Consultant Work awarded by City

River Islands: Robertson-Bryan contract	\$ 74,939.	Contract awarded Jan 14, 2019
River Islands: Ascent Environmental	\$ 91,287.	Contract awarded June 10, 2019
Total Credits	\$166,226.	

Reimbursements Due

River Islands	Pond S5	\$1,001,800.	(pond not returned to RI)
	Pond S16	\$4,083,716	(pond not returned to RI)
	RW Pipe to S16	\$ 886,000.	
	Pipeline/land for Project	\$ 90,133.	(pipeline not returned to RI)
	Total RI Reimbursement	\$6,061,649.	
City	Pipeline for Project	\$ 453,750.	
	Total Reimbursements	\$6,515,399	

Developer’s Share of Project Costs

River Islands	65.2%	\$12,385,248.56
Saybrook CLSP, LLC	9.8%	\$1,861,586.44
Richland (Crossroads)	7.6%	\$1,443,679.28
Lathrop Mossdale Investors LP (S1)	5.13%	\$975,035
Lathrop Mossdale Investors LP (S2)	2.67%	\$506,635.84
City of Lathrop	9.6%	\$1,823,594.88
Total Project Costs	100 %	\$18,995,780.

River Islands Cash Due

\$12,385,248.56	River Islands share of Project
-\$6,061,649.	River Islands Reimbursements Due
- \$166,226.	River Islands Credit for Advance Funding of Studies
\$6,157,373.56	River Islands Cash Due to Build Project

Lands Available for Return to Developers

	<u>LLA/Pond</u>	<u>Acres</u>		
River Islands	LAA A28	10	(LAA = land application area)	
	LAA A30	35		
	LAA A31	95		
	LAA A34	48		
	LAA A35	50		(includes A35, A35b and A35c)
	LAA A32	27		(guaranteed but not yet built)
Saybrook CLSP, LLC	Pond S28	8		
	LLA A36	29		
	LLA A37	38		
	Pond S29	0	(former LAA, pond guaranteed but not yet built)	
	LAA A37	10	(guaranteed but not yet built)	
	LAA A38	9	(guaranteed but not yet built)	
Richland	PB-1	23	(PB = Percolation Basin)	
LMI, LP	Pond S1	13.26	APN 191-190-32	
LMI, LP	Pond S2	6.89	APN 191-190-33	
City of Lathrop	LAA Axx	20	(acquired/designed but not yet built)	
Total Land to be Returned		402.15	Acres	

EXHIBIT B

(“Legal Description of Property to be Deeded to Developer”)

Real property in the City of Lathrop, County of San Joaquin, State of California, described as follows:

THAT PORTION OF THAT CERTAIN REAL PROPERTY GRANTED TO LATHROP MOSSDALE INVESTORS LP, RECORDED ON THE 23RD DAY OF OCTOBER, 2003 AS INSTRUMENT NUMBER 2003-244446, SAN JOAQUIN COUNTY RECORDS SITUATED IN THE CITY OF LATHROP, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY BOUNDARY OF SAID PARCEL (2003-244446), FROM WHICH THE SOUTHWEST CORNER OF SAID PARCEL (2003-244446) BEARS NORTH 89° 06' 50" WEST, 28.03 FEET; THENCE FROM SAID POINT OF BEGINNING ALONG THE FOLLOWING 6 COURSES:

1. ALONG A LINE, PARALLEL WITH THE WESTERLY BOUNDARY OF SAID PARCEL (2003-244446) AND LYING 28.00 FEET EASTERLY, NORTH 01° 50' 13" WEST, 884.52 FEET;

2. THENCE TO THE RIGHT, ALONG THE ARC OF A 20.00 RADIUS CURVE, HAVING A CENTRAL ANGLE OF 98° 56' 08" AND AN ARC LENGTH OF 34.54 FEET;

