



MEMO

ITEM #4
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ITEM #5
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05-12-11

May 9, 2011

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator *Eric*
Eric J. Gardner, P.E., Director of Engineering
David Parker, City Engineer

SUBJECT: **Road Impact Fee Offset Agreement and Sewer Recovery Agreement for Berry Farms; COF Contract No. 2011-0055 and 2011-0056**

Purpose

The purpose of this memo is to provide the Board of Mayor and Aldermen (BOMA) with the information necessary to render a decision as to the approval for the proposed Road Impact Fee Offset Agreement and Sewer Recovery Agreement for the Berry Farms Development.

Background

Staff has received and reviewed the road impact fee offset and sewer recovery requests submitted by Adam Ballash of Boyle Investment Company. The road improvements include widening Lewisburg Pike and improving the intersection of Lewisburg Pike and Goose Creek Bypass. The sewer improvements include installation of an 18" sanitary sewer line and an 8" reclaimed line along Goose Creek. Both Lewisburg Pike and Goose Creek Bypass are classified as an arterial street in the City's Major Thoroughfare Plan and are, therefore, eligible for offsets as established by the revised Road Impact Fee Ordinance (Ordinance 1037) effective July 1, 2005.

The eligible costs for this requested road impact fee offset are:

Design	\$ 302,880
ROW & Easements (Phase 1)	\$ 170,518
ROW & Easements (Phase 2)	\$ 32,310
Construction (Phase 1)	\$ 2,175,759
Construction (Phase 2)	\$ 1,061,044
TOTAL	\$ 3,742,511

The applicable Road Impact Fee Offset is based on Title 16, Section 417, Paragraph 7 of the Franklin Municipal Code, which states: "In no event may the city apply an offset which is greater than the applicable impact fee."

There was one cost submitted that staff has determined ineligible. The cost (\$13,664) for utility easements was submitted but based on the Municipal Code, utility relocations are not eligible.



The eligible costs for this requested sewer recovery are:

Design	\$ 79,600
Easements	\$ 1,980
Construction (Sanitary Sewer)	\$ 53,108
TOTAL	\$ 134,688

While the Code allows for the Board of Mayor and Aldermen to consider other factors and use its discretion, typically eligible costs are those that are for “upsizing” that goes above what is necessary solely for the development. Staff determined that the cost of the sanitary sewer line would be the difference in cost between the 18” line being constructed and an 8” line that would be necessary just for the development. Also, costs for items such as manholes, vents, erosion control, blasting, etc. would have been done by the developer even if this was done solely for the development. Therefore, staff has determined that these items are ineligible and have come up with a cost different than that of the applicant. The cost that the applicant has submitted is \$463,349.

It is the opinion of staff that the costs for the reclaimed water lines are not eligible for recovery. The City has installed the reclaimed system to the Development as part of the 5-Mile Creek Interceptor Sewer Project and the reclaimed lines to be installed by the Development are for their sole benefit even if required by the City.

Options

Option 1 – Approval of the agreement for Road Impact Fee Offsets in the total amount of \$3,742,511 with the cost of Phase II not being eligible until construction of this phase of the Project has begun and the agreement for sewer recovery in the amount of \$134,688 (**staff calculations**).

Option 2 – Approval of the agreement for Road Impact Fee Offsets in the amount \$3,756,175 and the agreement for sewer recovery in the amount of \$463,349 (**applicant submittal**).

Option 3 – Some variation of options 1 and/or 2.

Financial Impact

Depending on the option chosen by BOMA, the financial impact would be either \$3,742,511 or \$3,756,175 from Road Impact Fees and either \$134,688 or \$463,349 as sewer recovery.

Recommendation

Staff recommends the approval of the Road Impact Fee Offset Agreement and the Sewer Recovery Agreement with Boyle Investment Company using Option 1.

**ROAD IMPACT FEE OFFSET AGREEMENT
COF CONTRACT NO 2011-0055**

This contract between THE CITY OF FRANKLIN, TENNESSEE (“City”) and RURAL PLAINS PARTNERSHIP, a Tennessee general partnership, CHADWELL PARTNERSHIP, a Tennessee general partnership, and REAMS FLEMING PARTNERSHIP, a Tennessee general partnership (collectively, “Developer”), entered into on this the _____ day of _____, 2011, pursuant to Title 16, Chapter 4 of the Franklin Municipal Code.

WHEREAS, the Developer has previously submitted to the Franklin Municipal Planning Commission for approval development plans for the development of the below described properties (the “Development Project”):

1. Berry Farms Town Center PUD Subdivision Concept Plan (Exhibit A).
2. Berry Farms Reams Fleming PUD Subdivision Concept Plan (Exhibit B)
3. Berry Farms Chadwell PUD Subdivision Concept Plan (Exhibit C)

WHEREAS, the Developer has previously submitted to the Franklin Municipal Planning Commission for approval specific site development plans for portions of the Development Project, as shown below:

1. Berry Farms Town Center Section 1 dated 2/12/10
2. Berry Farms Town Center Section 2 dated 2/12/10
3. Berry Farms Town Center Section 3 dated 8/19/09
4. Berry Farms Town Center Section 4 dated 8/28/09 and 10/14/09

WHEREAS, the City has requested that Developer contribute dedication of right-of-way and construction of certain non-site related road improvements for Lewisburg Pike and the intersection of Lewisburg Pike and Goose Creek Bypass (Project) identified in the City's Major Thoroughfare Plan as Arterial Roadways, and which are described more fully below; and

WHEREAS, the Developer having produced to the City reliable estimates of the cost of the said road improvements as split into Phase I and Phase II; and

WHEREAS, the Developer has made application to offset a portion of the costs of construction of these improvements against any Road Impact Fees due, and the estimated amount of such eligible costs, and potential offset, was determined by the Road Impact Fee Administrator (City Engineer) on May 10, 2011, to be \$2,649,157.00 for Phase I and \$1,093,354.00 for Phase II of the Project.

