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Via electronic mail (dhasegawa@cityofboise.org)

September 22, 2021

The Board of the Harris Ranch Community Infrastructure District No. 1 (“HRCID”)
c/o David Hasegawa, District Manager
150 N. Capitol Blvd.
Boise, Idaho 83702

**Re: Completeness Letter – Dallas Harris Estates Townhomes Subdivision No. 9
 Dallas Harris Estates Townhomes Subdivision No. 11 and Storm Water
 Pond Improvements**

Dear Members of the Board:

This letter is a follow-up to a request received for a detailed analysis of how the above payment requests (collectively, the “**Payment Requests**”) conform to both the requirements of Title 50, Chapter 31 of Idaho Code (the “**CID Act**”) and the District Development Agreement No. 1 for the Harris Ranch Community Infrastructure District No. 1 (the “**Development Agreement**”). As noted below, the Payment Requests do meet the letter of the CID Act and the Development Agreement and are eligible for reimbursement.

Background

The Payment Requests are related to two improvement projects within the Harris Ranch Community Infrastructure District No. 1 (the “**HRCID**”): Dallas Harris Estates Townhomes Subdivision No. 9 (“**TH9**”) and Dallas Harris Estates Townhomes Subdivision No. 11 and Storm Water Pond Improvements (“**TH11**”). The relative locations of TH9 and TH11 are shown on the map below and the reimbursement requests include roadways and utility improvements in right-of-way that is owned by the Ada County Highway District, which is a political subdivision of the State of Idaho. The TH11 project includes storm water pond improvements that serve only properties within the HRCID.

**Dallas Harris Estates Townhomes
Subdivision No. 9 Improvements**



**Dallas Harris Estates Townhomes Subdivision
No. 11 and Stormwater Pond Improvements**



Conformity with the Development Agreement

The Development Agreement provides the roadmap for reimbursement of eligible projects within HRCID. Article II of the Development Agreement provides for the manner by which eligible projects are to be constructed by the developer, and requires the following:

Compliance with Applicable Codes. Per Section 2.1(b) of the Development Agreement, each of the Payment Requests were built to the standards required by Ada County Highway District (“ACHD”) and the City of Boise (“City”) prior to acceptance. Each of the improvements required inspection prior to acceptance by ACHD or the City. TH9 roadway improvements were accepted by ACHD on February 11, 2021 while TH11 roadway improvements were accepted by ACHD on May 24, 2021. Sewer for TH9 was accepted by the City on January 14, 2020 and TH11 was accepted August 25, 2020.

Public Bidding. Section 2.2 requires conformity with public bidding requirements. The Payment Requests were both publicly bid in accordance with Idaho Code, including Section 67-2805. Notices of the opportunity to bid were published in The Statesman, with proof (affidavits) of publication provided to CID staff. Notices inviting bids include substantially the same information required in Section 1.5(b) of the Development Agreement, and the “limitation on recourse” language required in Section 1.5(d) is included in the Project Manual (see *Instruction to Bidders*, Para. 16). The lowest responsible bidder was, in each case, selected.

Cost Review. Sections 2.3 and 3.2(a) require that all project costs be submitted to the District Engineer for review. Mr. Pardy has reviewed each of these Payment Requests in great detail and has identified areas that were not eligible for reimbursement (e.g., domestic water facilities owned by Suez, a private entity) or other areas that required clarification. After multiple submissions to CID Staff, it is our understanding that the District Engineer has reviewed and approved the current costs associated with the Payment Requests.

