

## Staff Report

### QUARRY ESTATES' REQUEST REGARDING PAYMENT FOR OFF-SITE TRAFFIC IMPROVEMENTS

December 3, 2018

#### **BACKGROUND:**

When new developments are proposed, it is standard practice to have an accompanying agreement that details the responsibilities of the developer for streets, utilities, and other on-site requirements. Quite often, there also are impacts that are identified off-site from the development. Improvements to address these off-site impacts can occur several years in the future, in which case the City receives financial security from the developer for their share of the projects.

There are two methods most commonly used for this type of security.

Method One. The developer may pay cash to the City, in which case the developer fulfills their obligation for the project and the City uses this payment in the future as a part of the project revenue. Interest earned of the deposited cash amount is meant to offset any increase in project costs over the years. Therefore, no further compensation is sought from the developer.

Method Two. The other method requires the developer to file a Letter of Credit (LOC) with the City in the amount of their obligation. In this case, the LOC must be regularly (annually in most cases) updated which requires the City to recalculate the cost estimate and the developer to submit a new LOC matching the revised amount. The developer's obligation will continue to increase until the project occurs sometime in the future.

The existing Quarry Estates Pre-Annexation Agreement has a provision that reflects Method One which requires the developer to submit payment upfront to the City for their proportional share of traffic improvements at Bloomington Road/Hyde Avenue (\$65,000: 26% of overall project) and at Bloomington Road/Grand Avenue (\$82,051.13: 10.5% of overall project). *Note: these percentages differ because the Bloomington/Grand project is split across a larger area.*

The developer has fulfilled this obligation. Having made this payment represents the full and complete satisfaction of the developer's obligation and the City will not seek any additional amount from the developer for these improvements.

**It should be emphasized that this financial obligation (Method One) is similar to the agreements in place for other two developers in this northern Hyde Avenue/western Ada Hayden area.**

### **PROJECT STATUS:**

The Bloomington Road/Grand Avenue intersection improvements are still identified as a needed project in the future, but are not currently programmed in the CIP. The Ames MPO will begin updating the Long Range Transportation Plan in 2019, at which time more direction will be determined on the exact timing of project development.

### **DEVELOPER REQUEST:**

City Council referred a letter from Kurt Friedrich requesting that this payment be returned to the developer. He acknowledges that the Bloomington Road/Hyde Avenue project will be programmed for construction and states that it is fair for the City to retain this portion of the payment. However, he requests that portion of the payment for Bloomington Road/Grand Avenue be returned to the developer and replaced with a Letter of Credit.

### **STAFF COMMENTS:**

The Developer has paid their obligation for these off-site traffic improvements. When these projects move forward to design and construction, the City will be responsible to identify revenue for the projects with no additional amount to be asked of the developer.

However, if payment is returned to the developer for their Bloomington Road/Grand Avenue portion, as requested, the Developer will be required to deposit and maintain a Letter of Credit (LOC) with the City for that corresponding amount until the project moves forward to design and construction. This LOC will need to be updated annually to reflect the current estimate of costs. **Staff believes this will adequately secure the Developer's obligation, however, this could result in higher costs to the Developer by the time the project is complete.**

### **OPTIONS:**

**Option 1.** If City Council is **comfortable with the current agreement** with the Developer's obligation for off-site traffic improvements being fulfilled by previous payment, **no action is needed.**

**Option 2.** If the City Council **desires to return the Developer's proportional payment** for the Bloomington Road/Grand Avenue Improvements **and allow deposit of a LOC** to secure that obligation, the following steps are needed:

- The existing Quarry Estates Pre-Annexation Agreement, Section IV.B, must be revised to allow a continually updated LOC as acceptable security for the Bloomington Road/Grand Avenue Improvements. This will need to include the provision that the Developer's share for all actual project costs will be determined by the

City at the time of the project, with payment being immediately due by the Developer upon billing by the City.

- Staff must determine the current estimated costs for the project and the corresponding Quarry Estates proportional share amount. The Developer must deposit a corresponding LOC in that amount with the City Clerk with the understanding that the LOC will be continually updated and maintained. At the time the project occurs, the Developer will be billed their actual costs based on the 10.5% project share previously noted.
- The City will remit payment of \$82,051.13 to the Developer, which is the amount that was paid for the Bloomington Road/Grand Avenue Improvements.