

ORDINANCE NO. 21-423

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP FINDING CONSISTENCY WITH THE LATHROP GENERAL PLAN AND 2020 WEST LATHROP SPECIFIC PLAN AND APPROVAL OF THE SIXTH AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LATHROP, CALIFIA, LLC AND RIVER ISLANDS DEVELOPMENT, LLC. (DA-20-39)

WHEREAS, the City of Lathrop City Council held a duly noticed public hearing to consider the Sixth Amendment to the River Islands Development Agreement pursuant to the Lathrop Municipal Code; and

WHEREAS, the proposed site is located within the Stewart Tract area of the West Lathrop Specific Plan (River Islands at Lathrop Master Planned Community), more specifically situated northwest of Interstate 5 and bounded on the east by the San Joaquin River, to the north by Old River, to the south by the Union Pacific Railroad; and

WHEREAS, in February 2003, the City Council approved the 2003 Amended and Restated Development Agreement for the River Islands Project; and

WHEREAS, in July 2005, the City Council approved the First Amendment to the Development Agreement; and

WHEREAS in November 2012, the City of Lathrop City Council approved the Second Amendment to the Development Agreement; and

WHEREAS, in September 2013, the City of Lathrop approved the Third Amendment to the Development Agreement; and

WHEREAS, in March 2015, the City of Lathrop approved the Fourth Amendment to the Development Agreement; and

WHEREAS, in February 2019, the City of Lathrop approved the Fifth Amendment to the Development Agreement; and

WHEREAS, Califia, LLC, a California limited liability company ("Califia") and River Islands Development, LLC, a California limited liability company ("RID") together as developer of the River Islands at Lathrop project ("Project") have applied for approval of a Sixth Amendment to the Development Agreement ("Sixth Amendment"); and

WHEREAS, California Government Code Section 65864 et seq. authorizes any city, county, or city and county to enter into an agreement for the development of real property within its jurisdiction; and

WHEREAS, the proposed Sixth Amendment has been reviewed by City staff and City Attorney, who have recommended that the City Council review and recommend approval of the Sixth Amendment as attached and incorporated in the City Council Staff Report as Attachment "23"; and

WHEREAS, prior to approval of the Sixth Amendment to the Development Agreement, the City Council adopted a Resolution, Certifying the Final Subsequent Environmental Impact Report (Final SEIR), CEQA Findings of Fact, Statement of Overriding Considerations and Mitigation Measures/Monitoring Plan for the River Islands at Lathrop Phase 2 Project in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, before approval of the Sixth Amendment to the Development Agreement, the City Council reviewed and considered the information contained in the Final SEIR for the River Islands at Lathrop Phase 2 Project (SCH #1993112027), and finds that mitigation measures identified in the Final SEIR have been imposed on and incorporated in the River Islands Modified Phase 2 Project which serve to mitigate or avoid the significant environmental effects, that certain mitigation measures are within the responsibility and jurisdiction of another public agency and such changes can and should be adopted by such other agency, that specific economic, social and other considerations make infeasible the project alternatives that would avoid or mitigate the environmental impacts and that social, economic, and other benefits outweigh the environmental impacts that cannot be fully mitigated; and

WHEREAS, the City of Lathrop Planning Commission held a duly noticed public hearing on May 19, 2021, to consider the proposed Development Agreement amendment and after reviewing and considering all information provided and submitted, and after taking and considering all public testimony adopted Resolution No. 21-15 recommending City Council approval of the proposed Development Agreement amendment; and

WHEREAS, by Adopting Resolution No. 20-4790 based on substantial evidence in the record, City Council, acting as the land use agency, adopted Adequate Projects Findings toward providing a 200-year Urban Level of Flood Protection in Phase 2 levees in River Islands by the Island Reclamation District 2062 by the year 2025; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law including the publishing of a legal notice of the hearing in the Manteca Bulletin on or about June 3, 2021 and mailed out to property owners located within a 300-foot radius from the River Islands at Lathrop Phase 2 Project area on June 3, 2021; and

WHEREAS, the City Council has reviewed all written evidence and oral testimony presented to date; and

WHEREAS, the City Council has utilized its own independent judgment in reviewing the proposed Sixth Amendment to the Development Agreement in adopting this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council finds that the text of the Sixth Amendment is consistent with the West Lathrop Specific Plan as amended in 2003 and 2020 and Lathrop General Plan as amended, since there is no resultant change in zoning, land use standards or other similar regulations, and that no additional review of the Sixth Amendment is required under the California Environmental Quality Act (CEQA) because:

