



DATE: September 5, 2023

CONSENT

AGENDA ITEM: Approve Draw on Letter of Credit from U.S. Home Corporation, d/b/a/ Lennar for the Savona 3rd and 4th Additions.

SUBMITTED BY: Jack Griffin, City Engineer

REVIEWED BY: Kristina Handt, City Administrator
Sarah Sonsalla, City Attorney
Sophia Jensen, City Planner
Marty Powers, Public Works Director
Chad Isakson, Assistant City Engineer

BACKGROUND: U.S. Home Corporation, d/b/a/ Lennar, is the developer for the Savona subdivision, including the Savona 3rd Addition and Savona 4th Addition. As a condition of Final Plat approval for each Addition, Lennar entered into a Development Agreement. As part of each respective Development Agreement, Lennar was required to provide a letter of credit (LOC) as the form of security to ensure that the subdivision improvements are constructed as detailed in Development Agreement and the approved Subdivision Plans. In accordance with the Development Agreements, Lennar was required to complete the subdivision improvements, including all punch list items, by October 31, 2016 for Savona 3rd Addition, and by September 30, 2017 for Savona 4th Addition.

Also, in accordance with the Development Agreement, the security amount for each letter of credit may be reduced incrementally once predefined completion milestones are met. Accordingly, the remaining security amount for each respective Addition is as follows:

Subdivision	Initial Security \$	Current Security \$
Savona 3rd Addition	\$3,365,764.00	\$ 514,806.00
Savona 4th Addition	\$4,080,974.00	\$1,468,090.00

ISSUE BEFORE COUNCIL: Should Council approve the drawing on the letter of credits for the Savona 3rd and 4th Additions as determined by the City Administrator?

PROPOSAL DETAILS/ANALYSIS: City staff has been tracking the status and progress of the work in the Savona subdivision over the past several years and has documented a lack of progress of the remaining elements. Detailed punch lists have been developed, itemized and submitted to the developer's attention on multiple occasions and have communicated that these issues be addressed promptly and prior to City acceptance of the work for the Savona 4th Addition, and prior to final close out following the warranty inspection for the Savona 3rd Addition.

At the April 12, 2022 Council Workshop the Savona subdivision was included in the presentation to council regarding developments that required staff enforcement. Subsequently, formal enforcement notices were sent to Lennar, dated June 7, 2022. Additional enforcement notices were sent September 1, 2022 and September 12, 2022. In addition to the enforcement notices, staff has met with the developer's representatives in the field and issued multiple email communications detailing the City's requirements and expectations.

In the fall of 2022, in response to the City's enforcement actions, Lennar began to show progress toward completing the work, and provided the City with assurances that all work would be diligently completed

by the end of the 2022 construction season. While significant progress was made, all work was not fully addressed as planned, due partially to an early snow fall, but also due to the fact that design solutions for the stormwater basin corrections were not initiated in a timely manner. However, once the 2023 construction season began, Lennar has yet to communicate any progress or schedule for resuming the remaining work. Therefore, staff is proposing that the Council provide the City Administrator with full authority to draw on each of the letter of credits for the Savona 3rd and 4th Additions for the purpose of completing the subdivision improvements.

DEVELOPMENT STATUS: The City provided an email to Lennar May 19, 2023, once again detailing the remaining work to be addressed, and once again there has been little to no progress by Lennar regarding these issues.

Savona 3rd Addition. The following items remain to be completed to fulfill the completion of the warranty punch list and qualify for a full release of the 25% warranty security amount \$514,806.

1. Pending VBWD inspection and acceptance of Infiltration Basin 7.
2. Pending final inspection to confirm adequate turf restoration/establishment for Infiltration Basin #5 and Basin #7, and final removal of all erosion control devices.

Savona 4th Addition. The following items remain to be completed to meet the criteria for project acceptance of the subdivision improvements and to initiate the 1-year warranty period. Once completed the security can be reduced from \$1,468,090 down to the 25% warranty security, or \$891,473 (landscaping improvements not included in calculation).

1. Pending approved redesign for converting Infiltration Basin #1 to a filtration basin.
2. Pending construction work and full restoration and turf establishment to convert Infiltration Basin #1 to a filtration basin.
3. Pending submittal and approval of filtration basin #1 as-built plans.
4. Pending post construction VBWD inspection and acceptance of converted filtration basin.
5. Pending removal of lathe from FES 330.

OPTIONS:

1. Authorize the City Administrator to draw on the Letter of Credit for Lennar for the Savona 3rd and 4th Additions, without further notice to the developer, and to be drawn in the amounts as deemed appropriate by the City Administrator, and that one or more draws may be made without further Council action or approval, for the purpose of completing the subdivision improvements.
2. Direct staff to take no action at this time and continue to work with the developers at the staff level to encourage project completion.

