

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Engineering

AGENDA DATE: September 15, 2009

CONTACT PERSON/PHONE: R. Alan Shubert, City Engineer (X4423)

DISTRICT(S) AFFECTED: 1

SUBJECT:

Council Resolution that gives authorization to pay Developer (Colony Partners, L.P.) the amount of ONE HUNDRED THIRTY FIVE THOUSAND ONE HUNDRED AND EIGHTY SEVEN AND 12/100 DOLLARS (\$135,187.12) as the City's share of the costs of the Project and that such amount shall constitute the final and complete payment owed to Developer.

The project includes construction of the extension of the drainage channel that parallels Bear Ridge Drive, a parallel maintenance road, Bear Ridge Drive and appurtenant facilities on City property.

BACKGROUND / DISCUSSION:

Colony Partners, L.P., now known as Hunt Communities Holding built subdivision improvements for Franklin Hills Unit 4 and Unit 6. The improvements included a drainage channel and maintenance road on City property and a portion of Bear Ridge Drive fronting city property. The developer and City had entered into the Franklin Hills Developer Participation Contract which allowed for City participation in the costs of these improvements and provided that without approval by City Council, the City's portion should not exceed \$120,000. The developer has submitted invoices totaling \$165,367.22. City Engineering has reviewed the invoices and can verify \$135,187.12 as eligible participation costs. Actual costs of the improvements totaled \$1,277,586.42 therefore the amount in this resolution is still within the 30% limitation for developer participation. This resolution authorizes payment in excess of the originally contracted \$120,000 and is being presented to Council at the request of the developer.

PRIOR COUNCIL ACTION:

Council approved the Franklin Hills Developer Participation Contract on May 18, 2004.

AMOUNT AND SOURCE OF FUNDING:

\$120,000.00 from HFC funds (Project PPR0003, Fund 27624, Account 508027)

\$ 15,187.12 from 2008 Reprogramming (project PCP08ST03, Fund 27263, Account 508027)

BOARD / COMMISSION ACTION:

N/A

***** REQUIRED AUTHORIZATION *****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: 

(Example: if RCA is initiated by Engineering, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

Whereas, the City entered into an agreement with Colony Partners, L. P. ("Developer") on May 18, 2004 entitled "Franklin Hills Developer Participation Contract", (the "Agreement"); and

Whereas, the Agreement provided that the Developer construct the extension of the drainage channel that parallels Bear Ridge Drive, a parallel maintenance road, Bear Ridge Drive and appurtenant facilities on City property (the "Project"); and

Whereas, the Agreement requires the City to pay Developer no less than \$120,000 as the City's share of the design and construction of the Project; and

Whereas, the Agreement also specifies, without approval by City Council, the City's portion of the design and construction costs shall not exceed \$120,000 but in no event shall the costs by City exceed 30% of the actual costs of the improvements; and

Whereas, Developer has submitted actual costs of the completed Project and has requested that in addition to the \$120,000, an additional FIFTEEN THOUSAND ONE HUNDRED EIGHTY SEVEN AND 12/100 DOLLARS (\$15,187.12) be paid by the City as the City's share of the final costs of the Project, for a total cost to the city of \$135,187.12; and

Whereas, the total of \$135,187.12 does not exceed 30% of the actual costs of the improvements.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO

That authorization is hereby given to pay Developer the amount of ONE HUNDRED THIRTY FIVE THOUSAND ONE HUNDRED EIGHTY SEVEN AND 12/100 DOLLARS (\$135,187.12) as City's share of the costs of the Project and that such amount shall constitute the final and complete payment owed to Developer.

ADOPTED THIS _____ DAY OF _____, 2009.

THE CITY OF EL PASO:

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Mark Shoesmith
Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

Rene W. Ray
for R. Alan Shubert, P.E.
City Engineer