

**CITY MANAGER'S REPORT  
MARCH 11, 2019, CITY COUNCIL REGULAR MEETING**

**ITEM: ACCEPTANCE OF FRONTAGE IMPROVEMENTS CONSTRUCTED BY TEICHERT & SONS, DBA TEICHERT CONSTRUCTION, AT 2131 & 2301 E. LOUISE AVENUE AND APPROVE A REIMBURSEMENT AGREEMENT WITH DPIF CA 1 LATHROP, LLC, FOR GRAVITY SEWER MAIN IN E. LOUISE AVENUE AND MCKINLEY AVENUE ASSOCIATED WITH THE LOGISTICENTER PROJECT**

**RECOMMENDATION: Adopt a Resolution Accepting the Frontage Improvements Constructed by Teichert & Sons, DBA Teichert Construction, at 2131 & 2301 E. Louise Avenue and Approve a Reimbursement Agreement with DPIF CA 1 Lathrop, LLC, for Design and Construction of a 10-inch and 12-inch Gravity Sewer Main in E. Louise Avenue and McKinley Avenue Associated with the Logisticenter Project**

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**SUMMARY:**

DPIF CA 1 Lathrop, LLC (DPIF), the developer for the Logisticenter (formerly Exel Warehouse Distribution Center) project located at 2131 & 2301 E. Louise Avenue, contracted with Teichert & Sons, DBA Teichert Construction (Teichert), to construct a 10-inch gravity sewer main on E. Louise Avenue from the Logisticenter to McKinley Avenue and a 12 inch gravity sewer main from the intersection of E. Louise Avenue and McKinley Avenue to the McKinley Sewer Pump Station to accommodate their needs as well as future flows from other benefitted properties. Teichert has completed construction of the gravity sewer main in accordance with Encroachment Permit No. 2016-36, as shown on the Sewer Improvement Plans for Logisticenter dated August 2016, by Kier & Wright Civil Engineers and Surveyors, Inc. The gravity sewer main was inspected by City staff, deemed complete and was accepted by City Council on February 11, 2019.

DPIF is eligible for partial reimbursement from users who connect to the gravity sewer main. The proposed reimbursement agreement requires the City to initiate a Capital Facility Fee (CFF) study to ultimately collect appropriate CFF's from those who develop their property and connect to the gravity sewer line.

Staff recommends that City Council approve the proposed reimbursement agreement with DPIF to initiate a CFF study to ultimately collect appropriate CFF's from those who develop their property and connect to the gravity sewer line in E. Louise Avenue and McKinley Avenue.

**MARCH 11, 2019, CITY COUNCIL REGULAR MEETING****APPROVE REIMBURSEMENT AGREEMENT WITH DPIF CA 1 LATHROP, LLC,  
FOR GRAVITY SEWER MAIN IN E. LOUISE AVENUE AND MCKINLEY AVENUE**

In addition, DPIF contracted with Teichert & Sons, DBA Teichert Construction (Teichert), to construct frontage improvements along the project location. These improvements included asphalt concrete overlay, curb and gutter, ADA compliant ramps, striping and markings, the relocation of street lights and fire hydrant assemblies. These frontage improvements were inspected by City staff and deemed complete.

Staff has received an Unconditional Waiver and Release for the work performed by Teichert Construction for the frontage improvements. Therefore, staff recommends that City Council accept these frontage improvements and authorize City staff to release the Frontage Improvements Performance Bond No. 800012900 for DPIF in the amount of \$603,000.00 in association with Encroachment Permit 2016-36.

**BACKGROUND:**

On May 11, 2016, the City's Planning Commission approved the developer's site plan for the development of the Logisticenter project by Resolution No. 16-10. The project site is located at 2131 and 2301 E. Louise Avenue. A condition of the project was to construct an off-site gravity sewer main from the project site to the McKinley Avenue pump station. The gravity sewer main was sized to accommodate the ultimate flows for the surrounding area.

On February 11, 2019, City Council accepted the gravity sewer main improvements for maintenance and authorized staff to release Off-Site Sewer Performance Bond No. 800012899 for DPIF CA 1 Lathrop, LLC, in association with Encroachment Permit No. 2016-36.