RECOMMENDATION: Staff is recommending that the City Council approve, *as part of the Consent Agenda*, a motion to authorize the City Administrator to draw on the Letter of Credits for the Savona 3rd and 4th Additions. If removed from the *Consent Agenda*, the recommended motion for the action is as follows:

“Move to authorize the City Administrator to draw on the Letter of Credit for U.S. Home Corporation, d/b/a/ Lennar for the Savona 3rd and 4th Additions, without further notice to the developer, and to be drawn in the amounts as deemed appropriate by the City Administrator, and that one or more draws may be made without further Council action or approval, all for the purpose of completing the subdivision improvements.”

ATTACHMENTS:

- Savona 3rd Addition Security Tracking Spreadsheet.
- Savona 4th Addition Security Tracking Spreadsheet.

SAVONA 3RD ADDITION

Time of Performance: October 31, 2016

DEVELOPMENT AGREEMENT AMOUNTS			REDUCTIONS						
CATEGORY	CONSTRUCTION	125% REMARKS	#1	#2	#3	#4	#5	#6	#7
Grading (Separate Grading Agreement)		\$127,000		\$127,000					
Sanitary Sewer	\$345,301	\$431,626 100%	\$215,813	\$107,907				\$107,907	
Watermain	\$503,113	\$628,891 100%	\$314,446	\$157,223				\$157,223	
Streets	\$1,168,007	\$1,460,009 75%	\$730,004		\$365,002				
Surface Water Facilities	\$333,140	\$416,425 75%	\$208,213			\$104,106			
Erosion Control	\$133,732	\$167,165 75%			\$125,374				
Sidewalks/Trails	Included in Streets	Included in Streets							
Street Lighting	NA	NA By Xcel Energy							
Street Signs and Traffic Control Signs	Included in Streets	Included in Streets							
Landscaping	\$95,218	\$119,023 100%					\$89,267		\$29,756
Tree Preservation and Restoration	NA	NA							
Wetland Mitigation and Buffers	NA	NA LOC Through VBWD							
Monuments	\$6,000	\$7,500 75%			\$5,625				
Miscellaneous Facilities	NA	NA							
Record Drawings	\$6,500	\$8,125 75%			\$6,094				
TOTALS	\$2,591,011	\$3,365,764	RELEASED AMOUNTS: \$1,468,476	\$392,129	\$502,095	\$104,106	\$89,267	\$265,129	\$29,756
			CUMMULATIVE AMOUNTS: \$1,468,476	\$1,860,605	\$2,362,700	\$2,466,806	\$2,556,073	\$2,821,202	\$2,850,958
			SECURITY AMOUNT REMAINING: \$1,897,288	\$1,505,159	\$1,003,064	\$898,958	\$809,691	\$544,562	\$514,806
			DATE: 12/20/2016	1/16/2018	2/5/2019	9/3/2019	12/3/2019	2/4/2020	5/2/2023

SAVONA 4TH ADDITION

Time of Performance: September 30, 2017

DEVELOPMENT AGREEMENT AMOUNTS			REDUCTIONS			
CATEGORY	CONSTRUCTION	125% REMARKS	#1	#2	#3	#4
Grading	NA	NA	NA			
Sanitary Sewer	\$379,407	\$474,259 100%	\$355,694		\$118,565	
Watermain	\$460,445	\$575,556 100%	\$431,667		\$143,889	
Storm Sewer (w/pond structures)	\$449,062	\$561,328 50%	\$280,664			
Streets	\$1,296,601	\$1,620,751 75%	\$810,375	\$405,188		
Sidewalks/Trails	\$281,412	\$351,765				
Surface Water Facilities	NA	NA included in Grading Agreement				
Street Lighting	\$84,000	\$105,000 0%				
Street Signs and Traffic Control Signs	\$4,650	\$5,813				
Private Utilities (electricity, natural gas, telephone, and cable)						
Landscaping	\$213,893	\$267,366 25%				\$66,842
Tree Preservation and Restoration	NA	NA				
Wetland Mitigation and Buffers	NA	NA LOC Through VBWD				
Monuments	\$7,800	\$9,750 0%				
Erosion Control	\$81,009	\$101,262 0%				
Record Drawings	\$6,500	\$8,125 0%				
TOTALS	\$3,264,779	\$4,080,974	RELEASED AMOUNTS: \$1,878,401	\$405,188	\$262,454	\$66,842
			CUMMULATIVE AMOUNTS: \$1,878,401	\$2,283,589	\$2,546,042	\$2,612,884
			SECURITY AMOUNT REMAINING: \$2,202,573	\$1,797,386	\$1,534,932	\$1,468,090
			DATE: 1/16/2018	2/5/2019	2/4/2020	5/2/2023