

Staff Report

**DUANE JENSEN REQUEST FOR REIMBURSEMENT OF COSTS RELATED TO THE  
321 STATE AVENUE RFP**

December 3, 2018

**BACKGROUND:**

The City issued a request for proposals (RFP) in the Spring of 2017 to solicit interest in a development partnership for the City's property at 321 State Avenue. The RFP outlined the City's development interests, developer obligations, and City funding assistance. The project was intended to be developed with single-family dwellings constructed by a developer for a mix of low and moderate income housing and market rate housing. The City intended to financially assist in the development of the site with the donation of the land and use of CDBG funding for the construction of infrastructure. **Notably, the RFP indicates the developer's responsibility would include costs related to the preparation of all subdivision and improvement plans for development of the site (RFP-Section V).**

The City received one response to the RFP. The response was from JCorp, Inc. represented by Duane Jensen. City Council first reviewed the proposal at its June 13<sup>th</sup> meeting and determined the initial proposal was not workable due to cost, but was interested in alternatives plans. At the July 11<sup>th</sup> meeting, the City Council reviewed an alternative design provided by JCorp and staff discussed the overall layout and the presumed financial gap related to the funding identified in the RFP and the cost estimates provided by the developer for the revised plan. **The City Council directed staff to proceed with negotiating a development agreement with JCorp for a plan that included 35-37 homes as the first phase, despite known concerns about the cost estimates for the project.**

With the direction from City Council to negotiate a development agreement consistent with the RFP and the concept presented in July, staff began to work with the developer on the language of an agreement that included a stated cap on the City's financial involvement in the project. **The draft agreement included language requiring that any costs exceeding the agreed upon amount of City funding highlighted in the RFP would be the responsibility of the developer.**

It became clear to staff and the developer in August 2017 that without specific plans and a construction bid for the project, the overall costs would be unknown and a risk for developer. Through conversations with the developer and email correspondence on August 3<sup>rd</sup>, it was determined that rather than ask the City Council to fund engineering work for public improvement plans, JCorp would work with Fox Engineering to prepare subdivision plans that included public improvement plans. **The work was understood**

**to be at risk by the developer since no agreement had been reached on project with the City and City Council had not authorized any expenditures of city funds for preparing plans.**

Staff received plans from Fox Engineering and worked to prepare plans and specifications for City Council approval and setting bid letting date of November 7<sup>th</sup>. **The City Manager's recommendation on proceeding with plans and specifications noted at that time that the work by JCorp and Fox Engineering had been at risk while continuing to negotiate a development agreement.** Ultimately, the contract for public improvement construction was not awarded and the process of negotiating a development agreement ended in January 2018. At that time Mr. Jensen asked if there was an opportunity for reimbursement of costs expended in the RFP process.

**STAFF COMMENTS:**

JCorp has indicated in correspondence to the City Council that they incurred a cost of approximately \$75,000 to develop the proposal for the 321 State Avenue project last year. However, JCorp has not provided an itemized bill for the specific work that was performed nor proof of a paid invoice.

**Based upon the parameters of the RFP and the negotiations on finalizing a development agreement with JCorp, staff does not believe that there is any responsibility on the part of the City to reimburse JCorp for their work on the 321 State Avenue proposal.** In addition, it should be noted that the use of federal funds, such as CDBG monies, for reimbursement would be prohibited due to federal bidding requirements.

Staff Report

**ENGINEERING FOR DEVELOPMENT AT 321 STATE AVENUE**

December 18, 2018

**BACKGROUND:**

At the December 4, 2018, City Council meeting, Council members were given a staff memo in response to a communication from Duane Jensen regarding the Community Development Block Grant (CDBG) development at 321 State Avenue. Direction was given for staff to provide information on how much of the FOX Engineering design was used for the 321 State Avenue project. See an excerpt from the minutes, below.

*“Moved by Gartin, seconded by Beatty-Hansen, to put on a future agenda the request from Duane Jensen for reimbursement of costs related to the 321 State Avenue RFP.*

***Member Nelson said he wants to know how much of the design was used to construct the project. He would like this information by the time this item appears on a future agenda.***

*Vote on Motion: 5-0. Motion declared carried unanimously.”*

**STAFF COMMENTS:**

Prior to preparing a RFP for the development of 321 State Avenue, City staff internally discussed development options for the site. City staff established a preliminary street and lot layout for the development at 321 State Avenue. The RFP indicated the need for a Tripp Street extension and identified design issues that would need to be addressed for developing the site.

JCorp responded to the RFP with a conceptual layout prepared by Fox Engineering. JCorp also used FOX for subsequent revisions to the JCorp proposal. Staff shared available information, including preliminary design work with FOX during the RFP process. Ultimately, FOX prepared public improvement plans at the request of JCorp while JCorp was negotiating a development agreement with the City. These plans were provided to the City in .pdf format for the purpose of soliciting bids on construction cost. **JCorp requested these plans be prepared in order to get a better understanding of the financial obligations for development. As stated in the December 3<sup>rd</sup> Staff Report, the developer was aware the preparation of these plans were at their own risk.**

After JCorp and the City ended negotiations for the development of 321 State Avenue, the City Council directed staff to proceed with the design and construction of Tripp Street. The public improvement plans created by FOX did not include any detailed design information regarding the horizontal alignment of the roadway. Staff performed a topographic field survey of the development and created the design for the horizontal alignment of Tripp Street, which was generally approximate to the plans given to FOX.

The FOX plans did include design information for the vertical alignment of the roadway. City staff did use this information in creating a vertical profile to fit the horizontal alignment of the roadway that staff had developed. Staff feel that using this vertical profile information from FOX resulted in saving approximately 5% of the design time effort of the Senior Design Technician working on the project. On Tuesday, December 18, 2018, staff will have a better idea of what this equates to in terms of staff hours and costs saved.