The total cost for design and construction of the gravity sewer main (\$1,091,557), paid by DPIF, are to be shared by areas of benefitting property owners as shown in Attachment B. In addition, in order for other benefitting properties to connect to the gravity main constructed by DPIF, a future gravity main will need to be constructed from the railroad tracks, to the west, to the intersection of E. Louise Avenue and McKinley Avenue. Of this total, DPIF's fair share is \$272,509 (unreimbursable costs). The remaining \$819,048 is reimbursable as the fair share of the properties listed in Attachment B. Those benefitting property owners will pay their fair share through the established CFF.

In addition, a condition of the project required the construction of frontage improvements from 2131 to 2301 E. Louise Avenue. These improvements were inspected by staff and deemed complete.

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**APPROVE REIMBURSEMENT AGREEMENT WITH DPIF CA 1 LATHROP, LLC,**  
**FOR GRAVITY SEWER MAIN IN E. LOUISE AVENUE AND MCKINLEY AVENUE**

**REASON FOR RECOMMENDATION:**

Staff recommends that City Council accept the frontage improvements, approve the reimbursement agreement with DPIF for the gravity sewer line, and authorize the release of Frontage Improvements Performance Bond No. 800012900, in association with Encroachment Permit No. 2016-36.

**FISCAL IMPACT:**

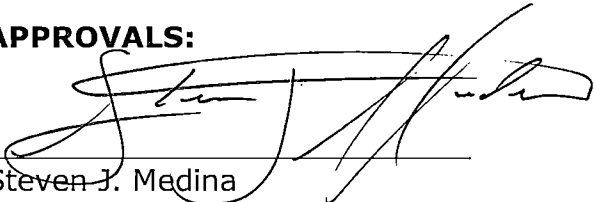
The developer will deposit the necessary cost to cover the establishment of the CFF. The frontage improvements are covered by the streets operational and maintenance fund. Therefore, there is no fiscal impact at this time.

**ATTACHMENT:**

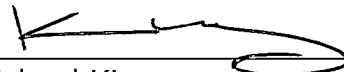
- A. Resolution of the City Council of the City of Lathrop Accepting the Frontage Improvements Constructed by Teichert & Sons, DBA Teichert Construction, and Approving a Reimbursement Agreement with DPIF CA 1 Lathrop, LLC, for Design and Construction of Gravity Sewer Main in E. Louise Avenue and McKinley Avenue Associated with the Logisticcenter Project
- B. Reimbursement Agreement for Gravity Sewer Main in E. Louise Avenue and McKinley Avenue
- C. GASB 34 Report for Frontage Improvements

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**MARCH 11, 2019, CITY COUNCIL REGULAR MEETING**  
**APPROVE REIMBURSEMENT AGREEMENT WITH DPIF CA 1 LATHROP, LLC,**  
**FOR GRAVITY SEWER MAIN IN E. LOUISE AVENUE AND MCKINLEY AVENUE**

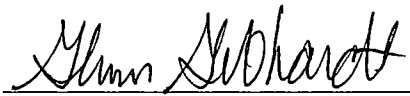
**APPROVALS:**

  
\_\_\_\_\_  
Steven J. Medina  
Assistant Engineer

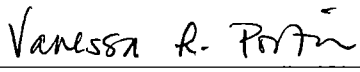
3/7/19  
Date

  
\_\_\_\_\_  
Michael King  
Assistant Public Works Director

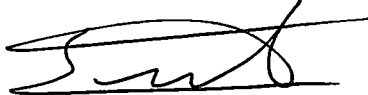
3-7-19  
Date

  
\_\_\_\_\_  
Glenn Gebhardt  
City Engineer

3-7-19  
Date

for   
\_\_\_\_\_  
Cari James  
Administrative Services &  
Director of Finance

3.7.19  
Date

  
\_\_\_\_\_  
Salvador Navarrete  
City Attorney

3-7-19  
Date

  
\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

3.7.19  
Date

**RESOLUTION NO. 19-**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP ACCEPTING THE FRONTAGE IMPROVEMENTS CONSTRUCTED BY TEICHERT & SONS, DBA TEICHERT CONSTRUCTION, AND APPROVE A REIMBURSEMENT AGREEMENT WITH DPIF CA 1 LATHROP, LLC, FOR DESIGN AND CONSTRUCTION OF GRAVITY SEWER MAIN IN E. LOUISE AVENUE AND MCKINLEY AVENUE ASSOCIATED WITH THE LOGISTICENTER PROJECT**

