

ITEM 4.22

CITY MANAGER'S REPORT JUNE 10, 2024 CITY COUNCIL REGULAR MEETING

ITEM: **ACCEPT PUBLIC IMPROVEMENTS ASSOCIATED WITH CIP PS 24-31, LOCATED ON YOSEMITE AVENUE, APPROVE AMENDMENT NO.1 TO THE REIMBURSEMENT AGREEMENT WITH YOSEMITE LATHROP 2, LLC, AND APPROVE BUDGET AMENDMENT**

RECOMMENDATION: **Adopt Resolution Accepting Public Improvements Associated with CIP PS 24-31, Located on Yosemite Avenue, Approving Amendment No. 1 to the Reimbursement Agreement with Yosemite Lathrop 2, LLC, and Approving Budget Amendment**

SUMMARY:

On February 12, 2024, City Council approved the creation of Capital Improvement Project (CIP) PS 24-31, Yosemite Avenue Pavement Rehabilitation (Project), and a Reimbursement Agreement with Yosemite Lathrop 2, LLC (Phelan) to address and repair the deteriorating pavement surface on Yosemite Avenue between D'Arcy Parkway and McKinley Avenue. Phelan has completed their portion of the public improvements associated with the Project and a Location Map is included as Attachment "B".

Staff has inspected the improvements and they have been deemed complete and in accordance with the approved plans and city specifications by the City Engineer. The approximate value of the public improvements constructed is \$893,169. Phelan has submitted lien releases confirming all sub-contractors and suppliers have been paid in full. Staff requests Council accept the public improvements associated with CIP PS 24-31.

The Public Infrastructure Reimbursement Agreement between the City of Lathrop and Yosemite Lathrop 2, LLC Relating to Capital Improvement Project (CIP) PS 24-31 Yosemite Avenue Pavement Rehabilitation (Reimbursement Agreement) included a reimbursement amount of \$749,551 and the approved budget for CIP PS 24-31 was \$799,551. Due to changes in project scope during construction, the total cost of the improvements is \$893,169, therefore staff request Council approve an amendment to the Reimbursement Agreement to add \$143,618 and a budget amendment to the CIP for \$143,618.

BACKGROUND:

Yosemite Avenue is an east-west arterial that has seen significant traffic due to the rapid growth of the City and the increase in warehouse facilities fronting the road. The road is bound by commercial and industrial zoning and is utilized for access to

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State Route (SR) 120. Through field observations, staff assessed the condition of Yosemite Avenue from SR120 to the eastern City limits and determined that it requires rehabilitation. Staff proposed the creation of the CIP PS 24-31 to facilitate the rehabilitation of Yosemite Avenue.

The developer of the Gateway Specific Plan area, Phelan, was repaving and expanding the south side of Yosemite Avenue along the entire frontage of their development, as required by their Subdivision Improvement Agreement (SIA). Phelan agreed to repave a portion of Yosemite Avenue, beyond the requirements of their SIA and concurrently with the improvements on the south side of Yosemite Avenue, contingent on the approval of a reimbursement agreement.

On February 12, 2024, Council approved the creation of CIP PS 24-31 to facilitate the pavement rehabilitation of Yosemite Avenue and the Reimbursement Agreement between the City and Phelan relating to the CIP PS 24-31 Project for the improvements depicted in Attachment "B" with a reimbursement amount not to exceed \$749,551.

Construction of the improvements are complete and the approximate value of the improvements proposed to be accepted is \$893,169. These improvements have been inspected by staff and deemed complete, and in accordance with the approved plans and City specifications by the City Engineer.

The final costs have exceeded the reimbursement amount due to the unexpected depth of grind required to achieve proper repair of certain sections of the road and Phelan has requested to amend the Reimbursement Agreement to match the final costs of the improvements.

Staff requests City Council accept the completed public improvements associated with CIP PS 24-31 and approve the amendment to the Reimbursement Agreement to adjust the reimbursement amount to match the final costs of the improvements requested by City.

REASON FOR RECOMMENDATION:

Staff has inspected the improvements and they have been deemed complete and in accordance with the approved plans and specifications by the City Engineer. Phelan has submitted lien releases for the improvements being accepted.

