



MAYOR & COUNCIL COMMUNICATION

DATE: 3/3/15
REGULAR
ITEM # 11
RESOLUTION 2015-18

AGENDA ITEM: Easton Village Developer's Agreement

SUBMITTED BY: Kyle Klatt, Community Development Director

THROUGH: Dean Zuleger, City Administrator

REVIEWED BY: Jack Griffin, City Engineer
Dave Synder, City Attorney
Nick Johnson, City Planner

SUGGESTED ORDER OF BUSINESS:

- Introduction of ItemCommunity Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff Mayor Facilitates
- Call for Motion Mayor & City Council
- Discussion Mayor & City Council
- Action on Motion..... Mayor Facilitates

POLICY RECCOMENDER: Staff is recommending that the City Council approve a developer's agreement associated with the Easton Village residential development. The agreement has been drafted based on a model agreement previously reviewed by the Council.

FISCAL IMPACT: Direct Payments to Developer – None: there are no City payments for oversizing of utilities or for other reasons included in the agreement. Although the construction plans include oversizing of some infrastructure, the developer has previously agreed to absorb these costs as part of the City's 39th Street Sewer assessment project. Future financial impacts include maintenance of streets, trails, sanitary sewer mains, watermain and other public infrastructure, maintenance of storm water ponding areas (after three years), monthly lease payments for street light, and other public financial responsibilities typically associated with a new development.

SUMMARY AND ACTION REQUESTED: The City Council is being asked to authorize execution of a developer's agreement for the first phase of the Easton Village residential development. The attached agreement has been reviewed by the City Attorney and City

Engineer, and all recommend changes specific to the Easton Village project have been incorporated into the document as drafted. This agreement must be executed before any construction activity, outside of any authorized grading work, may proceed on the site. The recommended motion to take action on the request is as follows:

“Move to adopt Resolution 2015-18 approving the developer’s agreement for Easton Village”

LEGISLATIVE HISTORY/STAFF REPORT: One of the conditions attached to the Council’s approval of the Easton Village Final Plat specified that the developer enter into a Developer’s Agreement prior to the execution of the plat by City officials. Staff has drafted such an agreement consistent with the City’s developer’s agreement template, and this document is attached for consideration by the City Council. Please note that the document as drafted contains some modifications to the original template based on some of the unique aspects of the Easton Village development. The key components of the agreement include the following components:

- That all improvements to be completed by June 30, 2016.
- That the developer provides a letter of credit in the amount of \$4,318,894 related to the cost of the proposed improvements.
- That the developer provide a cash deposit of \$494,749.52 for SAC and WAC charges, engineering administration, one year of street light operating costs, and other City fees. The developer will be dedicating park land within the subdivision area that exceeds the amount required based on the amount of land being subdivided (the agreement does note that the remaining park land dedication or fees in lieu of land dedication will be due with future project phases). This agreement also represents the first developer payment and cost recovery related to the Village AUAR.
- That the developer enters into an escrow agreement with the City concerning the future cost of the Village Parkway railroad crossing. The agreement as drafted would require that all future subdivisions with direct access to the Village Parkway (and by extension will benefitting from this road that will allow their properties to develop) contribute their fair share of the costs of the improvements. Staff has estimated that the costs of the crossing will be \$500,000, which would be distributed amongst the four benefitting properties based on the number of REC units projected for each site. The agreement includes a provision that the City would pay for any oversizing costs associated with any safety improvements associated with the crossing.
- The developer is asking that the City commit to planning for and installing park improvements within the subdivision by summer of 2016.
- The agreement requires that the developer submit an escrow associated with the temporary access to Manning Avenue that will cover the expenses necessary to remove this road in the future.

- The developer is requesting that the City commit to planning for improvements and installing these improvements within the planned Outlot D park area. This provision should be removed if the City Council does not agree to abide by this requested time commitment.

The agreement as drafted incorporates: 1) the improvements and public infrastructure necessary to serve the first phase of Easton Village, and 2) the Eastern Village Trunk Sewer project that will extend a trunk sewer line from the 30th Street lift station to the southern-most connection point of the 39th Street Sewer project (immediately south of the railroad right-of-way west of the gas utility substation). The developer has requested that these projects, both of which are required to bring services into the project area, be covered under one agreement with the City. The attached agreement references of these plans accordingly, and the security calculations include both projects.

The proposed project does not include any specific City payments for utility oversizing or other reasons. The City Engineer has not approved the final construction plans for the project, and no work will be allowed to commence on the site until the City approves these plans.

The City Attorney has not yet completed a final review of the document, and approval should be subject to final review and approval by the City Attorney.

BACKGROUND INFORMATION (SWOT):

Strengths: The developer's agreement has been drafted to guarantee that the improvements associated with Easton Village plans will be installed in accordance with City specifications.

Execution of the developer's agreement and compliance with all conditions in the agreement will allow the developer to record the Final Plat.

Weaknesses: The City will assume responsibility for future maintenance of the public improvements.

Opportunities: The proposed improvements will provide for infrastructure connections to adjacent properties.

The proposed improvements include the construction of the Eastern Village Trunk Sewer Line, which will provide for the needed connection to make currently installed sewer lines along 39th Street and south of Highway 5 functional.

The proposed agreement requires the developer to contribute towards the costs of constructing a new railroad crossing and set up the template that will be used to collect funds from other developments for this project.

Threats: The City will need to provide construction observation throughout the course of the project (these costs will be covered under an Engineering Administration Escrow).

RECOMMENDATION: Based on the above Staff report, Staff is recommending that the City Council approve the Developer's Agreement for Easton Village subject to final review and

approval of the agreement by the City Attorney and that the Council direct the Mayor and Staff to execute this document. The suggested motion to adopt the Staff recommendation is as follows:

“Move to adopt Resolution 2015-18 approving the developer’s agreement for Easton Village”

ATTACHMENTS:

1. Resolution 2015-018
2. Easton Village Developer’s Agreement – Final Draft
3. Railroad Crossing Escrow Agreement