



STAFF REPORT

CITY of YORBA LINDA

PUBLIC WORKS DEPARTMENT

DATE: NOVEMBER 15, 2022

TO: HONORABLE MAYOR AND MEMBERS OF THE COUNCIL

FROM: JAMIE LAI, P.E. DIRECTOR OF PUBLIC WORKS/CITY ENGINEER
PREPARED BY: RICK YEE, P.E. DEPUTY PUBLIC WORKS DIRECTOR

SUBJECT: APPROPRIATE FUNDS FOR REIMBURSEMENT UNDER TERMS OF
SUBDIVISION IMPROVEMENT AGREEMENT WITH ZELMAN
DEVELOPMENT COMPANY AND SUBSEQUENTLY AUTHORIZE
TERMINATION OF AGREEMENT

RECOMMENDATION

It is recommended that the City Council:

- 1) Approve a budget appropriation in the amount of \$68,268.24 from the General Fund reserves (101) for reimbursement to the Zelman Development Company under the terms of the Subdivision Improvement Agreement; and
- 2) Authorize termination of the Subdivision Improvement Agreement.

BACKGROUND

On November 15, 2016, the City Council approved the Town Center Final Parcel Map No. 2015-113 and Subdivision Improvement Agreement for the development of the Town Center site located on the northeast corner of Yorba Linda Boulevard and Imperial Highway.

The Subdivision Improvement Agreement (SIA) obligated Zelman Development Company (Zelman) to construct certain works of public improvements (including Valencia Avenue, School Street, and portions of Arroyo Way). The SIA also authorizes reimbursement by the City to the developer of certain costs for public works of improvement that were conditions of regulatory approval for the project. Pursuant to Section 19.1 of the SIA, both design and construction costs for the aforementioned public improvements are eligible for reimbursement. The amounts for actual design and construction costs have been fully reconciled and returned to Zelman. However, the permit, plan review, and inspection costs for these public improvements are also subject to reimbursement to the developer. Both the public and private improvements tied to Parcel Map No. 2015-113 have been completed and the warranty bonds were released in December 2021. The permit, plan review, and inspection costs have recently been reconciled and Zelman is requesting an amount due to them that is consistent with the costs for permit, plan review, and inspection for which Zelman had originally deposited with the City at the time of original permit submittal.

DISCUSSION

Staff has reviewed the terms of the SIA along with the details of the expenditures and the requested reimbursement amounts. The expenditures are legitimate costs used to review and inspect the public improvements constructed by the developer. The terms and conditions of the SIA have been met and the services being sought for reimbursement are complete. Both Labor and Materials and Faithful Performance Bonds were released in December 2021 as the improvements had been accepted by the City and the warranty period had expired. There are no further obligations by City or Zelman as it relates to the subject agreement. Therefore, termination of the SIA is also being requested as part of the City Council action on this agenda item.

FISCAL IMPACT

The original deposit received from Zelman was placed into a revenue account during a prior Fiscal Year as a part of the improvement deposit fee process. Because the obligated improvements were not completed during the same fiscal year in which they were deposited, they were returned to the fund balance. As such, the reimbursable amount of \$68,268.24 will need to be appropriated from the General Fund Reserves from which it was originally returned (General Fund 101). Therefore, staff recommends an appropriation of \$68,268.24 with a corresponding increase to the Public Works Project Development budget for contractual services (1010310-433950) out of which account the reimbursement will be made to the developer.

ALTERNATIVES

Do not reimburse Zelman for the permit, plan review, and inspection costs and do not terminate the SIA. However, Zelman will have recourse to argue the City is in breach of the SIA.

ATTACHMENTS

Attachment 1 - Zelman Reimbursement Request Letter
Attachment 2 - SIA Termination Document
