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Via electronic mail (dhasegawa@cityofboise.org)

December 4, 2023

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

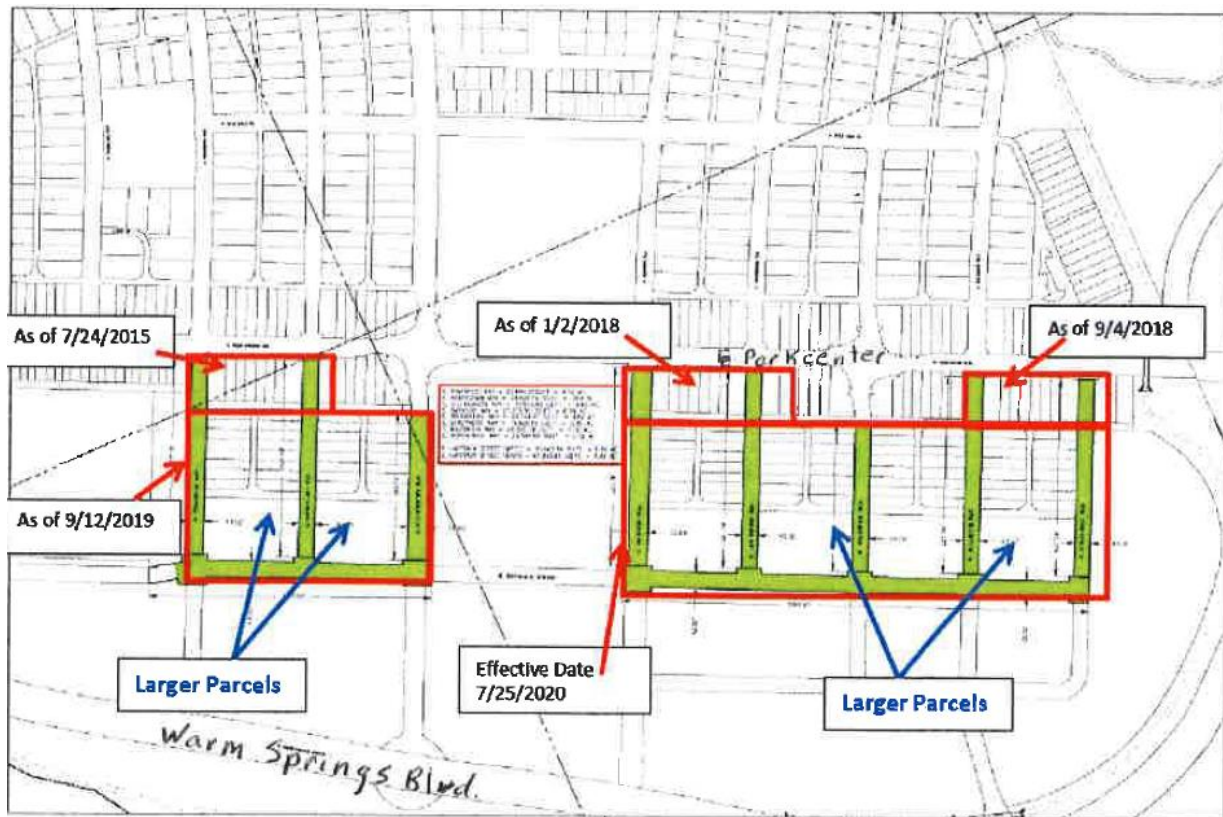
Re: Completeness Letter – Southern Half of Roadway Parcels Located within the Harris Ranch Subdivision (Portions of Phases 2, 6, 8, 9, and 11)

Dear Members of the Board:

This letter is a follow-up to a request received for a detailed analysis of how the above payment request conforms 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, this request does meet the letter of the CID Act and the Development Agreement and is eligible for reimbursement.

