

## **RESOLUTION 2018-24**

### **A RESOLUTION AMENDING RESOLUTION 2018-08 TO MODIFY THE LONE OAK REIMBURSEMENT DISTRICT**

**Whereas**, reimbursement districts under SRC 200.310-200.385 may be formed if a public improvement required to be constructed as a condition of development approval benefits property other than property being developed; and

**Whereas**, reimbursement districts may be used to provide a fair and proportional reimbursement to the developer for the cost of improvements that will be used to serve such benefitted properties; and

**Whereas**, on June 13, 2007, the Planning Administrator's conditional approval of the Preliminary Declaration for Urban Growth Area Development Permit No. 07-5 required Alice and Garrett Berndt ("Developer") to construct street improvements along Lone Oak Road between Muirfield Avenue and Rees Hill Road ("Lone Oak Improvements"); and

**Whereas**, on September 15, 2008, the Planning Administrator's conditional approval of Subdivision 08-4 ("Oak Ridge Estates") required the Developer to construct the Lone Oak Improvements; and

**Whereas**, on August 11, 2017, the Developer submitted an application to form a reimbursement district for construction of the Lone Oak Improvements, which the Public Works Director has estimated to cost a total of \$9,300,000; and

**Whereas**, the application for a reimbursement district was submitted prior to the start of construction; and

**Whereas**, Lone Oak Road is designated as a collector street in the Salem Transportation System Plan, and the Lone Oak Improvements benefit neighboring properties because of improved street connectivity and accessibility; and

**Whereas**, under SRC 41.100, the Lone Oak Improvements are currently qualified public improvements eligible for \$1,953,000 in Systems Development Charge credits based on an eligibility ratio of 21 percent from the Transportation Systems Development Charge Eligible Projects List; and

**Whereas**, the System Development Charge methodology is under review and staff anticipates that the new Transportation Systems Development Charge methodology will provide eligibility for up to 100 percent of the design and construction costs for the bridge portion of the Lone Oak Improvements; and

**Whereas**, the Developer has requested the formation of a reimbursement district to collect \$7,347,000 of unreimbursed costs through reimbursement fees; and

**Whereas**, the Public Works Director has evaluated whether the proposed reimbursement district should be formed and prepared a report ("Director's Report") recommending a reimbursement

fee methodology, which is submitted with this resolution as the staff report and incorporated herein by reference; and

**Whereas**, not less than ten days prior to the hearing, Developer and all persons owning property within the proposed district were notified by first class mail of the public hearing and the purpose thereof; and

**Whereas**, the public hearing was held on January 22, 2018, at which time any person was given the opportunity to comment on the formation of the proposed reimbursement district; “Exhibit A” is a list of tax lots affected by the reimbursement district which is attached hereto and incorporated herein by reference; and

**Whereas**, on January 22, 2018, City Council adopted the Lone Oak Reimbursement District; and

**Whereas**, on March 26, 2018, City Council re-opened the public hearing and reconsidered the adopted Lone Oak Reimbursement District; and

**Whereas**, on May 14, 2018, City Council voted to modify the boundaries of the Lone Oak Reimbursement District.

NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:

**Section 1. Reimbursement District Modified.** The Lone Oak Road Reimbursement District (Reimbursement District) is amended as set forth in Exhibit B (Updated Tax Lots by Area) and Exhibit C (Updated Reimbursement District Map) attached hereto and incorporated herein by reference. Subareas titled West and Central are maintained. The subarea titled Creekside is reduced to eliminate already subdivided and undeveloped properties. The subarea titled East is eliminated. The subarea boundaries are shown on “Exhibit C.”

**Section 2. Reimbursement Fee Methodology.** The reimbursement fee per single family dwelling lot assigned to each subarea are as follows: Creekside - \$9,212; West - \$9,854; Central - \$4,927. The Director’s Report describes that these reimbursement fee amounts are a reasonable and fair apportionment of the Lone Oak Improvements and anticipates that the reimbursement fees will collect approximately \$6,591,000 in unreimbursed costs within the twenty-year time frame of the district. Other forms of development other than single family dwellings will be based on the reimbursement fee described above divided by 9.57 average daily trips per single family dwelling multiplied by the average daily trips of the development being proposed.

**Section 3. Interest Rate.** Interest on reimbursement fees collected within the Reimbursement District shall be based on Engineering News Record, three West Coast City average of construction cost index per annum, simple interest.

**Section 4. Administration Cost.** The reasonable costs to adequately reimburse the City for administration of the Reimbursement District are one (1) percent of the total reimbursement fee. One (1) percent of each reimbursement fee payment shall be collected by the City for an administration fee. The remaining balance of the district fee (ninety-nine (99) percent of what is collected) will be reimbursed to the Developer.

**Section 5. Payment of Reimbursement Fee.** Payment of the reimbursement fee, as designated for all real property located in the Reimbursement District, is a precondition of receiving any City permits applicable to development on such real property. The reimbursement fee is not eligible for reimbursement from Systems Development Charges.

**Section 6. Eligibility for Reimbursement of Construction Costs.** The Developer or any third party that constructs a portion of the Lone Oak Improvements shall be eligible for reimbursement from Reimbursement Fees collected within the reimbursement district.

**Section 7. Recording the Resolution.** The City Recorder shall record this resolution with the Clerk of Marion County.

**Section 8. Appeal of Formation of Reimbursement District.** No legal action intended to contest the formation of the Reimbursement District or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after sixty (60) days following the adoption of this resolution. Any challenge or appeal to the formation of the Reimbursement District shall be solely by writ of review pursuant to ORS 34.010-ORS 34.102, and not otherwise.

**Section 9. Reimbursement Fee Not a Tax or Lien.** Formation of the Reimbursement District shall not result in an assessment upon or lien against real property and reimbursement fees collected by the City on behalf of a Developer are not taxes subject to the property tax limitations of Article XI, section 11(B) of the Oregon Constitution.

**Section 10. Effective Date.** This Resolution is effective upon adoption.

ADOPTED by the City Council this 29<sup>th</sup> day of May, 2018

ATTEST:

City Recorder

Approved by City Attorney: \_\_\_\_\_

Checked by: Robert Chandler