



City of Rochelle
Engineering Department

Memo

To: Dave Plyman, City Manager
CC: Kathy Cooper, Superintendent of water/wastewater RMU
Don Elliott, Supt. of Street Division
Curt Ward, Engineering Technician
Chris Limas, Community development Director
Alan Cooper, City Attorney (via council packet)
From: City Engineer - Sam Tesreau
Date: November 22, 2011
Re: Request for reduction in Dubuque Bank and Trust Co. irrevocable letters of credit No. 08522, No. 08521, No. 08520 and No. 08519 for the public land improvements in connection with the Lighthouse Pointe Walmart Addition Subdivision final PUD plat
Encl (1): City Engineers letter to Ryan Fitzgerald dated 11/21/2011

Mr. Ryan Fitzgerald, Springcreek Development Group, has requested a reduction in the Dubuque Bank and Trust Co. irrevocable letters of credit No.08522 (\$632,718.61), No. 08521 (\$397,502.94), No. 08520 (\$82,998.22) and No. 08519 (\$465,736.49) for certain public land improvements, along Rte 38, Caron Road and Northpointe Drive, for the *Lighthouse Pointe Walmart Addition subdivision*. However, Grand Pointe Drive, Coronado Drive and other private entrances off Ill. Rte 38, Caron Road, and North pointe Drive are not accepted by the City for public improvements and/or maintenance and are considered "private" as shown on the *final PUD plat for Lighthouse Pointe Walmart Addition*. The surety was required as part of the Rochelle Municipal Code final plat requirements for land improvements for said subdivision. A majority of the land improvements have been completed and accepted by staff.

If the request is granted the surety should not be reduced to less than 10%, or \$157,896, of the original surety amounts plus an additional \$139,864 for incomplete or outstanding punchlist items subject to the City Engineer's letter dated 11/21/2011 (enclosure1). The developer should submit or deposit with the City an irrevocable letter of credit surety in an amount of no less than \$297,760, as approved by City Council, to be held for a period of not less than 24 months before the original irrevocable letter of credits are reduced and/or released. This surety shall serve as a

guarantee of satisfactory completion and performance of the completed and accepted land improvements. Furthermore, all other applicable items of the Rochelle Municipal code section 86-56, et seq. shall be satisfied as well. In addition, it appears an extension will be required to complete the remaining public land improvements and such extension should be no less than a period of one year, or by December 1, 2012 given the nature of the necessary design, permitting and installation of the remaining public land improvements. Please be aware that Walmart Stores, Inc. is currently shown as a beneficiary of the current letter of credits and will most likely have to concur before the surety can be reduced to the above amount.

Please consider the reduction of the letters of credits identified as well as an extension for a period of no less than one year subject to the recommendations herein and the City Engineers letter identified as (enclosure 1).



City of Rochelle

Engineering Department

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Rochelle, IL 61068
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November 21, 2011

Mr. Ryan Fitzgerald
Spring Creek Development Group
Squires Landing LLC
330 Spring Creek Road
Rockford, Illinois 61107

Re: letter of credit and completion of public land improvements for Lighthouse Pointe Subdivision located along Caron Road, ILL Rte 38 and NorthPointe Drive in Rochelle, Illinois.

Mr. Fitzgerald,

This office has reviewed your request for a reduction in the Dubuque Bank and Trust Co. Irrevocable Letter of Credits No. 08522, No. 08521, No. 08520 and No. 08519 for the above referenced project. As of November 2011 nearly all of the public land improvements items have been completed with the exception of the remaining punchlist items which include, but are not limited to, street lighting, applicable restoration, temporary erosion control removal, utility adjustments, manhole adjustments, grading/backfilling, signage installation and adjustments and the additional items required for the completion of the as built plans. Therefore, it is staff's recommendation that the guarantee shall be reduced upon the following conditions.

