

**CITY MANAGER'S REPORT
APRIL 8, 2019, CITY COUNCIL REGULAR MEETING**

ITEM: ACCEPTANCE OF STORM DRAIN EASEMENT AGREEMENT ASSOCIATED WITH SOUTH LATHROP COMMERCE CENTER

RECOMMENDATION: Adopt a Resolution Accepting Dedication of Storm Drain Easement Agreement Associated with South Lathrop Commerce Center, between South Lathrop Land, L.L.C., and City of Lathrop

SUMMARY:

Planning Commission approved Vesting Tentative Parcel Map (VTPM) No. 15-94 in 2015 and City Council approved Parcel Map 17-01 in September 2018 for the South Lathrop Commerce Center Project. Pursuant to Public Works Condition of Approval number three (3) imposed on the Project's Vesting Tentative Parcel Map, South Lathrop Commerce Center is required to construct certain public storm water drainage facilities to serve the project.

Staff and South Lathrop Commerce Center have mutually determined the location of a storm drainage pipe, to avoid conflict with a PG&E utility pole, should be aligned such that it is located on the project site rather than within the public right-of-way, as originally shown on the VTPM. To allow for this alignment of the storm drainage pipe, South Lathrop Land, LLC, developer/owner of the South Lathrop Commerce Center, desires to grant a perpetual, non-exclusive easement for the storm drainage pipe on a small portion of the project site as shown in Attachment "C".

Pursuant to the proposed Easement Agreement, the City agrees to operate and maintain the storm drainage pipe within the easement once constructed and dedication is accepted.

Staff is requesting that City Council authorize staff to execute Storm Drain Easement Agreement (Attachment "B") associated with the South Lathrop Commerce Center, between South Lathrop Land, L.L.C., and City of Lathrop.

**ACCEPTANCE OF STORM DRAIN EASEMENT AGREEMENT ASSOCIATED WITH
SOUTH LATHROP COMMERCE CENTER**

BACKGROUND:

The 273-acre South Lathrop Commerce Center is to be developed with a master planned business park that includes, among other things, industrial and logistics uses, ancillary highway commercial uses, various open space uses, and related on-site and off-site improvements.

Improvements including a 1.2 million square foot warehouse that will be occupied by Wayfair, Inc., are currently being constructed on-site. Future improvements including an additional 3.7 million square feet of warehouse and commercial space are currently being designed and reviewed. The storm drain facilities are needed to serve the current and future developments.

REASON FOR RECOMMENDATION:

Staff and South Lathrop Commerce Center have mutually determined the location of a storm drainage pipe to avoid conflict with a PG&E utility pole. The storm drainage easement and easement agreement are necessary for the City to own and maintain the storm drainage pipe located in the easement.

FISCAL IMPACT:

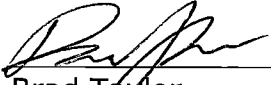
There is no cost to the City.

ATTACHMENTS:

- A. Resolution Accepting Dedication of Storm Drain Easement Agreement Associated with South Lathrop Commerce Center, between South Lathrop Land, L.L.C. and City of Lathrop
- B. Storm Drain Easement Agreement
- C. Location Map

**ACCEPTANCE OF STORM DRAINAGE AGREEMENT ASSOCIATED WITH
SOUTHLATHROP COMMERCE CENTER**

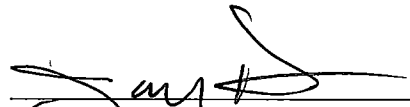
APPROVALS:



