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APR 11 2013

Chandler

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MEMORANDUM Transportation and Development - Council Memo TDE13-009

DATE: APRIL 11, 2013

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER
PAT MCDERMOTT, ASSISTANT CITY MANAGER
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR
DAVID NAKAGAWARA, INTERIM CITY ENGINEER

FROM: DARYL RACZ, DEVELOPMENT PROJECT ADMINISTRATOR

SUBJECT: APPROVE OFFSITE LUMP SUM AGREEMENT NO. OA11-003 FOR COVANCE LABORATORIES, INC.

RECOMMENDATION:

Staff recommends Council approve Offsite Lump Sum Agreement No. OA11-003 with Covance Laboratories, Inc. deferring half of the cost of constructing a "T" intersection at Emmett Drive and Ryan Road as a condition of their development and accepting a lump sum payment of $43,652.

BACKGROUND/DISCUSSION:

As a condition of development, Covance Laboratories, Inc. located west of the southwest corner of Ryan Road and Germann Road, deferred roadway work on Ryan Road adjacent to their property. The following improvements were deferred in lieu of a lump sum payment of $43,652 made to the City.

HALF OF THE COST OF CONSTRUCTING A "T" INTERSECTION AT EMMETT DRIVE AND RYAN ROAD.

This agreement is intended to cover the cost for the above mentioned work. A lump sum agreement was used to secure their financial obligation to the City for the deferred work as well as release the developer from any future obligations for the improvements.

FINANCIAL IMPLICATIONS:

Funds in the amount of $43,652 have been received from the developer and are being held in an interest bearing account to use for the future construction of Ryan Road.

PROPOSED MOTION:

Move that Council approve Offsite Lump Sum Agreement No. OA11-003 with Covance Laboratories, Inc., deferring half of the cost of constructing a "T" intersection at Emmett Drive and Ryan Road to meet City requirements for their development and accepting the lump sum payment of $43,652, and authorize the Mayor to sign the agreement.

Attachments: Agreement No. OA11-003

After Recording, Return
Original Document to:

Chandler City Clerk
PO Box 4008
Mail Stop 606
Chandler, AZ 85244-4008

OFFSITE IMPROVEMENT
AND CONSTRUCTION EASEMENT AGREEMENT
(Lump Sum Payment)

AGREEMENT NUMBER: OA11-003

This Agreement, effective as of this _____ day of _____, 20___, is entered into by and between the CITY OF CHANDLER, an Arizona municipal corporation (the "City"), and Covance Laboratories, Inc. a Delaware corporation (the "Developer").

RECITALS

A. Chapters 47 and 48 of the Chandler City Code require the Developer to prepare plans and specifications and to construct certain offsite improvements in conformance with municipal standards and requirements.

B. Under Arizona law, the City is required to receive assurances from the Developer that the offsite improvements will be constructed.

C. Under Section 48-12.2 of the Chandler Subdivision Code, the Developer is permitted to meet his responsibilities for construction of offsite improvements by participating in an improvement district if one is organized at the discretion of the City and the participating property owners.

D. Under Section 47-11 of the Chandler City Code, the City's Transportation and Development Director is authorized to defer construction of offsite improvements under certain conditions where the construction of such offsite improvements would not be practical at the present time.

E. The Developer has prepared plans and specifications accepted by the City in connection with the required offsite improvements adjacent or related to the following described real property:

SEE EXHIBIT "A", LEGAL DESCRIPTION, ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

F. The City's Transportation and Development Director has determined that it is appropriate to defer construction of some of the required offsite improvements adjacent or related to the above-described real property for a fixed period of time. The offsite improvements which are appropriate to defer are described in paragraph 1 below.

G. In lieu of deferring construction of the offsite improvements for a fixed period of time through the posting of a bond or other security, the Developer desires to make a single lump sum payment to the City of the estimated total costs of his improvement obligation (the "Improvement Costs"), thereby making full satisfaction of that obligation.

H. The City is willing to accept such a lump sum payment as full satisfaction of the offsite improvement obligation for the offsite improvements described in paragraph 1 below provided that the Developer also covenants and agrees to grant an easement to the City granting City the right to use the above-described real property to the extent required by the City to complete the construction of the offsites described below.

COVENANTS

NOW, THEREFORE, in consideration of the mutual covenants, promises and undertakings set forth below, the parties agree as follows:

1. Except as otherwise provided herein, the Developer is responsible for construction of the following offsite improvements (the "Offsites"), adjacent or related to the above-described property:

Half of the cost of constructing a "T" intersection at Emmett Drive and Ryan Road

2. The cost for the above referenced improvements is Forty Three Thousand Six Hundred Fifty Two Dollars and No Cents **($43,652.00)**. This amount has been determined by the City's Transportation and Development Director or designee based upon estimates more fully itemized in Exhibit "B", attached hereto and incorporated by this reference, and is accepted by the Developer.

3. In conjunction with final approval of the Developer's site plan for the above-described real property, the Developer shall pay to the City in a single, lump sum payment, of the costs as set out in "Exhibit B". Said payment in full shall constitute full satisfaction of the Developer's improvement obligation for all of the above-described offsite improvements and the Developer shall then have no further obligation with respect to the design and construction of the above-described improvements or for payment thereof.

4. The monies received by the City shall be placed in a separate fund and accounted for separately and, until such time as the Offsites are completed, shall only be used for the purpose of completing the improvements at a future date determined by the City.