Conditions for Payment. Section 3.3 includes a number of conditions for payment, outlined below:

Item	Description	Status
(i)	Certificate of Engineers	On file with CID staff
(ii) , (v)	Evidence of public ownership	All improvements are located in ACHD right-of-way and the Payment Requests include ACHD acceptance
(iii)	Environmental assessments	Not requested – no evidence of contamination
(iv)	Conveyance to public entity	All property conveyed via standard plat dedication
(vi)	Assignment of warranties	All work includes two-year warranty assigned to ACHD upon acceptance of the Work per the Construction Contract, Article XII
(vii)	Acceptance letters	ACHD and City of Boise acceptance letters are included in the Payment Request packet and are noted above
(viii)	Other documents requested by District Manager	None requested to developer’s knowledge

Conformity with the CID Act

The Payment Requests are also eligible for reimbursement per the CID Act, as shown below:

Public Ownership. Section 50-3101(2) requires that community infrastructure must be owned by the state or a political subdivision. The Payment Requests include road and utility improvements that are owned by a political subdivision of the state – in this case, the real property (roadways) are owned by ACHD and the reimbursed sewer facilities are owned by the City. The storm ponds associated with TH11 are subject to a permanent easement in favor of ACHD, recorded as Instrument No. 2019-113007, a copy of which is attached to the TH11 Payment Request. Per Section 50-3105(2), community infrastructure may be located in easements, meaning these ponds are eligible under the public ownership rule.

Definition of Community Infrastructure. All of the items included in the Payment Requests are eligible for reimbursement under the definition of community infrastructure. Roadways are the first identified category of reimbursement. The wastewater system and storm water improvements are also eligible under Idaho Code Section 67-8203(24) (internally referenced in Section 50-3102(2)), which includes “[w]astewater collection, treatment and disposal facilities” as well as “[s]tormwater collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements.”

Substantial Nexus and Direct or Indirect Benefit. Section 50-3102(2) requires that community infrastructure have a substantial nexus and a direct or indirect benefit to the district. The term substantial nexus is not defined in the CID Act; however, in its typical usage, this refers to the overlap between the development of the HRCID, the needs that development creates, and the role the project plays in satisfying those requirements. Whether there is a direct or indirect benefit is a very similar analysis. Here, the improvements can be generally categorized as roads, domestic sewer, and storm water ponds. Each has a benefit to the larger district. For example, as shown below the roads lead from E. Parkcenter Blvd. to the multi-family areas (shown in violet and pink), the park areas of the Village Green (green), the commercial areas that include the Village Center (dark purple), as well as the future elementary School (light blue). These amenities will be used by the entire HRCID and these roads provide that connection.



Domestic sewer and the storm water ponds are part of the larger network that serves the HRCID, with the ponds in question serving the areas shown below in pink:



These storm water ponds very clearly have a nexus and provide a direct benefit to the HRCID.

Fronting Individual Single-Family Residential Lots. As noted in prior correspondence with the Board, the term “fronting” is not defined in the CID Act but its everyday meaning comes from the zoning context. Per City Code and common usage of the term, fronting requires adjacency. Per Boise City Code, “Lot, Frontage” refers to “[t]hat portion of a lot that **abuts** a public right-of-way or other access.” (Boise City Code, Section 11-012-05 (emphasis added)). Another example: in order to have “street frontage” (and, in many instances, be eligible for a building permit), the City looks for the portion of a lot that “fronts upon a street or alley. *To constitute frontage, the subject street or alley must provide access to abutting properties.*” (Id. (emphasis added)). In other words, there is no access (and therefore no street frontage) if the street does not physically touch the property in question to allow access.

In this case, the property in question is separated by property designated on each of the relevant plats as common area. As a result, the roadway and utility improvements at no point touch on individual single-family residential lots. It should be noted that this exclusion only potentially applies to the townhome areas in the northern areas of these Payment Requests. The lower third of each block is taken up by single-lot condominium projects and the storm water ponds are located south of E. Warm Springs Ave. As a result, these improvements are not affected by the “fronting” limitation to any degree whatsoever.

Conclusion

As shown above, we believe that each of the elements of the Payment Requests are eligible for reimbursement under the CID Act and the Development Agreement. Each has been subject to intense review by CID staff. We look forward to hearing and ultimate approval of these items.

Very truly yours,



T. Hethe Clark
HC/bdb

c: CID Board Members
CID Staff (Jim Pardy (CID Engineer), Rob Lockward (CID Counsel))
Client