

ITEM 4.3

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

ITEM: **SECOND READING AND ADOPTION OF ORDINANCE 19-402 APPROVING THE FIFTH AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LATHROP, CALIFIA, LLC, AND RIVER ISLANDS DEVELOPMENT, LLC**

RECOMMENDATION: **Second Reading and Adoption of Ordinance 19-402 Approving the Fifth Amendment to the Development Agreement Between the City of Lathrop, Califia, LLC, and River Islands Development, LLC. (The Fifth Amendment Will Address Wastewater and Potable Water Allocations for the Project, On-going Monitoring of Actual Wastewater and Potable Water Usage, and Restate Commitments of the Project to Water Conservation)**

RECOMMENDED ACTION:

The City Council to conduct second reading and adopt Ordinance 19-402 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING THE FIFTH AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LATHROP, CALIFIA, LLC AND RIVER ISLANDS DEVELOPMENT, LLC

SUMMARY:

On February 11, 2019, the City Council approved the introduction and fist reading of the subject Ordinance by the following vote:

Ayes:	Akinjo, Torres-O'Callaghan, and Dhaliwal
Noes:	None
Absent:	Salcedo
Abstain:	Lazard

The Ordinance will take effect 30 days after adoption.

SUBMITTED BY:


Teresa Vargas, City Clerk

3/6/19
Date

ORDINANCE NO. 19-402

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING THE FIFTH AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LATHROP, CALIFIA, LLC AND RIVER ISLANDS DEVELOPMENT, LLC.

WHEREAS, the City of Lathrop City Council held a duly noticed public hearing to consider the Fifth 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 (as amended by the First Amendment to Amended and Restated Development Agreement dated July 12, 2005, 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, 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 Fifth Amendment to the Development Agreement ("Fifth 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 Fifth Amendment has been reviewed by City staff and City Attorney, and is recommended by the Planning Commission for approval; and

WHEREAS, a Notice of Public Hearing was advertised in the Manteca Bulletin on January 2, 2019, in accordance with the Government Code and Lathrop Municipal Code as required by law; and

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

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the text of the Fifth Amendment is consistent with the 2003 West Lathrop Specific Plan 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 Fifth 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).
- 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.
- e. The economic concerns addressed by the DA amendment do not constitute significant environmental effects under CEQA (CEQA Guidelines 15131) and therefore are not proper subjects for CEQA review.
- f. The finding of general plan and specific plan conformity made by the Planning Commission is not subject to the California Environmental Quality Act (CEQA) pursuant to Article 5 §15061 (b) (3) by the "General Rule" that CEQA applies only to projects that have a potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The proposed action does not authorize any specific construction; it is only a finding of consistency to the General Plan.

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

Section 1.

The City Council finds that the proposed Fifth Amendment to the Development Agreement between the City of Lathrop, Califia, LLC, and River Islands Development, LLC, included as Attachment #2 of the Staff Report is consistent with the Lathrop General Plan and West Lathrop Specific Plan.

Section 2.

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 3.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4.

This Ordinance shall take legal effect 30 days from its adoption.

Section 5.

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.

Section 6.

The Mayor is hereby authorized to execute said Development Agreement Amendment for and on behalf of the City once this ordinance takes effect.

THIS ORDINANCE was regularly introduced at a meeting of the City Council of the City of Lathrop on the 11th day of February 2019, and was **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Lathrop on the 11th day of March 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk

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. 19-402 was duly and regularly introduced at a regular meeting of the City Council on the 11th day of February 2019, and that thereafter said Ordinance was duly and regularly adopted at a regular meeting of the City Council on the 11th day of March 2019, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

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. 19-402 duly passed and adopted by the City of Lathrop City Council at its regular meeting held March 11, 2019, and that the Summary of the Ordinance was published on March 6, 2019, and _____ 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 ____ day of March, 2019.

TERESA VARGAS, CMC
CITY CLERK

(SEAL)