3. THENCE ALONG A LINE, PARALLEL WITH THE NORTHERLY BOUNDARY OF SAID PARCEL (2003-244446) AND LYING 35.00 FEET SOUTHERLY, SOUTH 82° 54' 05" EAST, 686.12 FEET;

4. THENCE LEAVING SAID PARALLEL LINE SOUTH 37° 44' 17" EAST, 42.55 FEET;

5. THENCE SOUTH 07° 25' 30" WEST, 802.08 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF SAID PARCEL (2003-244446);

6. THENCE ALONG SAID SOUTHERLY BOUNDARY, NORTH 89° 06' 50" WEST, 597.43 FEET TO THE POINT OF BEGINNING.

APN: 191-190-32

EXHIBIT C
(“Quit Claim Deed”)

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

ATTACHMENT " E "

CITY OF LATHROP, a municipal corporation

CITY OF LATHROP
CITY CLERK
390 TOWNE CENTRE DRIVE
LATHROP, CA 95330

[SPACE ABOVE THIS LINE FOR RECORDER'S USE.]

APNs: 191-190-32

**QUITCLAIM DEED
FOR THE ABOVE-LISTED APN**

THE UNDERSIGNED GRANTOR(S) DECLARE

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
THE CITY OF LATHROP, A MUNICIPAL CORPORATION

does hereby remise, release and forever quitclaim to K. Hovnanian Homes Northern California,
Inc.

all ownership and all other rights to that property located in the County of San Joaquin, State of
California described on **Exhibit A** attached hereto.

This Quitclaim Deed is executed and delivered by Grantor pursuant to Resolution No. 24 - _____
of the City Council of Lathrop, approved on January 8, 2024, the executed copy will be filed with
City's Clerk's Office.

[Signature pages follow]

GRANTOR:

CITY OF LATHROP,
a California municipal corporation

By: _____
Stephen J. Salvatore, City Manager

APPROVED AS TO FORM BY THE CITY OF
LATHROP CITY ATTORNEY:

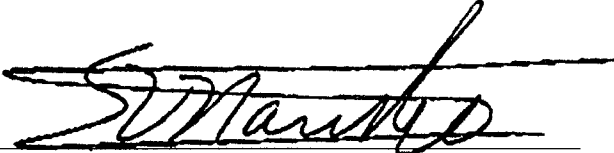
By:  _____
Salvador Navarrete, City Attorney

EXHIBIT A

Legal Description of Land

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LATHROP, IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

That portion of that certain real property granted to Lathrop Mossdale Investors LP, recorded on the 23rd day of October, 2003 in Instrument Number 2003-244446, San Joaquin County Records situated in the City of Lathrop, County of San Joaquin, State of California, and being more particularly described as follows:

Beginning at a point on the Southerly boundary of said Parcel (2003-244446), from which the Southwest corner of said Parcel (2003-244446) bears North 89°06'50" West, 28.03 feet; thence from said point of beginning along the following 6 courses:

1. Along a line, parallel with the Westerly boundary of said Parcel (2003-244446) and lying 28.00 feet Easterly, North 01°50'13" West, 884.52 feet;
2. Thence to the right, along the arc of a 20.00 radius curve, having a central angle of 98°56'08" and an arc length of 34.54 feet;
3. Thence along a line, parallel with the Northerly boundary of said Parcel (2003-244446) and lying 35.00 feet Southerly, South 82°54'05" East, 686.12 feet;
4. Thence leaving said parallel line South 37°44'17" East, 42.55 feet;
5. Thence South 07°25'30" West, 802.08 feet to a point on the Southerly boundary of said Parcel (2003-244446);
6. Thence along said Southerly boundary, North 89°06'50" West, 597.43 feet to the point of beginning.