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FISCAL IMPACT:

The approximate value of the improvements proposed to be accepted are \$893,169. The reimbursement amount will be funded from CIP PS 24-31, Yosemite Avenue Pavement Rehabilitation, however, sufficient funds were not allocated with the creation of CIP PS 24-31. Staff is requesting the approval of a budget amendment transferring \$143,618 from the General Fund Street Repair Reserves (1010) to the CIP Project Fund (3310) as follows

<u>Decrease Street Repair Reserves</u>		
1010-251-03-00		\$143,618
<u>Increase Transfer Out</u>		
1010-9900-990-9010		\$143,618
<u>Increase Transfer In</u>		
3310-9900-393-0000	PS 24-31	\$143,618
<u>Increase Appropriation</u>		
3310-8000-420-1200	PS 24-31	\$143,618

The future maintenance cost of these improvements will be paid from Fund 2080 (Streets).

ATTACHMENTS:

- A. Resolution Accepting Public Improvements Associated with CIP PS 24-31, Located on Yosemite Avenue, Approve Amendment No.1 to the Reimbursement Agreement with Yosemite Lathrop 2, LLC, and Approve Budget Amendment
- B. Project Location Map
- C. Amendment No. 1 to the Public Infrastructure Reimbursement Agreement Between the City of Lathrop and Yosemite Lathrop 2, LLC Relating to Capital Improvement Project (CIP) PS 24-31 Yosemite Avenue Pavement Rehabilitation

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APPROVALS:



Bellal Nabizadah
Assistant Engineer

5/24/24
Date



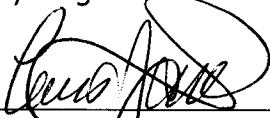
Ken Reed
Senior Construction Manager

6-3-2024
Date



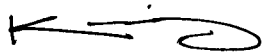
Brad Taylor
City Engineer

5/28/2024
Date



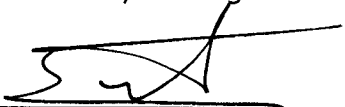
Cari James
Finance Director

6/3/2024
Date



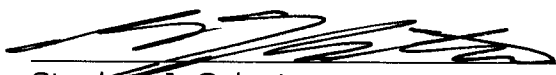
Michael King
Assistant City Manager

5.28.2024
Date



Salvador Navarrete
City Attorney

5.31.2024
Date



Stephen J. Salvatore
City Manager

6.5.24
Date

RESOLUTION NO. 24-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP ACCEPTING PUBLIC IMPROVEMENTS ASSOCIATED WITH CIP PS 24-31, LOCATED ON YOSEMITE VENUE, APPROVING AMENDMENT NO. 1 TO THE REIMBURSEMENT AGREEMENT WITH YOSEMITE LATHROP 2, LLC, AND APPROVING BUDGET AMENDMENT

WHEREAS, Yosemite Avenue is an east-west arterial that has seen significant traffic due to the rapid growth of the City of Lathrop (City) and the increase in warehouse facilities fronting the road. The road is bound by commercial and industrial zoning and is utilized for access to State Route (SR) 120; and

WHEREAS, through field observations, staff assessed the condition of Yosemite Avenue from SR120 to the eastern City limits and determined that it requires rehabilitation. Staff proposed the creation of the Capital Improvement Project (CIP) PS 24-31 to facilitate the rehabilitation of Yosemite Avenue; and

WHEREAS, the developer of the Gateway Specific Plan area, Phelan, was repaving and expanding the south side of Yosemite Avenue along the entire frontage of their development, as required by their Subdivision Improvement Agreement (SIA); and

WHEREAS, Phelan agreed to repave a portion of Yosemite Avenue, beyond the requirements of their SIA and concurrently with the improvements on the south side of Yosemite Avenue, contingent on the approval of a reimbursement agreement; and

WHEREAS, On February 12, 2024, Council approved the creation of CIP PS 24-31 to facilitate the pavement rehabilitation of Yosemite Avenue and the "Public Infrastructure Reimbursement Agreement between the City of Lathrop and Yosemite Lathrop 2, LLC Relating to Capital Improvement Project (CIP) PS 24-31 Yosemite Avenue Pavement Rehabilitation" (Reimbursement Agreement) for the improvements depicted in Attachment "B" of the City Manager's Report that accompanied this Resolution with a reimbursement amount not to exceed \$749,551; and

WHEREAS, construction of the improvements are complete and the approximate value of the improvements proposed to be accepted is \$893,169; and

WHEREAS, staff has inspected the improvements and they have been deemed complete and in accordance with the approved plans and specifications by the City Engineer; and

WHEREAS, Phelan has submitted lien releases for the improvements being accepted; and

WHEREAS, the final costs have exceeded the original reimbursement amount due to the unexpected depth of grind required to achieve proper repair of certain

sections of the road and Phelan has requested to amend the Reimbursement Agreement to match the final costs of the improvements; and

WHEREAS, staff requests City Council accept the public improvements associated with CIP PS 24-31 from Phelan; and

WHEREAS, staff requests that Council approve Amendment No. 1 to the Public Infrastructure Reimbursement Agreement between the City of Lathrop and Yosemite Lathrop 2, LLC Relating to Capital Improvement Project (CIP) PS 24-31 Yosemite Avenue Pavement Rehabilitation to increase the reimbursement amount not to exceed \$893,169; and

WHEREAS, staff requests the approval of a budget amendment transferring \$155,000 from the General Fund Street Repair (1010) to the CIP Project Fund (3310) as follows.