**WHEREAS**, on May 11, 2016, the City's Planning Commission approved the developer's site plan for the development of the Logistcenter project by Resolution No. 16-10; and

**WHEREAS**, as a part of the Conditions of Approval, DPIF CA 1 Lathrop, LLC (DPIF), was required to construct certain off-site improvements; and

**WHEREAS**, one condition of the project was to construct an off-site gravity sewer main from the project site to the McKinley Avenue Pump Station to accommodate their need and future flows from benefitting properties; and

**WHEREAS**, DPIF is eligible for partial reimbursement from owners of properties that develop and connect to this sewer line; and

**WHEREAS**, another condition of the project was to construct frontage improvements in accordance with Encroachment Permit No. 2016-36; and

**WHEREAS**, the frontage improvements have been inspected by staff and deemed complete; and

**WHEREAS**, staff recommends City Council approve the reimbursement agreement with DPIF and the City to establish a mechanism for DPIF to be reimbursed by other benefitting property owners, accept the frontage improvements for maintenance and authorize City staff to release the Frontage Improvements Performance Bond submitted by DPIF in the amount of \$603,000;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Lathrop does hereby accept the frontage improvements, and authorize City staff to release the Frontage Improvements Performance Bond in association with Encroachment Permit 2016-36.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the City Council of the City of Lathrop does hereby approve the reimbursement agreement for the gravity sewer main with DPIF CA 1 Lathrop, LLC.

The foregoing resolution was passed and adopted this 11th day of March 2019, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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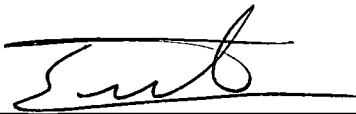
Sonny Dhaliwal, Mayor

**ATTEST:**

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Teresa Vargas, City Clerk

**APPROVED AS TO FORM:**



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Salvador Navarrete, City Attorney

**Exhibit A: E. Louise Sanitary Sewer Gravity Sewer Main**

**Gravity Main Cost**

\$	1,089,214.00	Costs based on paid invoices
\$	2,343.00	Cost to establish CFF ✓
\$	-1,091,557.00	Actual Total
\$	195,320.90	Unreimbursable
\$	896,236	Reimbursable ✓

**Cost Spread Method**

Cost will be divided into fair share reimbursements as determined by parcel area and City wastewater generation factors for the parcels listed below or any subdivision thereof. The gravity main was designed to convey the flows from parcels that have frontage along the gravity main included here in Exhibit A. Wastewater Generation Factors are from Section 5 - Sewer System Standards, City Standards 2014. The unreimbursable amount is based on Pilot Travel Center's parcel size and generation factor.

