

COUNCIL ACTION FORM

SUBJECT: REQUEST TO RELEASE ASSESSMENT AND UTILITY CONNECTION FEE OBLIGATION FOR LOT 14 OF EASTGATE SUBDIVISION

BACKGROUND:

First National Bank recently sold Lot 14 of the Eastgate Subdivision to Friedrich/Iowa Realty. In 1998, the original Eastgate developer signed a development agreement promising payment for improvements to roads and utilities in the area. The development was then the subject of a bankruptcy proceeding, and in 2001, the City entered into a covenant that modified the owner's public infrastructure obligations. The property was ultimately acquired by First National Bank through the bankruptcy proceeding.

The covenant requires payment to the City for the estimated costs of widening Dayton Avenue for a turn lane and for connections to water and sewer service. This payment is to be made upon the sale or transfer of each lot. The covenant pro-rates the amount owed for each lot on the basis of each lot's land area. The road widening cost was revised in 2004 to reflect increased construction costs. **In 2005, First National Bank paid the outstanding utility tapping fees owed on Lot 14 and the other 12 lots it owned, leaving only the road widening assessment outstanding.**

The City is owed \$38,010 upon the sale of Lot 14 for the widening of Dayton Avenue. Payment in that amount was received by the City on September 30. The 12 lots remaining in the subdivision have been apportioned \$94,710 in road widening costs, which is due to be paid to the City as they are sold in the future.

ALTERNATIVES:

1. Accept payment in the amount of \$38,010 and authorize the release of assessment and utility connection fee obligation for Lot 14, Eastgate Subdivision.
2. Do not accept payment and do not authorize the release of the assessment and utility connection fees for Lot 14, Eastgate Subdivision.

MANAGER'S RECOMMENDED ACTION:

The covenant on this property requires payment of \$38,010 for road widening costs upon the sale or transfer of this property from its current owner. The buyer of the property has now remitted payment in that amount to the City.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby accepting payment in the amount of \$38,010 and authorize the release of assessment and utility connection fee obligation for Lot 14, Eastgate Subdivision.

DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER

Prepared by: Jessica D. Spoden, City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010; 515-239-5146
Return to: Ames City Clerk, 515 Clark Ave, P.O. Box 811, Ames, IA 50010

**PARTIAL RELEASE OF RIGHTS PURSUANT TO EASTGATE SUBDIVISION
COVENANT FOR ASSESSMENT OF COSTS AND IMPROVEMENTS**

The undersigned, the Mayor and the City Clerk of the City of Ames, Iowa, for valuable consideration, receipt of which is hereby acknowledged, do hereby acknowledge that the following-described real estate situated in Story County, Iowa, to-wit:

Lot 14, Eastgate Subdivision, Ames, Story County, Iowa

is hereby released from any and all obligations pursuant to the Eastgate Subdivision Covenant for Assessment of Costs and Improvements Dayton Avenue (the "Agreement") entered into by and between Eastgate Development, Inc.; the City of Ames, Iowa; First National Bank, Ames, Iowa; Ames Trenching & Excavating, Inc.; Manatt's, Inc.; Hardin County Savings Bank; Clinic Investments, Inc.; and Everett Freel and Marilyn Freel on February 13, 2001, and filed on February 16, 2001, as Instrument No. 01-01744 in the office of the Recorder of Story County, Iowa, and refiled on March 13, 2001, as Instrument No. 01-02822 in the office of the Recorder of Story County, Iowa.

The Agreement remains in full force and effect against all other real estate covered by the Agreement.

Dated this _____ day of _____, 2015.

<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell, Mayor</p> <p>Attest _____ Diane R. Voss, City Clerk</p>	<p>STATE OF IOWA, STORY COUNTY, ss:</p> <p>On this _____ day of _____, 2015, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known and who, by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Resolution No. _____ adopted by the City Council on the _____ day of _____, 2015, and that Ann H. Campbell and Diane R. Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.</p> <p>_____ Notary Public in and for the State of Iowa</p>
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**PARTIAL RELEASE OF RIGHTS PURSUANT TO DEVELOPMENT AGREEMENT
EASTGATE SUBDIVISION**

The undersigned, the Mayor and the City Clerk of the City of Ames, Iowa, for valuable consideration, receipt of which is hereby acknowledged, do hereby acknowledge that the following-described real estate situated in Story County, Iowa, to-wit:

Lot 14, Eastgate Subdivision, Ames, Story County, Iowa,

is hereby released from any and all obligations pursuant to the Development Agreement Eastgate Subdivision (the "Agreement") entered into by and between Eastgate Development, Inc., and the City of Ames, on October 6, 1998, and filed on October 16, 1998, as Instrument No. 98-14377 in the office of the Recorder of Story County, Iowa.

This Agreement remains in full force and effect against all other real estate covered by the Agreement.

Dated this _____ day of _____, 2015.

<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell, Mayor</p> <p>Attest _____ Diane R. Voss, City Clerk</p>	<p>STATE OF IOWA, STORY COUNTY, ss:</p> <p>On this _____ day of _____, 2015, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known and who, by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Resolution No. _____ adopted by the City Council on the _____ day of _____, 2015, and that Ann H. Campbell and Diane R. Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.</p> <p>_____ Notary Public in and for the State of Iowa</p>
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