Brad Taylor
Associate Engineer

3/28/19

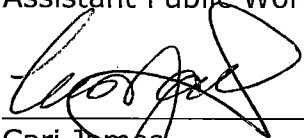
Date

For 

Michael King
Assistant Public Works Director

3/28/19

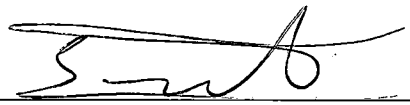
Date



Cari James
Finance & Administrative
Services Director

3/28/19

Date



Salvador Navarrete
City Attorney

3-28-19

Date



Stephen J. Salvatore
City Manager

4-2-19

Date

RESOLUTION NO. 19-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP
ACCEPTING DEDICATION OF STORM DRAIN EASEMENT AGREEMENT
ASSOCIATED WITH SOUTH LATHROP COMMERCE CENTER, BETWEEN
SOUTH LATHROP LAND, L.L.C. AND CITY OF LATHROP**

WHEREAS, Planning Commission approved Vesting Tentative Parcel Map No. 15-94 in 2015 and City Council approved Parcel Map 17-01 in September 2018 for the South Lathrop Commerce Center Project; and

WHEREAS, Public Works Condition of Approval number three (3) for the Vesting Tentative Parcel Map requires South Lathrop Commerce Center to construct certain public storm water drainage facilities to serve the project; and

WHEREAS, staff and South Lathrop Commerce Center have mutually determined the location of a storm drainage pipe should be aligned such that it is located on the project site rather than within the public right-of-way as originally shown on the Vesting Tentative Parcel Map, to avoid conflict with a PG&E utility pole; and

WHEREAS, South Lathrop Land, LLC, developer and owner of South Lathrop Commerce Center, desires to grant a perpetual, non-exclusive easement for the storm drainage pipe on a small portion of the project site; and

WHEREAS, South Lathrop Land, LLC, has PROPOSED an Easement Agreement wherein the City agrees to operate and maintain the storm drainage pipe within the easement once constructed and dedication is accepted; and

WHEREAS, staff is requesting that City Council formally accept the offered dedication of storm drain easement and Easement Agreement associated with the South Lathrop Commerce Center.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Lathrop authorizes staff to execute a Storm Drain Easement Agreement delineated in "Attachment B" of the staff report dated, April 8, 2019.

The foregoing resolution was passed and adopted this 8th day of April 2019, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

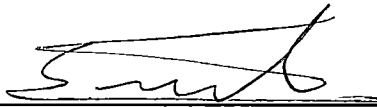
ABSTAIN:

Sonny Dhaliwal, Mayor

APPROVED AS TO FORM:

ATTEST:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

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

City of Lathrop
 City Clerk
 390 Towne Centre Drive
 Lathrop, California 95330

**FOR RECORDER'S USE ONLY****STORM DRAIN EASEMENT AGREEMENT**

THIS STORM DRAIN EASEMENT AGREEMENT ("**Easement Agreement**") is entered into on _____, 2019 ("**Effective Date**"), by and between South Lathrop Land, L.L.C., a Delaware limited liability company ("**Grantor**") and the City of Lathrop, a municipal corporation of the State of California ("**Grantee**").

RECITALS

WHEREAS, Grantor is the fee owner of that tract of land of approximately two-hundred-seventy-three (273) acres in size, located within the City of Lathrop, which is the site of the planned South Lathrop Commerce Center ("**Project Site**") to be developed with a master planned business park that includes, among other things, industrial and logistics uses, ancillary highway commercial uses, various open space uses, and related on- and off-site improvements ("**Project**"); and

WHEREAS, Grantee is a municipal corporation of the State of California, with land use jurisdiction over the Project; and

WHEREAS, subject to a Development Agreement (the "**Development Agreement**") executed between Grantee and the previous owner of the Project Site (and for which Grantor has assumed all rights and obligations thereunder) and as a condition imposed on the Project's Vesting Tentative Parcel Map No. 15-94 ("**VTPM**"), Grantor is required to construct certain public storm water drainage facilities to serve the Project (collectively, "**Public Drainage Facilities**"); and

WHEREAS, on September 10, 2018, the City Council approved Parcel Map 17-01 in connection with the Project ("**Parcel Map**"), after confirming the Parcel Map is in substantial compliance with the VTPM; and