**Current Parcel Listing and Fair Share Amount**

APN	Address	Dir	Street	Des	Area (acre)	General Plan Land Use Classification	Wastewater Generation Factor (gpd/acre)	<sup>1</sup> Wastewater Generation (gpd)	<sup>2</sup> Percent (%) of Total Wasterwater Generation	<sup>3</sup> Fair Share Cost
19808032	16178 S		McKinley	AV	0.88	Commercial Service	1200	\$ 1,056	0.6%	\$ 7,093
19808033	16188 S		McKinley	AV	0.08	Commercial Service	1200	\$ 99	0.1%	\$ 666
19810001	16175 S		McKinley	AV	2.12	Commercial Service	1200	\$ 2,544	1.6%	\$ 17,088
19810002	16263 S		McKinley	AV	5.00	Commercial Service	1200	\$ 6,000	3.7%	\$ 40,301
19810003	16351 S		McKinley	AV	6.33	Commercial Service	1200	\$ 7,596	4.7%	\$ 51,022
19810004	1631 E		Louise	AV	1.51	Commercial Service	1200	\$ 1,812	1.1%	\$ 12,171
19810005	1629 E		Louise	AV	1.50	Commercial Service	1200	\$ 1,800	1.1%	\$ 12,090
19810006	1683 E		Louise	AV	1.62	Commercial Service	1200	\$ 1,941	1.2%	\$ 13,040
19810007	1695 E		Louise	AV	1.90	Commercial Service	1200	\$ 2,286	1.4%	\$ 15,352
19810009	16490 S		McKinley	AV	0.15	Commercial Service	1200	\$ 180	0.1%	\$ 1,209
19810010	1909 E		Louise	AV	3.45	Commercial Service	1200	\$ 4,140	2.5%	\$ 27,808
19810011	16300 S		McKinley	AV	5.00	Commercial Service	1200	\$ 6,000	3.7%	\$ 40,301
19810012	16200 S		McKinley	AV	5.89	Commercial Service	1200	\$ 7,068	4.3%	\$ 47,475
19810013	16190 S		McKinley	AV	4.08	Commercial Service	1200	\$ 4,896	3.0%	\$ 32,886
19810015	2075 E		Louise	AV	0.16	Commercial Service	1200	\$ 191	0.1%	\$ 1,282
19810018	2445 E		Louise	AV	16.45	Limited Industrial	900	\$ 14,805	9.1%	\$ 99,444
19810019	2001 E		Louise	AV	6.78	Commercial Service	1200	\$ 8,136	5.0%	\$ 54,649
19810020	1919 E		Louise	AV	2.12	Commercial Service	1200	\$ 2,544	1.6%	\$ 17,088
										Unreimbursable
19810023	2131 E		Louise (Logisticcenter)	AV	32.31	Limited Industrial	900	\$ 29,079	17.9%	-\$195,321
19814013	1700 E		Louise	AV	9.68	Commercial Service	1200	\$ 11,616	7.1%	\$ 78,024
19814014	1644 E		Louise	AV	3.13	Commercial Service	1200	\$ 3,756	2.3%	\$ 25,229
19814015	1608 E		Louise	AV	3.23	Commercial Service	1200	\$ 3,876	2.4%	\$ 26,035
19816001	1850 E		Louise	AV	13.74	Commercial Service	1200	\$ 16,488	10.1%	\$ 110,748
19816002	2050 E		Louise	AV	20.50	Commercial Service	1200	\$ 24,600	15.1%	\$ 165,236
<b>Total</b>					<b>147.61</b>			<b>162,509</b>	<b>82%</b>	<b>\$ 896,236</b>

Exhibit A: E. Louise Sanitary Sewer Gravity Sewer Main

Future Gravity Main Cost

\$	431,367.07	Future Costs
\$	431,367.07	Actual Total
\$	77,187.91	Unreimbursable

Cost Spread Method

Cost will be divided into fair share reimbursements as determined by parcel area and City wastewater generation factors for the parcels listed below or any subdivision thereof. This cost analysis is based on the future construction of a gravity sewer main which will complete the sewer system in this area designated by (1) the potential to connect and (2) the Water Resources Master Plan