NOW THEREFORE, the City and the Developer, their successors and assigns, do hereby agree as follows:

1. The foregoing recitals are incorporated into this Agreement and made a part thereof.
2. Developer has submitted reliable information related to the costs of construction of the following improvements and works:

Roadway widening, realignment and improvements to Lewisburg Pike, and traffic signalization modifications required at Lewisburg Pike and Goose Creek Bypass intersection due to roadway improvements, as referenced on the plans including drawings prepared by Littlejohn Engineering Associates; plans titled “US 432 Lewisburg Pike – Construction Phase One and Construction Phase Two”; and drawings prepared by James C. Hailey and Co.; plans titled “HB & TS Utility District, Lewisburg Pike Relocation.”

3. The total eligible costs of construction and right of way of the above improvements are **Two Million Six Hundred Forty-Nine Thousand One Hundred Fifty-Seven and No/100 Dollars (\$2,649,157)** for Phase I of the Project and **One Million Ninety-Three Thousand Three Hundred Fifty-Four and No/100 Dollars (\$1,093,354.00)** for Phase II of the Project for a total cost of **Three Million Seven Hundred Forty-Two Thousand Five Hundred Eleven and No/100 Dollars (\$3,742,511)** and the total offset to be applied to Road Impact Fees due the City is an identical amount for the Project.
4. This offset shall be applied to the total Road Impact Fees due or that become due in the Development Project known as Berry Farms, as shown on Exhibit A, B, and C attached hereto, prior to issuance of the building permit to the Developer or its successors in interest upon start of construction for the different phases of the Project. Any Road Impact Fees already paid within the Development Project area shall be reimbursed within thirty (30) days. Pursuant to the ordinance, the eligible offset may not exceed the total of Road Impact Fees due for the Development Project (Section 16-417 (7) of the Franklin Municipal Code).

Approved by the Franklin Board of Mayor and Alderman on _____, 2011.

WITNESS our hands on the dates as indicated.

DEVELOPER

RURAL PLAINS PARTNERSHIP, a
Tennessee general partnership

By: _____

Print Name: _____

Title: _____

STATE OF TENNESSEE)
)

COUNTY OF _____)

Before me, _____, a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged _____ self to be _____ (or other officer authorized to execute the instrument) of RURAL PLAINS PARTNERSHIP, the within named bargainer, a general partnership, and that _____ as such _____ executed the foregoing instrument for the purposes therein contained, by personally signing the name of the general partnership by _____ self as _____.

Witness my hand and seal, at Office in _____, Tennessee, this ____ day of _____, 20____.

Notary Public
My Commission Expires: _____

DRAFT

CHADWELL PARTNERSHIP, a Tennessee
general partnership

By: _____

Print Name: _____

Title: _____

STATE OF TENNESSEE)
)
COUNTY OF _____)

Before me, _____, a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged _____ self to be _____ (or other officer authorized to execute the instrument) of CHADWELL PARTNERSHIP, the within named bargainor, a general partnership, and that _____ as such _____ executed the foregoing instrument for the purposes therein contained, by personally signing the name of the general partnership by _____ self as _____.

Witness my hand and seal, at Office in _____, Tennessee, this ____ day of _____, 20____.

Notary Public
My Commission Expires: _____

REAMS FLEMING PARTNERSHIP, a
Tennessee general partnership

By: _____

Print Name: _____

Title: _____

STATE OF TENNESSEE)
)
COUNTY OF _____)

Before me, _____, a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged _____ self to be _____ (or other officer authorized to execute the instrument) of REAMS FLEMING PARTNERSHIP, the within named bargainer, a general partnership, and that _____ as such _____ executed the foregoing instrument for the purposes therein contained, by personally signing the name of the general partnership by _____ self as _____.

Witness my hand and seal, at Office in _____, Tennessee, this ____ day of _____, 20____.

Notary Public
My Commission Expires: _____

CITY

CITY OF FRANKLIN, TENNESSEE, a
municipality

By: _____
DR. KEN MOORE
Mayor

Date: _____

By: _____
ERIC S. STUCKEY
City Administrator

Date: _____

STATE OF TENNESSEE)
)ss:
COUNTY OF WILLIAMSON)

Before me, the undersigned Notary Public of said County and State, personally appeared DR. KEN MOORE and ERIC S. STUCKEY, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to the Mayor and City Administrator, respectively, of the City of Franklin, Tennessee, the within named bargainer, a municipality, and that as such Mayor and City Administrator executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by themselves as Mayor and City Administrator.

Witness my hand and seal this _____ day of _____, 20____.

Notary Public
My Commission Expires: _____

Approved as to form by:

Shauna R. Billingsley, City Attorney