5. The Developer represents and warrants that the Developer is the owner in fee of the above-described real property. As the owner of the above-described real property, the Developer hereby grants to the City, at no cost to the City, a construction easement giving the City the right to use the above-described real property to the extent determined by the City to be necessary to complete the construction of the Offsites. This right of use is a temporary use which is granted to the City, to be used and exercised, during the period of time when the above-described Offsites are being constructed. This easement granting such use shall run with the land and is intended to survive and be in effect beyond the date that Developer pays in full the above-stated amount.

6. This Agreement shall be construed in accordance with the laws of the State of Arizona.

7. If any court of competent jurisdiction declares any portion or portions of this Agreement invalid, the remaining provisions hereof shall remain in full force and effect provided that the purpose and intent of the parties in entering into this Agreement is met.

8. This Agreement may be enforced by either party in a court of law or equity and the prevailing party may be entitled to recover any costs and expenses including reasonable attorneys' fees. Nothing herein shall prevent or prohibit the City from enforcing this Agreement through such other non-judicial means as may be permitted by law, including, but not limited to, the withholding of building permits.

9. Time is of the essence in this Agreement.

10. In this Agreement, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

11. This Agreement shall run with the land and inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns.

12. Any amendment to this Agreement shall be in writing.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date and year first stated above.

COVANCE LABORATORIES, INC

By: S Maggio

Its: V.P. Finance

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 11 day of June, 20 12, before me, the undersigned Notary Public, personally appeared Gerald Maggio, (Title), and being authorized so to do, executed the foregoing Agreement in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My Commission Expires:

DANA C. EARLEY
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 12, 2015

Dana C Earley
Notary Public

CITY OF CHANDLER

MAYOR

ATTEST

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY GAB

EXHIBIT "A"
LEGAL DESCRIPTION
COVANCE LABORATORIES, INC.

That part of the North half of the Southeast quarter of Section 12, Township 2 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the East quarter corner of said Section 12, monumented with a brass cap in hand hole, from which the Southeast corner of said Section 12, monumented with a brass cap in hand hole bears South 00 degrees 24 minutes 32 seconds East, a distance of 2639.51 feet;

Thence South 89 degrees 02 minutes 38 seconds West along the North line of said Southeast quarter of Section 12, a distance of 957.04 feet;

Thence South 00 degrees 57 minutes 22 seconds East, departing said North line, a distance of 40.00 feet to a point on the Southerly right-of-way of Ryan Road, said line being parallel with and 40 feet South, as measured at right angles, from the North line of said Southeast quarter, said point also being the POINT OF BEGINNING;

Thence South 00 degrees 22 minutes 59 seconds East, a distance of 1279.83 feet to a point on the South line of the North half of said Southeast quarter;

Thence South 89 degrees 02 minutes 22 seconds West, along said South line, a distance of 361.49 feet to the Southeast corner of the Northwest quarter of said Southeast quarter;

Thence continuing South 89 degrees 02 minutes 22 seconds West along said South line, a distance of 1318.72 feet to the Southwest corner of said Northwest quarter of the Southeast quarter;

Thence North 00 degrees 21 minutes 27 seconds West, along the West line of said Northwest quarter of the Southeast quarter, a distance of 1279.96 feet to said Southerly right-of-way of Ryan Road;

Thence North 89 degrees 02 minutes 38 seconds East, along said Southerly right-of-way a distance of 1318.15 feet to a point on the West line of the Northeast quarter of said Southeast quarter;

Thence continuing North 89 degrees 02 minutes 38 seconds East along said Southerly right-of-way line, a distance of 361.49 feet to the POINT OF BEGINNING.

EXHIBIT "B"
INTERSECTION OF EMMETT DRIVE AND RYAN ROAD
COST BREAKDOWN FOR DEFERRED IMPROVEMENTS

Improvement costs of the offsite improvements is Forty Three Thousand Six Hundred Fifty Two Dollars and No Cents, which has been determined as follows:

Description	Est. Qty.	Unit	Unit Price	Ext. Price
Install New Pavement 3" AC/6" ABC	1,100	SY	19.00	20,900.00
Sawcut & Remove Existing Pavement	900	SY	6.00	5,400.00
Sawcut & Remove Existing Curb & Gutter	75	LF	6.00	450.00
Install Survey Monument Type-B	1	EA	150.00	150.00
Make Valve Adjustment	1	EA	250.00	250.00
Install Street Sign Base	2	EA	120.00	240.00
Install 6" Vertical Curb & Gutter	190	LF	14.00	2,660.00
Install 4' Sidewalk	230	SF	4.00	920.00
Install Sidewalk Pedestrian Ramp	5	EA	1,200.00	6,000.00
Install 12" PVC water main	102	LF	35.00	3,570.00
Relocate Existing Water Meter	1	LS	248.00	248.00
Relocate Existing J-Boxes	1	LS	750.00	750.00
Relocate Existing Hydrant	1	LS	2,250.00	2,250.00
Remove and Relocate Existing Bollards	1	LS	150.00	150.00
Fill	87	CY	7.00	609.00
Cut	43	CY	6.00	258.00
Traffic Control	1	LS	5,000.00	5,000.00
Mobilization/Demobilization	1	LS	5,000.00	5,000.00
			Subtotal	54,805.00
			Engineering (15%)	8,221.00
			Contract Administration (10%)	5,480.00
			Contingencies (10%)	5,480.00
			Total	73,986.00
			Developer's Share @ 50%	36,993.00
			Allowance for Inflation (3 years @ 6%)	6,659.00
			Grand Total	43,652.00