Current Parcel Listing and Fair Share Amount

APN	Address	Dir	Street	Des	Area (acre)	General Plan Land Use Classification	Wastewater Generation Factor (gpd/acre)	<sup>1</sup> Wastewater Generation (gpd)	<sup>2</sup> Percent (%) of Total Wasterwater Generation	<sup>3</sup> Fair Share Cost
19808032	16178 S		McKinley	AV	0.88	Commercial Service	1200	\$ 1,056	0.6%	\$ 2,803
19808033	16188 S		McKinley	AV	0.08	Commercial Service	1200	\$ 99	0.1%	\$ 263
19810001	16175 S		McKinley	AV	2.12	Commercial Service	1200	\$ 2,544	1.6%	\$ 6,753
19810002	16263 S		McKinley	AV	5.00	Commercial Service	1200	\$ 6,000	3.7%	\$ 15,927
19810003	16351 S		McKinley	AV	6.33	Commercial Service	1200	\$ 7,596	4.7%	\$ 20,163
19810004	1631 E		Louise	AV	1.51	Commercial Service	1200	\$ 1,812	1.1%	\$ 4,810
19810005	1629 E		Louise	AV	1.50	Commercial Service	1200	\$ 1,800	1.1%	\$ 4,778
19810006	1683 E		Louise	AV	1.62	Commercial Service	1200	\$ 1,941	1.2%	\$ 5,153
19810007	1695 E		Louise	AV	1.90	Commercial Service	1200	\$ 2,286	1.4%	\$ 6,067
19810009	16490 S		McKinley	AV	0.15	Commercial Service	1200	\$ 180	0.1%	\$ 478
19810010	1909 E		Louise	AV	3.45	Commercial Service	1200	\$ 4,140	2.5%	\$ 10,989
19810011	16300 S		McKinley	AV	5.00	Commercial Service	1200	\$ 6,000	3.7%	\$ 15,927
19810012	16200 S		McKinley	AV	5.89	Commercial Service	1200	\$ 7,068	4.3%	\$ 18,761
19810013	16190 S		McKinley	AV	4.08	Commercial Service	1200	\$ 4,896	3.0%	\$ 12,996
19810015	2075 E		Louise	AV	0.16	Commercial Service	1200	\$ 191	0.1%	\$ 507
19810018	2445 E		Louise	AV	16.45	Limited Industrial	900	\$ 14,805	9.1%	\$ 39,299
19810019	2001 E		Louise	AV	6.78	Commercial Service	1200	\$ 8,136	5.0%	\$ 21,596
19810020	1919 E		Louise	AV	2.12	Commercial Service	1200	\$ 2,544	1.6%	\$ 6,753
										<b>Unreimbursable</b>
<b>19810023</b>	<b>2131 E</b>		<b>Louise (Logisticcenter)</b>	<b>AV</b>	<b>32.31</b>	<b>Limited Industrial</b>	<b>900</b>	<b>\$ 29,079</b>	<b>17.9%</b>	<b>-\$77,188</b>
19814013	1700 E		Louise	AV	9.68	Commercial Service	1200	\$ 11,616	7.1%	\$ 30,834
19814014	1644 E		Louise	AV	3.13	Commercial Service	1200	\$ 3,756	2.3%	\$ 9,970
19814015	1608 E		Louise	AV	3.23	Commercial Service	1200	\$ 3,876	2.4%	\$ 10,289
19816001	1850 E		Louise	AV	13.74	Commercial Service	1200	\$ 16,488	10.1%	\$ 43,766
19816002	2050 E		Louise	AV	20.50	Commercial Service	1200	\$ 24,600	15.1%	\$ 65,299



**Exhibit A: E. Louise Sanitary Sewer Gravity Sewer Main**

**Total Gravity Main Cost - Present and Future**

Total amount due upon connecting to the gravity sewer main in E. Louise Avenue.

**Current Parcel Listing and Fair Share Amount**

APN	Address	Dir	Street	Des	Total Cost
19808032	16178 S		McKinley	AV	\$ 9,896
19808033	16188 S		McKinley	AV	\$ 929
19810001	16175 S		McKinley	AV	\$ 23,841
19810002	16263 S		McKinley	AV	\$ 56,228
19810003	16351 S		McKinley	AV	\$ 71,185
19810004	1631 E		Louise	AV	\$ 16,981
19810005	1629 E		Louise	AV	\$ 16,868
19810006	1683 E		Louise	AV	\$ 18,193
19810007	1695 E		Louise	AV	\$ 21,418
19810009	16490 S		McKinley	AV	\$ 1,687
19810010	1909 E		Louise	AV	\$ 38,797
19810011	16300 S		McKinley	AV	\$ 56,228
19810012	16200 S		McKinley	AV	\$ 66,237
19810013	16190 S		McKinley	AV	\$ 45,882
19810015	2075 E		Louise	AV	\$ 1,789
19810018	2445 E		Louise	AV	\$ 138,742
19810019	2001 E		Louise	AV	\$ 76,245
19810020	1919 E		Louise	AV	\$ 23,841
					<b>Total Unreimbursable</b>
<b>19810023</b>	<b>2131 E</b>		<b>Louise (Logisticenter)</b>	<b>AV</b>	<b>-\$272,509</b>
19814013	1700 E		Louise	AV	\$ 108,857
19814014	1644 E		Louise	AV	\$ 35,199
19814015	1608 E		Louise	AV	\$ 10,289
19816001	1850 E		Louise	AV	\$ 154,514
19816002	2050 E		Louise	AV	\$ 230,535