APN: 191-190-32

EXHIBIT D
(“Escrow Instructions”)

**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
(OUTFALL FUNDING AGREEMENT – TRACT 3225)**

January 8, 2024

Via Email

Barbara Clarke
First American Title Company
3400 Douglas Blvd Suite 130
Roseville, CA 95661
Email: bclarke@firstam.com

Re: Outfall Funding Agreement – Tract 3225; Escrow #-----

Dear Barbara:

This letter constitutes the joint escrow instructions (“*Escrow Instructions*”) of Lathrop Mossdale Investors LP, a California limited partnership (“LMI”) and the City of Lathrop (“*City*”) in connection with the above-referenced escrow (“*Escrow*”). The Escrow was opened in connection with recordation of the quitclaim deed (“*Quitclaim Deed*”) described in the above-referenced Outfall Funding Agreement (“*Outfall Funding Agreement*”). Recordation of the Quitclaim Deed is subject to the conditions set forth below. The transactions described in these Escrow Instructions are referred to as the “*Transaction*.” First American Title Company is referred to as “you” or “*FATCO*.”

A. Date for Closing

The Quitclaim Deed will be recorded as set forth below. The Quitclaim Deed can only be recorded after the City has approved Outfall Funding Agreement in writing. The closing date for the Transaction (“*Closing*”) shall occur concurrently with the closing of FATCO Escrow #627282ala (the “*Hovnanian Escrow*”). If the Quitclaim Deed has not been recorded by December 31, 2024, FATCO will return the Quitclaim Deed to the City.

B. Documents to be Delivered and Recordation Documents

In connection with the Transaction, you have in your possession or will receive the following documents from City and LMI for recordation in the Official Records of San Joaquin County, California (“*Official Records*”).

- B.1. One original Quitclaim Deed, executed and acknowledged by the City (provided to FATCO by City).

The documents listed in Item B.1 above are referred to as the “*Recordation Documents*.” The date on which the Recordation Documents are recorded in the Official Records is the Recordation Date.

C. Funds and Settlement Statement

You also have received, or will receive from LMI, prior to the recordation of the Recordation Documents, in immediately available funds, the following amounts, in accordance with the

**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
(OUTFALL FUNDING AGREEMENT – TRACT 3225)**

settlement statement prepared by you and approved in writing by both LMI and City (“*Settlement Statement*”): recordation costs, escrow fees and other amounts as set forth in the Settlement Statement. Such costs, fees and other amounts are the sole responsibility of LMI or its authorized designee as shown on the Settlement Statement.

- Funds to be wire transferred directly to the City, immediately upon recordation of the Quitclaim Deed, in accordance with the wire transfer instructions for each entity are as follows:
 1. The amount of **\$975,035**, payable to the City pursuant to the Outfall Funding Agreement, is to be transferred to the City upon recordation of the Quitclaim Deed.

The City’s wire instructions are set forth below. The amounts set forth in Section C are referred to as the “*Closing Funds*.”

D. Closing Requirements

When the following has occurred, you are authorized to close the Escrow at the time and in accordance with the process set forth below:

D.1. You have delivered copies of your Settlement Statement by email transmission to: (a) Bruce Myers (brucemyerswc@gmail.com); (b) Brad Taylor (btaylor@ci.lathrop.ca.us); (c) Salvador Navarrete (snavarrete@ci.lathrop.ca.us); (d) Sandra Lewis (slewis@ci.lathrop.ca.us); and (e) Bellal Nabizadah (bnabizadah@ci.lathrop.ca.us), and have confirmation (by telephone or email) from Bruce Myers and Brad Taylor that the Settlement Statement is accurate and acceptable;

D.2. The Recordation Documents have been received by you and have been fully executed and, where applicable, acknowledged, and you have attached all legal descriptions or have confirmed that all exhibits and legal descriptions are attached;

D.3. You are prepared to record the Recordation Documents, as designated, release funds in accordance with the Settlement Statement and complete the Transaction in compliance with these Escrow Instructions;

D.4. You have delivered a copy of these instructions, executed by an authorized signatory of FATCO with authority to bind FATCO, by email transmission to Bruce Myers, Brad Taylor, and Sandra Lewis at the email addresses set forth above; and

D.5. The Hovnanian Escrow has not been canceled.