<u>Decrease Street Repair Reserves</u>		
1010-251-03-00		\$143,618
<u>Increase Transfer Out</u>		
1010-9900-990-9010		\$143,618
<u>Increase Transfer In</u>		
3310-9900-393-0000	PS 24-31	\$143,618
<u>Increase Appropriation</u>		
3310-8000-420-1200	PS 24-31	\$143,618

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lathrop does hereby accept the public improvements constructed by Phelan on Yosemite Avenue; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lathrop does hereby approve the Amendment No. 1 to the Public Infrastructure Reimbursement Agreement between the City of Lathrop and Yosemite Lathrop 2, LLC Relating to Capital Improvement Project (CIP) PS 24-31 Yosemite Avenue Pavement Rehabilitation to increase the reimbursable amount not to exceed \$893,169; and

BE IT FURTHER RESOLVED, that the City Council of the City of Lathrop also approves a budget amendment transferring \$143,618 from the General Fund Street Repair Reserves (1010) to the CIP Project Fund (3310) as detailed above.

PASSED AND ADOPTED by the City Council of the City of Lathrop this 10th day of June 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

Improvement Limits



**AMENDMENT NO. 1 TO THE PUBLIC INFRASTRUCTURE
REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF LATHROP AND
YOSEMITE LATHROP 2, LLC RELATING TO CAPITAL IMPROVEMENT
PROJECT (CIP) PS 24-31 YOSEMITE AVENUE PAVEMENT
REHABILITATION**

This Amendment No. 1 to the Public Infrastructure Reimbursement Agreement between the City of Lathrop and Yosemite Lathrop 2, LLC Relating to Capital Improvement Project (CIP) PS 24-31 Yosemite Avenue Pavement Rehabilitation (“**Amendment No. 1**”), is made and entered into this 10th day of June 2024 (“**Effective Date**”) by and between the City of Lathrop, a municipal corporation of the State of California (“**City**”), and Yosemite Lathrop 2, LLC, a Delaware limited liability company (“**Developer**”). City and Developer may be collectively referred to herein as the “**Parties**” or individually as a “**Party**”.

RECITALS

A. Parties entered into Public Infrastructure Reimbursement Agreement Relating to CIP PS 24-31, Yosemite Avenue Pavement Rehabilitation (“**Agreement**”) on February 12, 2024.

B. City agreed to reimburse Developer an amount not to exceed \$749,551 for the project referenced in the Agreement (“**Project**”).

C. Developer provided reasonable documentation of the actual costs incurred for the Project, as defined in Section 2.b.iii of the Agreement, showing the Developer paid \$893,169 for the Project.

D. City may accept the improvements for the Project through the adoption of the Resolution that accompanied this proposed Amendment No. 1 on the June 10, 2024 Council Meeting of the City.

E. Parties wish to amend the Agreement to allow the City to reimburse the Developer for the total cost incurred to complete the reimbursable public improvements as defined in Recital B of the Agreement.

THEREFORE, City and Developer agree to amend the Agreement as follows:

AMENDMENT

1. The reimbursement, as defined in Recital C of the Agreement shall be increased to an amount not to exceed \$893,169

IN WITNESS WHEREOF, the Parties have entered into this First Amendment effective upon Council approval.

CITY:

CITY OF LATHROP, a California
municipal corporation

By: _____
Stephen J. Salvatore
City Manager

ATTEST:

City Clerk of and for the City of Lathrop,
State of California

By: _____
Teresa Vargas
City Clerk

APPROVED AS TO FORM:

By: _____
Salvador Navarrete
City Attorney

DEVELOPER:

YOSEMITE LATHROP 2, LLC,
A Delaware limited liability company

By: Phelan-Haugen, LLC,
a California limited liability
company,
Its Managing Member

By: Haugen Investments, LLC,
a California limited liability
company,
Its Manager

By: _____
David M. Haugen, Manager