**Total Reimbursable for Logisticenter Project**

=	-\$272,509	+	\$1,091,557	=	<b>\$819,048</b>
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Areas Corresponding to Exhibit A: E. Louise Avenue Sanitary Sewer Gravity Sewer Main



Note: Extent of Parcels Used to convey Flows to McKinley Sewer Pump Station via E. Louise Avenue and McKinley Avenue Gravity Sewer Main

**CITY OF LATHROP  
PROJECT ACCEPTANCE  
(GASB 34 REPORT)**

Date 02/26/19

Invoice Item	Description	Cost
	Saw Cut AC; Fine grade Ep to RW; Class 2 AB; 7-inch AC pavement; 2-inch minimum overlay Curb & gutter detail R7A (ADD for additional PCC) Commercial driveways; Handicap ramps; 10-feet PCC sidewalk Striping and markings Relocate existing 25-foot decorative street lights Fire hydrant assemblies Traffic control	
	<b>Total</b>	<b>\$ 297,807.00</b>

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**REIMBURSEMENT AGREEMENT FOR GRAVITY SEWER MAIN IN E.  
LOUISE AVENUE AND MCKINLEY AVENUE**

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This Reimbursement Agreement for the Gravity Sewer Main (“*Agreement*”) is made and entered into this 11th day of March 2019, (“*Effective Date*”) by and between the City of Lathrop (“*City*”), a municipal corporation of the State of California (“*City*”) and DPIF CA 1 Lathrop, LLC, a California Limited Liability Company, (“*Developer*”). City and Developer may be collectively referred to herein as the “*Parties*” or individually as a “*Party*”.

**RECITALS**

WHEREAS, on May 11, 2016, the Planning Commission of the City of Lathrop approved the Site Plan Review (SPR-15-79) which established the conditions for the construction of a warehouse distribution facility at 2131 E. Louise Avenue; and

WHEREAS, SPR-15-79 approval was subject to Public Works Condition of Approval No. 5, “Applicant shall construct an off-site sewer from the project property to the McKinley Avenue pump station; the method of sewer tie-in shall be via gravity sewer main or a combination of gravity and force sewer mains. The Applicant shall size all gravity sewer mains to accommodate the ultimate flows for the surrounding areas. Applicant is eligible for partial reimbursement from users who connect to this line. The Applicant shall enter into a reimbursement agreement with the City. The sewer system shall be constructed prior to any occupancy being granted.”; and

WHEREAS, pursuant of Lathrop Municipal Code 13.16.190, this Reimbursement Agreement establishes a mechanism to reimburse the Developer for a proportionate share of the incurred cost of oversizing the construction improvements to the Gravity Sewer Main in E. Louise Avenue and McKinley Avenue. Such proportionate share shall be based on area of the land or lands of the future users, the wastewater generation factor as described in Section 5 - Sewer System Standards, City Standards 2014, and the wastewater generation of future users.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and understandings hereinafter set forth, City and Developer hereby set forth their agreement as follows:

**AGREEMENT**

1. Recitals. The recitals set forth above are true and correct and made a part of this Agreement.
2. Project. The Project consists of the construction of a Gravity Sewer Main in E. Louise Avenue and McKinley Avenue as approved by the City Engineer (“Project”). Developer has designed, funded and constructed the Project in conformance with City Standards.
3. Reimbursement
  - (a) The Developer has completed the Project. City Council has accepted the improvements, Developer is eligible to be reimbursed for a portion of the Actual Costs as described in (b) below.

**REIMBURSEMENT AGREEMENT FOR GRAVITY SEWER MAIN IN E. LOUISE AVENUE AND MCKINLEY AVENUE**

(b) "Actual Costs" includes those design costs, construction costs, and other costs for a total of **\$1,091,557** as detailed in Exhibit A attached hereto.

(c) The Developer's unreimbursable expenses associated with the off-site improvements are defined as those expenses associated with Gravity Sewer Main in E. McKinley Avenue and McKinley Avenue. Specifically, the percent total flow of the wastewater generated multiplied by the Actual Costs calculated as **\$272,509** based on parcel area and City wastewater generation factors ("Unreimbursable Sewer Line Expense" as detailed in Exhibit A).