Background

This payment request is associated with certain real property ultimately dedicated for road right-of-way. These areas are located within the HRCID and include areas dedicated to the Ada County Highway District ("**ACHD**"). The general location of the subject roadways is shown below as depicted in the application submitted to the HRCID on March 1, 2021:



Conformity with the Development Agreement

The Development Agreement provides the roadmap for reimbursement of eligible projects within HRCID. Much of the Development Agreement contemplates *construction* of projects; however, there are no construction costs associated with this payment request – only the value of the real property. This is also permitted under the Development Agreement and the CID Act.

Compliance with Applicable Codes. Per Section 2.1(b) of the Development Agreement, no construction was undertaken and no codes are applicable.

Public Bidding. Section 2.2 requires conformity with public bidding requirements; however, public bidding requirements do not apply because this is an acquisition of an interest in real property.

Cost Review. Sections 2.3 and 3.2(a) require that all project costs be submitted to the District Engineer for review. No construction costs are part of this payment request; accordingly, there was no public bid and there is no cost review to be undertaken. An appraisal has been submitted to establish the acquisition cost and this appraisal is subject to HRCID review and approval.

Conveyance to a Public Entity. The real property in question has been dedicated to ACHD.

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

| Item | Description | Status |
|-----------|---|---|
| (i) | Certificate of Engineers | Not applicable |
| (ii), (v) | Evidence of public ownership | The relevant real property has been dedicated to ACHD |
| (iii) | Environmental assessments | Not requested – no evidence of contamination |
| (iv) | Conveyance to public entity | The relevant real property has been dedicated to ACHD |
| (vi) | Assignment of warranties | Not applicable |
| (vii) | Acceptance letters | ACHD has accepted the dedication of the real property |
| (viii) | Other documents requested by District Manager | None requested to developer's knowledge |

In sum, each of the Development Agreement requirements for reimbursement have been satisfied.

Conformity with the CID Act

This payment request is 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.¹ The relevant real property has been dedicated to ACHD.

Definition of Community Infrastructure. The relevant real property is eligible for reimbursement under the definition of community infrastructure. Section 50-3102(2) states that community infrastructure includes “[h]ighways, parkways, expressways, interstates... interchanges, bridges, crossing structures, and related appurtenances.” The definition of community infrastructure also includes those public facilities identified in Idaho Code Section 67-8203(24), which include “[r]oads, streets and bridges, including rights-of-way.” In other words, roads constitute community infrastructure. Community infrastructure also includes “interests in real property *for* community infrastructure.” (I.C. § 50-3102(2)(e) (emphasis added)). The relevant real property qualifies as community infrastructure.

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. In this case, the real property in question underlies roadways dedicated to ACHD. The roads in question surround the multi-family areas of the project, but they are part of the roadway network that provides access to the Boise School District's new elementary school site. These roads also access other areas of the project that will be highly visited upon future buildout, including the park areas of the Village Green and the commercial areas of the Village Center.

¹ Per Section 50-3105(2), community infrastructure may also be located in easements in favor of a political subdivision of the State of Idaho.


Fronting Individual Single-Family Residential Lots. As noted in prior correspondence, 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 addition, Judge Baskin in her Memorandum Decision and Order on Petition for Judicial Review (see, *e.g.*, Page 26) found the “fronting” exclusion does not apply when community infrastructure fronts multiple—not just individual—single-family lots.

The real property in question qualifies under each of these tests. The right-of-way underlies the “grid” that serves the central areas of the project and, therefore, serves multiple single-family lots. In addition, the real property in question is separated from single-family lots by property designated on each of the relevant plats as common area or by areas containing sidewalk easements and sidewalk facilities in favor of the City of Boise. It should also be noted that this exclusion only potentially applies to the townhome areas in the northern areas relevant to this payment request. The lower third of each block is taken up by single-lot condominium projects. As a result, these areas are not affected by the “fronting” limitation to any degree whatsoever.

Conclusion

As shown above, we believe that this particular payment request is eligible for reimbursement under the CID Act and the Development Agreement.

Very truly yours,



T. Hethe Clark
HC/bdb

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