

CITY OF PALM DESERT STAFF REPORT

MEETING DATE: June 26, 2025

PREPARED BY: Cesar Lopez, Associate Engineer

SUBJECT: RELEASE THE FAITHFUL PERFORMANCE BOND, LABOR AND MATERIALS BOND FOR OFFSITE IMPROVEMENTS, PARTICULATE MATTER BOND, ACCEPT THE MAINTENANCE BOND, AUTHORIZE APPROPRIATION OF FUNDS FOR REIMBURSEMENT IN AN AMOUNT NOT TO EXCEED \$593,000

RECOMMENDATION:

1. Accept Public Improvements for the extension of Technology Drive and Zenith Drive.
2. Release the following bonds for the extension of Technology Drive and Zenith Drive (PG22-0007):
 - Faithful Performance Bond in the amount of \$1,137,582.
 - Labor and Materials Bond in the amount of \$1,137,582.
3. Release Particulate Matter (PM10) Bond for Rough Grading Permit (RG22-0008) in the amount of \$29,940 to Apogee Professional Services.
4. Accept Maintenance Bond in the amount of \$113,758.20.
5. Authorize an appropriation of \$293,000 from unobligated Capital Project Funds to Street Capital Improvement Account No. 4004311-432000.
6. Authorize reimbursement to Palm Desert University Gateway, LLC in the amount not to exceed \$593,000 for street improvements adjacent to the city-owned parcel.

BACKGROUND/ANALYSIS:

On July 8, 2015, the City Council approved a Development Agreement (DA) for the University Park/Gateway area of the City with Palm Desert University Gateway, LLC (Owner), 38 S Clancy Ln, Rancho Mirage, CA 92270. Section 3.2 (f) of the DA stipulates that the parties to the Agreement agree to each pay for half of the Technology Drive street improvements to provide access to any portion of the project in advance of the development of any portion of the Planning Area 8 and 9 by the City, the City shall reimburse the "Owner the City's fair share of the approved soft and hard costs of the improvements."

A reimbursement allocation of \$593,000 is planned for the fair share cost of frontage improvements on the City-owned parcel. The City budgeted \$300,000 in the Fiscal Year 2024-25 budget for the construction of these offsite improvements. Since the final costs have not yet been accepted, the City anticipates an additional \$293,000 (including 10% contingency) to cover the City portion of the shared costs.

On March 15, 2022, the Planning Commission approved the Millennium Apartments Project (PP22-0009) by Resolution No. 2809, a request by MRES Millennium Holdings, LLC (Applicant), 12149 West Center Road, Omaha, NE 68144, consisting of a precise plan to construct 330 apartment units within fifteen buildings (Project).

On December 29, 2022, the PM 10 Bond was received under the rough grading permit RG22-0008 by check no. 1263 for the Project, payment by Apogee Professional Services, LLC (12149 W. Center Road, Omaha, NE 68144).

Palm Desert Municipal Code Chapter 24.12 requires a PM10 mitigation plan and implementation of dust control measures during construction to reduce fugitive dust and particulate matter emissions. Section 24.12.070 mandates a bond (or approved alternative) to ensure stabilization of disturbed areas if dust control fails or the site is abandoned. PM10 bonds are submitted before grading permits are issued, with Public Works Inspectors monitoring compliance throughout the project. City Council approval is required for bond release, which is now coordinated with the release of improvement and grading bonds upon project completion and confirmation that no disturbed areas remain. Staff recommends approval of PM10 bond release for the listed projects, as all have passed final inspection and no further mitigation is needed.

On March 29, 2024, both the Faithful Performance Bond and the Labor and Materials Bond for offsite improvements were received under Precise Grading Permit No. PG22-0007, each in the amount of \$1,137,582. Subsequently, on April 25, 2024, the City Council approved the release of the Grading Bond for the project. The offsite improvements involved the project's frontage along Technology Drive and Zenith Drive extending to Gerald Ford Drive, encompassing a full street improvement rather than just the project's half portion as required by Resolution No. 2809. Progress was delayed to ensure compliance with the scope of work agreed upon with the City, which also owns an abutting parcel (Assessor's Parcel Number 694-120-028).

On January 15, 2025, the Public Works Department verified the completion of all public improvements for this project. Additionally, the Engineer of Record has submitted the Letter of Certification verifying the completion of improvements. Project requirements are documented in the approved grading plan (PG22-0007) and the Engineer's Estimate. A Record Drawing of the improvements is on file with the Development Services Department.

Per Palm Desert Municipal Code Section 26.28.140, a 10% Maintenance Bond is required for one year after completion. The developer has submitted a \$113,758.20 bond for this purpose.

Legal Review:

The City Attorney's Office has reviewed this report.

FINANCIAL IMPACT:

Funds are available in Account No. 4004311-4332000 in the amount of \$300,000 in the FY 2024-25 Budget. To ensure City costs are covered, staff has identified Gas Tax funds available to complete this project and has transferred them to the Capital Projects Fund to simplify tracking of this project. Staff is requesting an appropriation of those monies from unobligated Capital

Project Fund Balance to Account No. 4004311-4332000 in the amount of \$293,000. The combined amount includes 10% contingency and upon completion, any unspent portion will be returned to the Gas Tax Fund. The City will be required to maintain Technology Drive moving forward.

ATTACHMENTS:

1. Development Agreement
2. Faithful Performance Bond
3. Labor and Materials Bond
4. Particulate Matter (PM 10) Receipt
5. Maintenance Bond
6. Vicinity Map