



Waukesha Water Utility

SERVING WAUKESHA SINCE 1886

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MEMORANDUM

Date: June 14, 2017

To: Dan Duchniak, P.E.

From: Kelly Zylstra, P.E.

Re: Amendment No. 1 to the Developers Agreement with Fox Lake Land, LLC.

On July 16, 2015, the Water Utility entered into a Developer's Agreement with Fox Lake Land, LLC for the development of Fox Lake Village #2, a residential development on the south side of the City near River Road and Lawnsdale. Attached is a proposed amendment addressing two items within the original developer's agreement.

The first item relates to the completion date. The original agreement called for all water system improvements to be accepted by the Waukesha Water Utility within 24 months, which will be expiring on July 16, 2017. Amendment No. 1 extends the completion date to July 16, 2019. The construction of the water main has been completed; however, the final pavement lift is still needed.

The second item relates to the Guarantee amount but is directly tied to the final pavement lift - much like the situation we had last year with Howell Oaks. Last year when working with Howell Oaks, it came to my attention that the City's policy reads, "The surface course and all necessary repairs must be completed within 2 years of the date of this Agreement (*theirs*), if at that time at least half of the parcels in the Development have improvements constructed on them. If at that time fewer than half of the parcels in the Development have improvements constructed on them, then the Department of Public Works shall determine a new timetable for completion and the Developer shall post an additional performance bond as required by the Department."

As a result, last year the Commission had us change the standard Developers Agreements moving forward, however the agreement with Fox Lake Village preceded that change, making this Amendment necessary.

In the case of Fox Lake Land, LLC, we reduced the guarantee to 50% per the Developer's request following the completion of construction in accordance with the Commission's action on Howell Oaks. Since that time, all deficiencies prior to the final lift have been corrected, and the Developer has requested that we consider an additional reduction to our guarantee amount. We believe this request is justified. Given that the potential risk to the Utility during the final pavement lift relates primarily to the valves, a reduction in the Guarantee amount to cover 100% of all potential repairs to or replacement of these items, plus a 25% of the original Guarantee amount is reasonable. Therefore, I have added language to the attached Amendment that will cover this and allow for the additional interim reduction in Guarantee.

A copy of the amendment is attached to this memo and included in the Commission signature folder.

Recommended Motion: Move to approve Amendment No. 1 to the Developer's Agreement with Fox Lake Land, LLC for the Fox Lake Village Addition 2.

Enc.