



Chandler - Arizona
Where Values Make The Difference

#24
SEP 11 2008

MEMORANDUM Public Works Engineering - Council Memo ENG09-006

DATE: SEPTEMBER 11, 2008

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER *WMP*
R.J. ZEDER, PUBLIC WORKS DIRECTOR *R.J. Zeder*
SHEINA HUGHES, ASSISTANT PUBLIC WORKS DIRECTOR/CITY ENGINEER *SH*

FROM: CHARLES W. SMITH, ENGINEER *CWS*

SUBJECT: Approval of Amendment No. 1 to City Participation Agreement Number CP06-005 with Brown Family Communities, increasing the City's maximum monetary obligation by \$5,579 for the engineering of improvements to Chandler Heights Road and Lindsay Road near the Whispering Heights subdivision from \$92,529 to \$98,108.

RECOMMENDATION:
Staff recommends that Council approve Amendment No. 1 to City Participation Agreement Number CP06-005 with Brown Family Communities, increasing the City's maximum monetary obligation by \$5,579 for the engineering of improvements to Chandler Heights Road and Lindsay Road near the Whispering Heights subdivision from \$92,529 to \$98,108.

BACKGROUND AND DISCUSSION:
On May 25, 2006, Council approved City Participation Agreement Number CP06-005 with Brown Family Communities. This agreement provided for reimbursement of up to \$92,529 for the design of street improvements to Chandler Heights Road and Lindsay Road adjacent to a City project known as Chandler Heights Community Facilities. The primary consideration for having this design work done by a private developer was the need to coordinate with improvements being constructed by the developer for the Whispering Heights subdivision located immediately south of the City facility.

A recent review by City staff indicated that the actual cost for performing the design work exceeded the original cost estimate that formed the basis for the agreement and included some items that should have been a part of that cost estimate. The actual total cost for the design was \$98,108. Under this proposed Amendment No. 1 to the agreement, the City's maximum amount of participation is revised from \$92,529 to \$98,108, representing an increase of \$5,579 over the original authorized amount.

FINANCIAL IMPLICATIONS:

Original Agreement Amount	\$92,529
Amendment No. 1	<u>\$5,579</u>
Revised Agreement Total	\$98,108
Agreement Change Percentage	6%

Savings: N/A

Long Term Costs: Minimal. Normal pavement maintenance.

<u>Account No.</u>	<u>Fund Name</u>	<u>Program Name</u>	<u>CIP Funded</u>	<u>Amount</u>
606.3910.0000.6817.8WW189	Reclaimed Water Reserve Fund	Effluent Reuse	FY2007/2008	\$5,579

Costs for this work were evaluated and found to be consistent with those experienced in recent City capital projects.

PROPOSED MOTION:

Move that Council approve Amendment No. 1 to City Participation Agreement Number CP06-005 with Brown Family Communities, increasing the City's maximum monetary obligation by \$5,579 for the engineering of improvements to Chandler Heights Road and Lindsay Road near the Whispering Heights subdivision from \$92,529 to \$98,108, and authorize the Mayor to sign the Amendment.

Attachments: Amendment No. 1 to Agreement No. CP06-005, Location Map

**FIRST AMENDMENT TO
AGREEMENT FOR CITY PARTICIPATION IN
OFFSITE CONSTRUCTION COSTS
AGREEMENT NUMBER CP06-005**

THIS FIRST AMENDMENT TO AGREEMENT FOR CITY PARTICIPATION IN OFFSITE CONSTRUCTION COSTS (AGREEMENT NUMBER CP06-005) (this "Amendment") is made and entered into this ___ day of _____, 2008, by and between the CITY OF CHANDLER, an Arizona municipal corporation ("City"), and BROWN FAMILY COMMUNITIES, an Arizona limited partnership ("Developer").

RECITALS:

A. City and Developer entered into an agreement for City's participation in certain offsite construction costs. The agreement is identified as Agreement No.CP06-005 (the "Agreement"). It is dated June 20, 2006. The Chandler City Council authorized the Agreement in accordance with Chandler City Code Sections 47-11.6 and 47-11.7.

B. Pursuant to the Agreement, City is obligated to pay up to the sum of \$92,529.00 as its participatory share of the costs for certain offsite improvements constructed by Developer in connection with the Developer's residential subdivision near Chandler Heights and Lindsay Road, the construction of the offsite improvements being a condition of the development approvals given for the subdivision.

C. A recent review by the City's Public Works Department indicates that the actual cost for some of these offsite improvements exceeded the original cost estimates upon which the City's participation was based or that the original cost estimates failed to include certain costs that should have been incorporated into the estimates.

AGREEMENT:

NOW, THEREFORE, the undersigned parties agree to the following Amendment for the purpose of adjusting the amount of funds to be paid by the City as its participatory share of the offsite improvement costs:

1. Paragraph 6 of the Agreement is amended so that the City's total monetary obligation shall not exceed the sum of \$ 98,108.00.
2. All other terms, conditions and covenants of the Agreement shall remain in effect.

IN WITNESS WHEREOF, the undersigned parties have caused this Amendment to be duly executed on or as of the day and year first above written.

[Remainder of page intentionally left blank.]

CITY OF CHANDLER, an Arizona municipal corporation

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney *CAF*

BROWN FAMILY COMMUNITIES, an Arizona limited partnership

By: *Jim Hix*

FILLMORE HIROHATA

Its: *VICE PRESIDENT*

LAND DEVELOPMENT.

STATE OF ARIZONA)
) ss
County of Maricopa)

On this 21st day of August, 2008, before me, the undersigned Notary Public, personally appeared FILLMORE HIROHATA, the General Partner of Brown Family Communities, an Arizona limited partnership, and that he/she, being authorized so to do, executed the foregoing Amendment in the capacity therein stated and for the purposes therein contained.

Lorraine H. Washburn

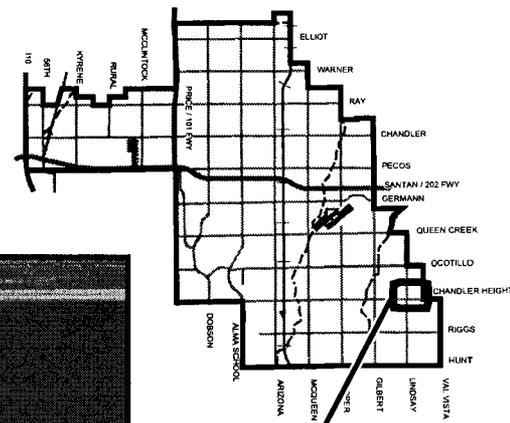
Notary Public

My Commission Expires: 6/1/11





LOCATION MAP FOR WHISPERING HEIGHTS SUBDIVISION AMENDMENT NO.1 TO CITY PARTICIPATION AGREEMENT NO. CP06-005



MEMO NO. ENG09-006

