



Staff Report

Date of Meeting: February 12, 2013

To: City Council

From: Kristina Handt, Administrator

Re: Compliance and Reclamation Agreement for Zavoral Mine

Agenda Item #: 4.c)

Included in your packet is an updated draft of the Conditional Use Permit Compliance and Reclamation Agreement (aka Developer's Agreement).

Following the January 15th meeting, staff met with Tiller Corp representatives to discuss the agreement. The changes proposed in red were made by Tiller Corp. The changes in blue represent City staff additions after reviewing Tiller Corp's suggestions.

One of the significant decisions the Council will need to make at this meeting is in relation to Article Five on page 7. This section covers the escrow and security.

The initial escrow amount is established at \$25,000 and would be reviewed with each AOP. The applicant is seeking the ability to pay the City Costs directly in section 5.1(b). This is not how the City has typically operated. In the past, the City has paid the costs directly and then either reimburses itself from the escrow or requests additional funds from the applicant. The Council should discuss whether or not they would like to allow this option. Also, language was added to require the applicant to replenish the escrow after receiving notice from the City that the balance has fallen below \$5,000.

Section 5.2 deals with the form of security. The applicant is proposing that the City accept a Performance Bond in the amount of \$450,000. The applicant is then proposing an annual Letter of Credit equal to the amount of estimated reclamation costs determined each year during the AOP approval process.

Options:

The City Council should first decide if they are willing to accept this hybrid proposal for security, rather than a Letter of Credit for the duration of the project as originally proposed by staff.

The City Council will also need to determine the appropriate amount of the performance bond or letter of credit.

Performance Bond (or Letter of Credit if taken for duration of project) options:

- 1) \$450,000 as proposed by the applicant
- 2) \$550,000 which would be 125% of the estimated cost of reclamation. Reclamation costs are estimated to be \$438,540.
- 3) An amount equal to 125% of the cost associated with (1), (2), (3) and (4) of paragraph 5.2(a).

If the City Council is willing to accept an annual Letter of Credit, should the amount be:

- 1) Equal to the City approved estimated costs of reclamation for that year as the applicant has proposed.
- 2) An amount greater than the estimated costs for that year to allow for a margin of error, such as 125%. The Council may consider a different percentage as well.