



Memorandum

Department of Planning & Development Services

To: Planning and Public Works Committee

From: Justin Wyse, Director of Planning and Development Services

Date: June 20, 2019

RE: Special Cash Escrows – Proposed Policy

In accordance with City Code Section 31-02-12, developers are required to guarantee completion of required improvements in accordance with the approved improvement plans. Special Cash Escrows are utilized to guarantee required improvements that cannot be constructed concurrent with development and are therefore not included as part of the typical Construction and Maintenance Deposits. Special Cash Escrows are held and tracked by the City until they can be incorporated into an adjacent development project and/or can be completed by the City, County, and/or MoDOT as part of a capital project.

The most common situation where a Special Cash Escrow has been accepted by the City is when the end of a required sidewalk and/or street cannot be constructed due to constraints beyond the developer's control (typically due to grades on the adjacent property). In instances such as this, the developer is required to provide a Special Cash Escrow to guarantee the future completion of the required improvement(s) concurrent with development of the adjacent property or future project.

One recent example of a Special Cash Escrow is Silver Buck Lane in the Bur Oaks subdivision. Silver Buck Lane is a stub street that will be extended to the east in the future as part of the development of the adjacent property. The road and sidewalk stop about 25' short of the eastern property line of Bur Oaks so that grading on Bur Oaks could transition to match grades at the existing property line. The developer of Bur Oaks, Pulte Homes, provided a \$4,600 Special Cash Escrow to guarantee the future extension of the street and sidewalk.

In order to improve awareness of the locations of required improvements guaranteed by Special Cash Escrows, the Engineering Division set a goal in 2018 to add Special Cash Escrow information to the City's GIS system. With the assistance of the GIS/Mapping Division of the IT Department, this work was completed in October of 2018. The City's GIS Utility Map now includes a layer that depicts the location of current and historic Special Cash Escrows. Each area also includes a link to a PDF of the executed Special Cash Escrow. This enhancement will allow Planning and Engineering staff increased access to Special Cash Escrow agreements and should increase awareness of the existence of these agreements. This will also allow for better coordination by City Staff with developers and property owners to ensure the required improvements are included as part of development projects, when appropriate.

During the process of adding Special Cash Escrow information to GIS, it became evident that a more comprehensive review of Special Cash Escrows was warranted. More specifically, it was determined that each Special Cash Escrow should be reviewed to confirm that the improvement(s) guaranteed remain outstanding or to determine that the improvements guaranteed had already been completed. To date, the City has accepted 78 Special Cash Escrows. Twenty two (22) Special Cash Escrows have been completed and the associated deposits have been released. Fifty-six (56) Special Cash Escrows are being held by the City. Nine (9) of the Special Cash Escrows held by the City have been completed but cannot be returned or were completed by the City. It is recommended that these nine Special Cash Escrows be transferred to the Capital Projects Fund for use on future City Projects.

Based on the review of existing Special Cash Escrows and existing City processes, there is a need to more clearly define the conditions that warrant acceptance of a Special Cash Escrow, the required amount of a Special Cash Escrow, and formalize how Special Cash Escrows will be accepted, tracked, and released. To accomplish this, City Policy PDS-02 Special Cash Escrow is proposed.

Recommendation

I recommend City Policy PDS-02 be forwarded to the Planning and Public Works Committee and City Council for review.

Attachments: Proposed PDS Policy 02

**CITY OF CHESTERFIELD
POLICY STATEMENT**

PLANNING & DEVELOPMENT SERVICES	NO.	2
SUBJECT Special Cash Escrow	INDEX	PDS
DATE ISSUED	DATE REVISED	

POLICY

City Code Section 31-02-12 requires that developers guarantee completion of required improvements included on approved improvement plans. This guarantee is typically provided in the form of construction and maintenance deposits which carry a two (2) year term that may be extended with the approval of the Director of Planning and Development Services.

When, at the discretion of the Director of Planning and Development Services and/or the Director of Public Works, a required improvement cannot reasonably be constructed in conjunction with a development, or where it is determined that it is in the City's best interest to defer construction of the improvement to a later date, City staff shall require submittal of an Agreement Guaranteeing Improvement (Special Cash Escrow) and the associated deposit.

The amount of deposit associated with the Special Cash Escrow shall be 110% of the approved cost estimate. If the approved cost estimate is less than \$1,000, the Director of Planning and Development Services and/or Director of Public Works may, at their discretion, waive the requirement to provide a Special Cash Escrow or simply accept the equivalent deposit amount for use on a future capital project, or as otherwise determined by the Director of Public Works and/or Director of Planning and Development Services.

Special Cash Escrows shall be provided on the form provided by the City and shall be accompanied by the approved cost estimate, an exhibit depicting the required improvements, and the required deposit. The required deposit shall be in the form of cash or a check made payable to the City of Chesterfield.

Special Cash Escrows do not expire. City staff shall track Special Cash Escrows, review them annually, at a minimum, and ensure that established Special Cash Escrows are incorporated into future projects, as necessary. Special Cash Escrows will be held by the City until the required improvement is completed.

Upon completion of required improvements guaranteed by a Special Cash Escrow, the party responsible for completing the work shall submit a written request for reimbursement by the City. The request shall include documentation substantiating the actual cost to complete the improvement. If the requested amount is \$25,000 or less the reimbursement shall be reviewed and approved by the Director of Public Works. If the requested amount is greater than \$25,000 the reimbursement shall be reviewed and approved by the Director of Public Works and City Council in accordance with the City's Purchasing Policy. If the required improvements are completed by the City, the Special Cash Escrow shall be transferred to the Capital Project fund or other appropriate fund as approved by the Director of Public Works.

The reimbursement amount cannot exceed the amount of the Special Cash Escrow deposit unless otherwise authorized by the Director of Public Works. If the reimbursement amount is less than the deposit amount the remaining balance shall be transferred to the Capital Project fund for use on a future capital project or otherwise utilized as determined by the Director of Public Works.

Nothing in this policy obligates the City to accept a Special Cash Escrow.

RECOMMENDED BY:

Department Head/Council Committee (if applicable)

Date

APPROVED BY:

City Administrator

Date

City Council (if applicable)

Date