- a. The proposed DA amendment involves organizational and financial matters that have no potential for a direct or indirect physical effect on the environment.
- b. The potential environmental effects of the River Islands at Lathrop project have been and continue to be addressed in the certified Final Subsequent Environmental Impact Report (SEIR) for the River Islands at Lathrop project (State Clearinghouse No. 1993112027), as amended.
- c. The proposed DA amendment would not alter the physical nature of the River Islands project or its potential environmental impacts.
- d. There is no known evidence of substantial changes or new information that would suggest that the River Islands project would have new or more severe environmental effects than were addressed in the certified SEIR.

BE IT FURTHER RESOLVED that the City Council of the City of Lathrop based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby approve the Sixth Amendment to the Development Agreement between the City of Lathrop, Califia, LLC, and River Islands Development, LLC as shown on Attachment 23 of the City Council Staff Report, incorporated by reference herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. This Ordinance incorporates, and by this reference makes a part hereof, that certain Development Agreement Amendment, as shown in Attachment 23 of the City Council Staff Report, relative to the proposed development of the River Islands Modified Phase 2 Project.

Section 2. Based on the findings set forth in this Resolution, the CEQA Resolution, and the evidence in the Staff Report, the City Council hereby adopts the Ordinance for the proposed Development Agreement Amendment. This document shall be substantially in the form on file with the City Clerk.

Section 3. By Adopting Resolution No. 20-4790 based on substantial evidence in the record, City Council, acting as the land use agency, adopted Adequate Projects Findings toward providing a 200-year Urban Level of Flood Protection in Phase 2 levees in River Islands by the Island Reclamation District 2062 by the year 2025.

Section 4. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5. Severability. If any section, subsequent subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section 6. Effective Date. This Ordinance shall take legal effect 30 days from and after the date of its passage.

Section 7. Publication. Within fifteen days of the adoption of this Ordinance, the City Clerk shall cause a copy of this Ordinance to be published in full accordance with Section 36933 of the Government Code.

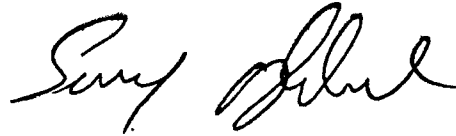
THIS ORDINANCE was regularly introduced at a meeting of the City Council of the City of Lathrop on the 14th day of June 2021, and was **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Lathrop on the 12th day of July 2021, by the following vote, to wit:

AYES: Akinjo, Diallo, Torres-O'Callaghan, and Dhaliwal

NOES: None

ABSENT: Lazard

ABSTAIN: None



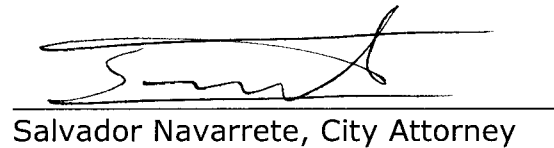
Sonny Dhaliwal, Mayor

ATTEST:



Teresa Vargas, City Clerk

APPROVED AS TO FORM:



Salvador Navarrete, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN JOAQUIN) ss.
CITY OF LATHROP)

I, Teresa Vargas, City Clerk of the City of Lathrop, California, do hereby certify that the foregoing Ordinance No. 21-423 was duly and regularly introduced at a regular meeting of the City Council on the 14th day of June 2021, and that thereafter said Ordinance was duly and regularly adopted at a regular meeting of the City Council on the 12th day of July 2021, by the following vote, to wit:

AYES: Akinjo, Diallo, Torres-O'Callaghan and Dhaliwal

NOES: None

ABSTAIN: None

ABSENT: Lazard

This ordinance was duly published in accordance with State Law (G.C. 40806).

I hereby certify that the foregoing is the original of Ordinance No. 21-423 duly and adopted by the City of Lathrop City Council at its regular meeting held July 12, 2021, and that the Summary of the Ordinance was published on July 1, 2021, and Full Reading on July 15, 2021, in the Manteca Bulletin Newspaper.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Lathrop, California, this 15th day of July 2021.


TERESA VARGAS, CMC
CITY CLERK

(SEAL)