OAKLEY

CALIFORNIA

STAFF REPORT

Approved and Forwarded to City Council:

Bryan H. Montgomery, City Manager

Date: Tuesday, December 8, 2015

To: Bryan H. Montgomery, City Manager

From: Kevin Rohani, Public Works Director/City Engineer

Subject: Approval of Encroachment Reimbursement Agreement with SDC DELTA COVES, LLC, a Delaware Limited Liability Company related to waterline construction along Bethel Island Road
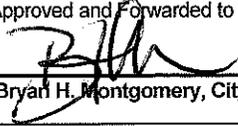
Background and Analysis

SDC DELTA COVES, LLC, (Developer) is constructing a waterline starting approximately 2,100' north of East Cypress Road along the east side of Bethel Island Road north to a point of connection on Bethel Island. The waterline is needed to provide water for the Delta Coves housing development on Bethel Island that was partially constructed in 2006 and has been on-hold since then.

Most of the construction will be outside of the City's Bethel Island Road right of way except for three locations: 1 – the southern point of connection; 2 – a segment approximately 200' long approximately 2,300' north of Cypress Road where it crosses over an existing metal culvert; and 3 - the crossing at Sandmound Boulevard. While doing some excavation around the metal culvert, the contractor discovered that the pipe is rusted and in poor condition and would not be able to support the waterline without construction of a special crossing to be built primarily with reinforced concrete as a cap over the culvert.

Staff reviewed the proposed crossing design and determined that the entire culvert will need to be replaced sometime in the future and that the cost of the replacement would be greater as a result of the special crossing. After discussions with a representative of the Developer, it was agreed that $30,000 would be the appropriate amount of the additional cost. The Encroachment Reimbursement Agreement was prepared to memorialize key parts of the discussions and staff is requesting that the Council authorizes the City Manager to execute the agreement.

Fiscal Impact
The fiscal impact of executing the agreement is that the City will receive $30,000 that can be used to offset some of the cost to construct the replacement of the metal culvert in the future.

Staff Recommendation
Staff recommends that the City Council adopt the Resolution authorizing the City Manager to execute the Encroachment Reimbursement Agreement.

Attachments
1) Draft Encroachment Reimbursement Agreement
2) Resolution authorizing the City Manager to execute the agreement

ENCROACHMENT REIMBURSEMENT AGREEMENT

THIS AGREEMENT is entered into this 8th day of December, 2015 by and between the City of Oakley, a municipal corporation ("CITY") and **SDC DELTA COVES, LLC, a Delaware Limited Liability Company** herein called ("DEVELOPER").

Recitals

A. DEVELOPER is extending a new water line along Bethel Island Road from north of East Cypress Road, across the Bethel Island bridge and onto Bethel Island Road.

B. The new water line will cross a corrugated metal culvert owned by CITY as it crosses under Bethel Island Road within the Oakley city limits.

C. The method chosen by the DEVELOPER to cross the culvert will result in increased costs to the CITY when it becomes necessary to replace the culvert.

D. DEVELOPER wishes to pay CITY at this time for the anticipated cost of the extra work needed to be done when the culvert is replaced so that the CITY will grant its approval for the crossing. CITY is agreeable to do so under the terms and conditions stated herein.

WHEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. DEVELOPER hereby tenders to and pays CITY the sum of Thirty Thousand ($30,000.00) Dollars.

2. CITY hereby grants its approval for the crossing as submitted to the City Engineer.

3. CITY accepts the payment herein as full mitigation and payment for any extra work needed to be done when it replaces the culvert, and will not pursue any claim against DEVELOPER or its successors in interest if the cost of the extra work exceeds the payment specified herein.

4. DEVELOPER agrees not to pursue any claim against the CITY in the event that CITY's extra costs associated with replacing the culvert are less than the payment specified herein.

CITY OF OAKLEY

SDC DELTA COVES LLC, A Delaware Limited Liability Company

By: _____

    Bryan H. Montgomery

By: _____

    City Manager

Its Authorized Signatory

APPROVED AS TO FORM:

_____

Name and Title:

_____

Derek P. Cole
City Attorney

ATTEST:

_____

Libby Vreonis, City Clerk

RESOLUTION NO. ____-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY AUTHORIZING THE CITY MANAGER TO SIGN THE ENCROACHMENT REIMBURSEMENT AGREEMENT WITH SDC DELTA COVES, LLC, A DELAWARE LIMITED LIABILITY COMPANY RELATED TO WATERLINE CONSTRUCTION ALONG BETHEL ISLAND ROAD

WHEREAS, SDC Delta Coves, LLC (DEVELOPER) needs to construct a water line in and along Bethel Island Road in Oakley; and

WHEREAS, the proposed water line crosses over an existing metal culvert that was found to be rusted and in poor condition; and

WHEREAS, Developer needs to construct a special concrete crossing over the culvert; and

WHEREAS, construction of the special crossing will result in higher costs to the City when the culvert pipe is replaced sometime in the future; and

WHEREAS, after discussions, Staff and Developer agreed that $30,000 is the appropriate amount to cover the additional cost of culvert replacement; and

WHEREAS, the City and Developer wish to execute the Encroachment Reimbursement Agreement to memorialize the discussion.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakley that the Encroachment Reimbursement Agreement is approved and the City Manager is hereby authorized to execute the Encroachment Reimbursement Agreement.

PASSED AND ADOPTED by the City Council of the City of Oakley, California, this 8th day of December 2015 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

_____
_____,Mayor

ATTEST:

_____
Libby Vreonis, City Clerk   Date