

PUBLIC WORKS AND UTILITIES COMMITTEE

08-0724R

RESOLUTION AUTHORIZING RELEASE AND SETTLEMENT AGREEMENT WITH TRINITY DEVELOPMENT GROUP, LLC, AND GREAT AMERICAN INSURANCE COMPANY PERTAINING TO THE COFFEE CREEK DEVELOPMENT.

CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a release and settlement agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. _____, with Trinity Development Group, LLC, and the Great American Insurance Company in settlement of disputes arising out of the development of the Coffee Creek project.

Approved:

Approved for presentation to council:

Department Director

Chief Administrative Officer

Approved as to form:

Approved:

Attorney

Auditor

ATTY REA:blj 11/19/2008

STATEMENT OF PURPOSE: This resolution authorizes an agreement with Trinity Development Group, LLC, (Trinity) and the Great American Insurance Company (GAIC) in settlement of disputes that arose out of the development of the Coffee Creek housing project (project).

The project is a residential development project located generally west of Arlington Road and north of Trinity Road that has been undertaken by Trinity. Trinity had originally contracted with LeTourneau and Sons to construct various improvements including public improvements which were to be turned over to the city pursuant to the authority under City Code for the city engineer to accept them. The engineer required a memorandum of understanding (MOU) with Trinity to insure that terms and conditions of accepting the improvements were clearly laid out. Included in the MOU was a requirement for a performance bond which was supplied by GAIC.

Subsequently, LeTourneau went out of business without completing the project and there were issues with the quality of some of the work performed. As a result several legal actions were initiated. GAIC accepted their responsibility under the bond and consequently a new contractor, Rachel Contracting, LLC, was contacted to complete the work. At this point it is necessary to have the parties enter into the settlement and release agreement so that GAIC can release their funds and Rachel can contract to complete the work.

Under the agreement, the project will be divided into phases. The first phase, which will include all of the project except the sidewalks and a second lift of blacktop on the streets and except for Mocha Way, a severable part of the project consisting of the development of a cul du sac, will be completed this year. Phase 2 which will be the sidewalks, the second lift of bituminous and utility work in the main development which will be completed by September 30, 2009. Mocha Way will be completed, if possible, by the end of 2010. Phases 1 and 2 will be covered by performance bonds and, in addition, the city will have the right, if necessary, to complete Phase 2 itself and to assess the property for the cost of the work.

With the possible exception of the assessment, the city will incur no risk for the project and will not be required to accept any of the improvements unless they meet the standards of the city engineer.