- 1) Developer shall complete the land improvements in general conformance with the approved construction and/or site plan(s) and the provisions set forth in the Rochelle Municipal Code (RMC).
- 2) Approval by City Council of the requested reduction in letter of credit as outlined herein. Furthermore the council will need to approve an extension to complete the remaining land improvements as identified. It is anticipated that up to a one year extension will be required to complete the installation of street lights along the City and/or State right of way.
- 3) Submit **complete** "as built" plan copies and an electronic disk in Autocad 2007 or later format. The "as built" shall contain the appropriate information as described within the Rochelle Municipal code or as requested by City staff. "As built" are required for **all land improvements** covered under the approved Engineers estimate of cost, letter of credit, and the approved construction plans. The "as built" should show the location, elevation, size, rim and invert elevations and/or slope of the water main/service, sanitary main/service, electrical conduit/service, storm sewer and structures, culverts,

manholes, pipe drains locations, grading and drainage contours and spot elevations, stormwater detention/retention facilities and other related structures and/or appurtenances, roadways, curb and gutter, sidewalks or other pedestrian paths, striping, street lights, etc. "As builts" shall be referenced to state plan coordinates and NAVD so as to make them compatible with the City's mapping system. Furthermore, the as built shall be certified, by the owner/developer and an Illinois Professional Engineer, that all improvements have been constructed in conformance with the approved construction plans and specifications.

- 4) Lien Waivers in accordance with the Illinois Mechanics Lien Act from all contractors. The existing letter will not be reduced nor a new letter of credit accepted until all lien waivers have been received by the City.
- 5) The submission or deposit of a letter of credit or other surety, as approved by council, for no less than ten percent of the cost of the land improvements. This surety shall be held by the City for a period of 24 months after acceptance as a guarantee of satisfactory completion and performance of the land improvements. The current value of the letter of credits are as follows:

Dubuque Bank & Trust Co. irrevocable Letter of credit LOC No. 08522 for \$632,718.61.

Dubuque Bank & Trust Co. irrevocable Letter of credit LOC No. 08521 for \$397,502.94

Dubuque Bank & Trust Co. irrevocable Letter of credit LOC No. 08520 for \$82,998.22.

Dubuque Bank & Trust Co. irrevocable Letter of credit LOC No. 08519 for \$465,736.49

Given that there are additional items to be completed or restored as stated in items aforementioned the surety shall be 10% of \$1,578,956 (or \$157,896), plus an additional \$139,864 for the street lighting, applicable finish grading and seeding restoration, temporary erosion control removal, utility adjustments, manhole adjustments, grading/backfilling, traffic control and/or street signage installation and adjustments and the additional items required for the completion of the as built plans. Therefore, the new deposit of a letter of credit surety shall be no less than \$297,760.

- 6) Final acceptance, by resolution of the city council, of the land improvements which have been designated by the city council for acceptance, and acknowledgement, by resolution of the city council, of completion of the land which have not been designated for acceptance.
- 7) Other items as may be required under section 86-56, et seq. of the Rochelle Municipal Code (RMC).

The final PUD plat, of the above referenced subdivision, was recorded on 9/28/2009.

Please be aware that per section 86-54 of the RMC:

- (a) All land improvements as defined in this chapter shall be installed and completed within a period of two years after recording of the final plat, unless prior to the expiration

of the two-year period an extension of time is requested by the subdivider to complete all of said improvements. Failure of the subdivider to complete all of the said improvements within such two-year period or any extension thereof shall result in forfeiture of the guarantee collateral. A request for an extension shall not be granted unless adequate guarantee collateral has been received and approved by the city council. In the event building permits have been issued for more than 50 percent of the lots, no extension of the time period shall be granted, except the city council may provide a time extension for completion of sidewalk, tree planting, and parkway restoration improvements; such time extension request shall be accompanied by a guarantee for completion of improvements as required in section 86-52.

(b) In the event of failure to complete the land improvements in the required period, or any extension thereof, as stated above, the city council may direct that no further building permits be issued for property in such subdivision until acceptance or acknowledgment of completion by the city council of the land improvements.

Should you have any questions or comments please contact my office.

Sincerely,

Sam Tesreau, P.E.
City Engineer

Cc: Dave Plyman, City Manager
Bruce McKinney, City Clerk
Chris Limas, Community Development Director
Don Elliot, Street Division Superintendent
Kathy Cooper, RMU Water/Water Reclamation Superintendent
Joe Orlikowski, RMU Electric T&D Superintendent
Alan Cooper, City Attorney