

Mayor and Council Communication

DATE: 12/15/20

M&C FILE NUMBER: M&C 20-0925

LOG NAME: 06BASSWOOD BLVD ICA AMENDMENT & FUNDING

SUBJECT

(CD 2) Authorize Execution of a Settlement Agreement with D.R. Horton – Texas, Ltd., in the Amount of \$673,110.99 for Costs Related to Construction of a Roundabout at Basswood Boulevard and Robert W. Downing Road and Adopt Appropriation Ordinance

RECOMMENDATION:

It is recommended that the City Council:

1. Authorize execution of a Settlement Agreement with D.R. Horton – Texas, Ltd. in the amount of \$673,110.99 for costs related to the construction of a roundabout at Basswood Boulevard and Robert W. Downing Road; and
 2. Adopt the attached appropriation ordinance increasing appropriations in the Developer Contribution Fund in the amount of \$686,150.00 from available funds for the purpose of funding a Settlement Agreement with DR Horton - Texas, Ltd related to costs for the construction of a roundabout at Basswood Boulevard and Robert W. Downing Road.
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DISCUSSION:

This Mayor & Council Communication (M&C) will authorize settlement of a claim brought by a developer, who constructed city facilities under an Infrastructure Construction Agreement (ICA) and a Community Facilities Agreement (CFA), for the costs, in the amount of \$673,110.99, related to constructing an intersection that was changed from a signalized intersection to a roundabout.

On August 18, 2015 (M&C C-27425), the City Council authorized the execution of an ICA with D.R. Horton – Texas, Ltd. (Horton) for construction of a segment of Basswood Boulevard from Cloudcroft Lane to Horseman Road and Robert W. Downing Road from Basswood Boulevard to Lou Menk Drive, in an amount not to exceed \$6,928,910.99. At the same time, Horton was also constructing portions of Basswood Boulevard to serve its development under a CFA (City Secretary Contract No. 45513). During the course of construction, the City initiated a change to the proposed intersection design at Basswood Boulevard and Robert W. Downing Road from a signalized intersection to a roundabout. The City requested that Horton perform the work at the cost of \$673,110.99; however, memorialization of this change was inadvertently not incorporated into the ICA and the work was performed under the CFA.

In August 2019, Horton made a claim for reimbursement of the additional costs for the intersection change. Staff researched the claim and finds it is valid and owed.

The funding for this settlement agreement is being appropriated from the Developer Contribution Fund. In 2016, after the design and construction of Basswood Boulevard had been authorized by Council, Saginaw 106, Ltd. began developing a residential subdivision on the north side of Basswood Boulevard between Blue Mound Road and Robert W. Downing Road. Since their Basswood Boulevard frontage was included in the ICA work, they paid the City \$686,150.00 for their proportionate share of that frontage and intersection improvements. Those funds are being appropriated to pay for the additional costs of the intersection change.

This project is located in COUNCIL DISTRICT 2.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that funds are currently available within the CFA Basswood FM 156 to Almondale project within the Developer Contribution Fund and upon approval of the above recommendations and adoption of the attached appropriation ordinance, funds will be available within this project. Prior to an expenditure being incurred, the Development Services Department has the responsibility of verifying the availability of funds.

Submitted for City Manager's Office by: Dana Burghdoff 8018

Originating Business Unit Head: DJ Harrell 8032

Additional Information Contact: Janie Morales 7810
Julie Westerman 2677