WHEREAS, the parties have mutually determined the location of a storm drainage pipe ("**Storm Drainage Pipe**"), which is part of the Public Drainage Facilities, should be aligned such that it is located on the Project Site rather than within the public right-of-way, as originally shown on the VTPM; and

WHEREAS, to allow for this alignment for the Storm Drainage Pipe, Grantor desires to grant, and Grantee desires to obtain, a perpetual, non-exclusive easement for the Storm Drainage Pipe on a certain portion of the Project Site for purposes of operation and maintenance of said pipe, as described further below; and

WHEREAS, Grantor is willing to grant said easement rights on the terms and conditions set forth below.

NOW, THEREFORE, Grantor does hereby grant the easement rights set forth herein, and in and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantee and Grantor agree as follows:

1. Grant of Easement. Grantor hereby grants and conveys unto Grantee, a perpetual, non-exclusive easement on, under and through that certain area on the Project Site, as more particularly described and shown in the attached Exhibits A and B (“**Easement Area**”), for the purpose of operating and maintaining the Storm Drainage Pipe and related storm water drainage and discharge to flow within said pipe, once Grantor installs said pipe (collectively, “**Storm Pipe Easement**”). Grantee shall also have reasonable rights of ingress and egress, consistent with the purpose of this Easement Agreement, for the purpose of repair, reconstruction, operation, maintenance, inspection, removal and/or replacement of the Storm Drainage Pipe. Grantee agrees all repair, reconstruction, operation, maintenance, inspection, removal and any other related activities in connection with the Storm Drainage Pipe that disturb the Easement Area shall be reasonably coordinated with Grantor so as to minimize any disruption to Project Site, to the extent feasible. Notwithstanding the foregoing, Grantor shall have the right to construct and/or install any and all other improvements within the Easement Area, including, without limitation, roadways, paved driveways, parking and/or walkways; and landscaping, lighting, and/or similar improvements; provided, however, the construction and maintenance of such improvements shall not adversely affect or otherwise substantially interfere with Grantee’s use of the Easement Area, including, without limitation, obstructing any clean-outs for the Storm Drainage Pipe.

2. Installation, Operation and Maintenance.

(a) Responsibility for Installation of Storm Drainage Pipe. Grantor and Grantee acknowledge and agree that Grantor is obligated to install the Public Drainage Facilities, including the Storm Drainage Pipe, pursuant to the terms and conditions set forth in that certain *Subdivision Improvement Agreement* entered into by Grantor and Grantee on Sept. 10, 2018 (“SIA”). In accordance therewith, Grantor shall be responsible for installing the Storm Drainage Pipe in the Easement Area, and thereafter shall offer to dedicate said pipe to City (along with the other Public Drainage Facilities as provided for under the SIA).

(b) Responsibility for Maintenance of the Storm Drainage Pipe. Once Grantee accepts the offer of dedication of the Storm Drainage Pipe pursuant to the provisions of the SIA, then Grantee shall be responsible for maintaining said pipe in good condition and working order in accordance with City’s typical practice of maintaining public improvements and consistent with industry standards.

3. Binding Effect. This Easement Agreement shall be binding upon and inure to the benefit of Grantor, Grantee and their respective successors and assigns.

4. Indemnity. Grantee agrees to indemnify, defend and hold Grantor and its respective officers, directors, shareholders, partners, members, managers, affiliates, employees, representatives, invitees, successors and assigns harmless from and against any and all claims,

liabilities, losses, judgments, expenses or costs of any kind (including, without limitation, attorney's fees) by reason of property damage, death or injury to persons arising from or relating to Grantee's repair, reconstruction, removal, replacement, inspection, operation or maintenance of the Storm Drainage Pipe on the Project Site.

5. Miscellaneous.

(a) All terms and provisions herein contained, including, without limitation, the benefits, burdens and covenants, are intended to run with the land described herein and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

(b) This Easement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof.