(d) The Developer shall not have the right to reimbursement for sums contributed by the Developer in excess of the Actual Costs minus the Unreimbursable Sewer Line Expense  **$\$1,091,557 - \$272,509 = \$819,048$**

(e) Lathrop Municipal Code 13.16.19 states:

Where an applicant for sewer service is so located that it is necessary to construct or cause to be constructed a new main, service line, pump, lift station or other sewer facilities, or to expand or replace such facilities, the applicant shall be responsible for such work. The city may require that such work be oversized in order to provide for future use by others of such work, and, in the event the city so requires, the cost of such oversizing shall be determined, and the city may require future users of such facilities to reimburse the original builder for a proportionate share of the cost of such oversizing. Such proportionate share shall be based on frontage of the land or lands of the future user, will be collected at the time of connection to the works, and reimbursed to the original builder within thirty (30) days of collection. In no event shall the city be liable for reimbursement to the original builder unless and until such reimbursement is collected from the new users. In no event shall the city be liable for failure to make such collection. No such collection or reimbursement will be made after ten (10) years from the date of completion of the original work or works.

(f) Lathrop Municipal Code 3.20.040 states:

The fees imposed by the city pursuant to this title shall be used to pay for the cost of providing specified public facilities, as described in implementing resolutions. As described in each implementing resolution, the specified public facilities will be categorized into separate and distinct sets of public facilities based upon the type of public facility to be provided, the geographical area served by the public facility, or other identifying features. Each separate set of specified public facilities described in an implementing resolution shall be referred to in this title as a "public facility category."

(g) Based on the above, the City shall establish a Capital Facilities Fee (CFF), with all costs to establish the CFF to be paid by the Developer and included in "Actual Costs" above, to collect reimbursement from developers of properties benefited by the Project for a period of ten (10) years. The aforementioned ten (10) year period shall begin

**REIMBURSEMENT AGREEMENT FOR GRAVITY SEWER MAIN IN E. LOUISE AVENUE  
AND MCKINLEY AVENUE**

on the effective date of CFF.

4. City to Use Best Efforts to Perform Agreement. City agrees to use its best efforts, and take all reasonable and necessary actions to provide reimbursement fees as mentioned in reimbursement item 5(g), above.
5. Counterparts. This Agreement may be executed in counterparts, and each fully executed counterpart will be considered an original document.
6. Partial Invalidation. If any term or provision of this Agreement shall be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement will not be affected thereby, and each remaining term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.
7. Waivers. No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision contained herein. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act except those of the waiving party, which will be extended by a period of time equal to the period of the delay.
8. Successors and Assigns. This Agreement is binding upon and insures to the benefit of the permitted successors and assigns of the parties hereto.
9. Entire Agreement. This Agreement constitutes the entire contract between the parties hereto with respect to the subject matter hereof and may not be modified except by an instrument in writing signed by the party to be charged.
10. Time is of the Essence. City and Developer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof.
11. Construction and Survival of Provisions. This Agreement has been prepared jointly by the parties and their professional advisors. City and Developer and their respective advisors believe that this Agreement is the product of all their efforts that expresses their agreement and that it should not be interpreted in favor of or against either Developer or City. The parties further agree that this Agreement will be constructed to effectuate the normal and reasonable expectations of a sophisticated City and Developer.
12. Governing Law. The parties hereto expressly agree that this Agreement will be governed by, interpreted under, and constructed and enforced in accordance with the laws of the State of California.
13. No Recordation. No memorandum or other document relating to this Agreement shall be recorded without the prior written consent of City.

**REIMBURSEMENT AGREEMENT FOR GRAVITY SEWER MAIN IN E. LOUISE AVENUE  
AND MCKINLEY AVENUE**

IN WITNESS WHEREOF, City and Developer have executed this Agreement as of the Effective Date.

**DEVELOPER**

DPIF CA 1 Lathrop, LLC.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY**

CITY OF LATHROP, a municipal corporation in  
the County of San Joaquin, State of California

By: \_\_\_\_\_ Date: \_\_\_\_\_

Stephen J. Salvatore  
City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Salvador Navarrete  
City Attorney

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