E. Closing Process and Priorities

When you have fully satisfied all of the closing requirements set forth in Section D, then you are authorized and instructed to do the following in the chronological order given:

E.1. Date the Recordation Documents to be recorded;

**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
(OUTFALL FUNDING AGREEMENT – TRACT 3225)**

E.2. Record the Recordation Documents in the Official Records;

E.3. Pay the costs associated with the Transaction;

E.4. Refund any funds delivered to you by LMI or its authorized designee that are not disbursed at the time of the final Closing pursuant to these Escrow Instructions to LMI or its authorized designee.

E.5. Notify (a) Bruce Myers (brucemyerswc@gmail.com); (b) Brad Taylor (btaylor@ci.lathrop.ca.us); (c) Salvador Navarrete (snavarrete@ci.lathrop.ca.us); (d) Sandra Lewis (slewis@ci.lathrop.ca.us); and (e) Bellal Nabizadah (bnabizadah@ci.lathrop.ca.us) of the completion of the Transaction;

E.6. Within five (5) business days after the Recordation Date, deliver to: (1) LMI, 675 Hartz Avenue, Suite 301, Danville, CA 94526; and (2) Brad Taylor, City Engineer, City of Lathrop, 390 Towne Centre Drive, Lathrop, CA 95330:

(A) a certified copy of the Recordation Documents, showing all recording information of the Recordation Documents; and

(B) a certified copy of the final Settlement Statement.

F. Additional Instructions

When assembling the final documents, signature pages from all parties shall be inserted into each respective final document in creating fully executed counterparts.

Please acknowledge receipt of these instructions and your agreement to act as Escrow agent in connection with this Transaction in accordance with these Escrow Instructions, by executing and dating a copy of these Escrow Instructions below and returning it to both of the undersigned.

The Escrow Instructions may be modified only in a writing signed by both of the undersigned.

Very truly yours,

Stephen J. Salvatore Date
City Manager
City of Lathrop

Bruce Myers Date
Vice President/Secretary
Lathrop Mossdale Investors LP
By: Lathrop Mossdale Ventures, Inc.
Its General Partner

**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
(OUTFALL FUNDING AGREEMENT – TRACT 3225)**

ESCROW INSTRUCTIONS

ACKNOWLEDGEMENT AND AGREEMENT:

Receipt of the foregoing Escrow Instructions from LMI and the City is hereby acknowledged. The undersigned agrees, for itself, and on behalf of FATCO, to proceed in strict accordance with these Escrow Instructions. The undersigned represents and warrants to LMI and the City that the undersigned is authorized to execute this Acknowledgement and Agreement, for itself, and on behalf of FATCO.

First American Title Company

By: _____

Its: _____

Date: _____

ATTACHMENT " F "

**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
(OUTFALL FUNDING AGREEMENT – TRACT 3225)**

January 8, 2024

Via Email

Barbara Clarke
First American Title Company
3400 Douglas Blvd Suite 130
Roseville, CA 95661
Email: bclarke@firstam.com

Re: Outfall Funding Agreement – Tract 3225; Escrow #-----

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**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
(OUTFALL FUNDING AGREEMENT – TRACT 3225)**

settlement statement prepared by you and approved in writing by both LMI and City (“*Settlement Statement*”): recordation costs, escrow fees and other amounts as set forth in the Settlement Statement. Such costs, fees and other amounts are the sole responsibility of LMI or its authorized designee as shown on the Settlement Statement.

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**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
(OUTFALL FUNDING AGREEMENT – TRACT 3225)**

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Very truly yours,

Stephen J. Salvatore Date
City Manager
City of Lathrop

Bruce Myers Date
Vice President/Secretary
Lathrop Mossdale Investors LP
By: Lathrop Mossdale Ventures, Inc.
Its General Partner

**JOINT ESCROW INSTRUCTIONS
RECORDATION OF QUITCLAIM DEED
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First American Title Company

By: _____

Its: _____

Date: _____