(c) This Easement Agreement shall be of no force and effect until it is executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the date and year first above written.

Grantor:

Grantee:

South Lathrop Land, L.L.C.,
a Delaware limited liability company

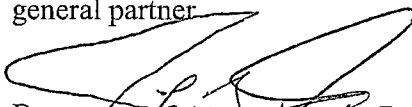
City of Lathrop,
A California Municipal Corporation

By: CHI West 109 South Lathrop Land,
L.P., a Delaware limited partnership,
its managing member

By:
City Manager

By: CHILTH GP, L.L.C., a Delaware
limited liability company, its
general partner

Stephen J. Salvatore



By: _____ Attest:
Name: Philip J. Prassas
Title: Vice President

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

Teresa Vargas

[NOTARY ACKNOWLEDGEMENTS ON FOLLOWING PAGE(S).]

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On December 20, 2018, before me, Alison Thomas-Geujen, a Notary Public, personally appeared Philip Prassas, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Alison Thomas-Geujen

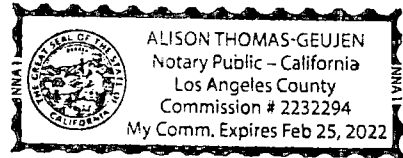


EXHIBIT "A"

**LEGAL DESCRIPTION
STORM DRAIN EASEMENT**

CERTAIN REAL PROPERTY SITUATED IN THE CITY OF LATHROP, SAN JOAQUIN COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 1 OF PARCEL MAP 17-01 AS RECORDED IN BOOK 26 OF PARCEL MAPS, AT PAGE 114, SAN JOAQUIN COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY TERMINUS OF A SEGMENT OF THE MONUMENT LINE OF GLACIER STREET LABELED NORTH 0°38'12" EAST, 208.77 FEET, ON SAID PARCEL MAP, THENCE NORTH 89°21'48" WEST, 15.00 FEET, TO THE **POINT OF BEGINNING**, SAID POINT BEING THE POINT OF BEGINNING OF A TANGENT CURVE ON THE WESTERLY LINE OF SAID GLACIER STREET;

THENCE ALONG SAID WESTERLY LINE ALONG SAID TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 322.50 FEET, THROUGH A CENTRAL ANGLE OF 39°58'56", AND AN ARC LENGTH OF 225.05 FEET;

THENCE LEAVING SAID WESTERLY LINE AND ENTERING SAID PARCEL 1 THE FOLLOWING THREE (3) COURSES:

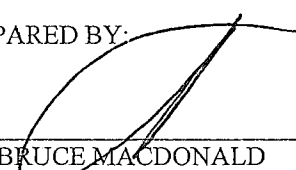
1. NORTH 74°46'51" WEST, 80.48 FEET;
2. NORTH 0°38'12" EAST, 186.96 FEET;
3. SOUTH 89°21'48" EAST, 2.50 FEET, TO THE **POINT OF BEGINNING**

CONTAINING 4,666 SQUARE FEET MORE OR LESS.

A PLAT, EXHIBIT "B", IS ATTACHED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION

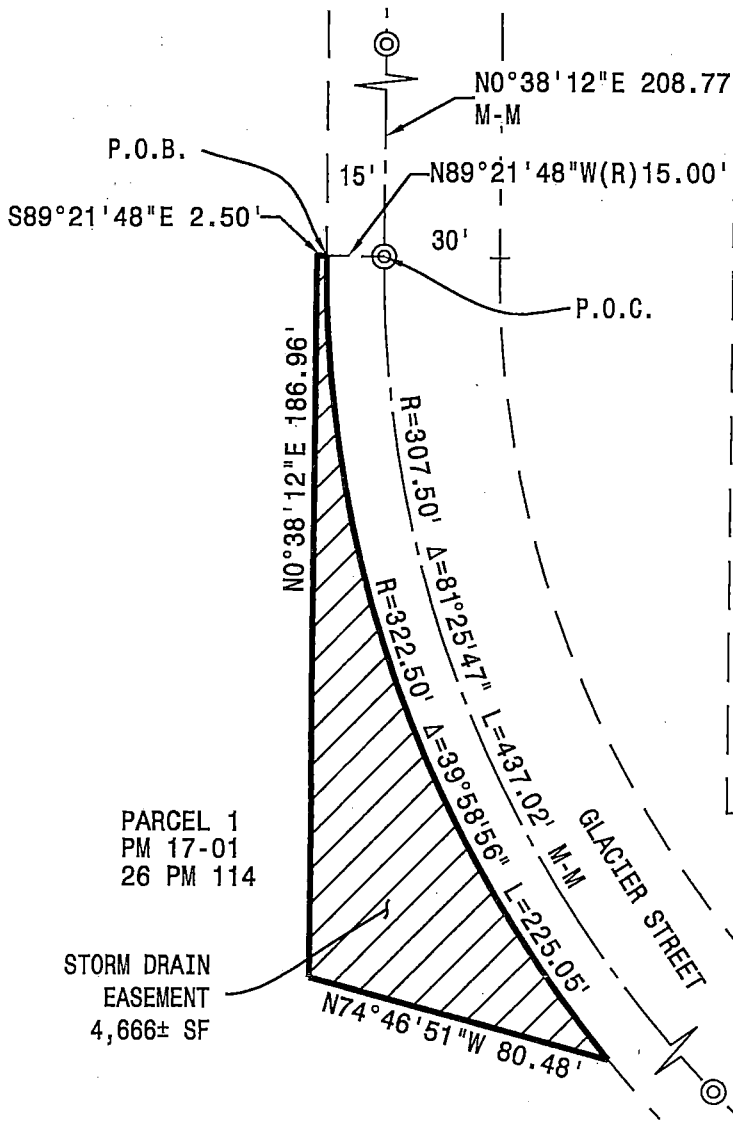
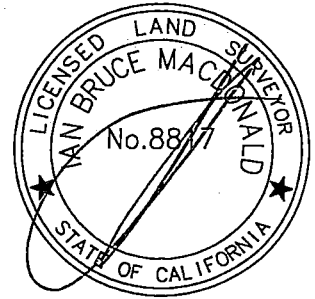
PREPARED BY:


IAN BRUCE MACDONALD
LICENSED LAND SURVEYOR NO. 8817
(EXP. 12/31/19)
STATE OF CALIFORNIA



11/13/18
DATE

Mackay & Somps
CIVIL ENGINEERING • LAND PLANNING • LAND SURVEYING
5142 Franklin Drive Suite B, Pleasanton, CA. 94588-3355
(925) 225-0690

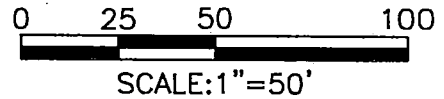


KEENEY, WALTERL,
& JOANNA
241-410-44

PARCEL 1
PM 17-01
26 PM 114

PARCEL 1
PM 17-01
26 PM 114

STORM DRAIN
EASEMENT
4,666± SF



LEGEND

- MONUMENT LINE
- BOUNDARY OF DESCRIPTION
- - - EXISTING PROPERTY LINE/RIGHT OF WAY
- PM PARCEL MAP
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- ⊙ STREET MONUMENT PER PM 17-01
26 PM 114
- M-M MONUMENT TO MONUMENT
- ▨ AREA OF DESCRIPTION

PLAT TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT "B"
STORM DRAIN EASEMENT

CITY OF LATHROP

CALIFORNIA

MACKAY & SOMPS

ENGINEERS PLANNERS SURVEYORS
5142B FRANKLIN DR, PLEASANTON, CA 94588 (925)225-0690

DRAWN BY	DATE	SCALE	JOB NO.
DY	NOV. 2018	1"=50'	25223

Location Map

