



## Staff Report

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**File #:** 18-31

**Version:** 1

**Date:** 1/22/2018

**Item #:** 3.3e.

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**TO:** Mayor and City Council

**THROUGH:** Steve Powers, Executive Director

**FROM:** Peter Fernandez, PE, Public Works Director

**SUBJECT:**

Assignment and Release of Brush College Reimbursement District Fees

Ward(s): 8

Councilor(s): Lewis

Neighborhood(s): West Salem

**ISSUE:**

Shall Council authorize the use of \$460,983.88 of Sewer Systems Development Charges for reimbursement of developer-built sewer infrastructure, and authorize the City Manager to execute an agreement to accept the assignment of reimbursement district fees and release the City from having to distribute those fees to the developer?

**RECOMMENDATION:**

Authorize the use of \$460,983.88 of Sewer Systems Development Charges for reimbursement of developer-built sewer infrastructure, and authorize the City Manager to execute an agreement to accept the assignment of reimbursement district fees and release the City from having to distribute those fees to the developer.

**SUMMARY AND BACKGROUND:**

On August 4, 2008, City Council adopted Resolution 2008-78 (Attachment 1), creating a reimbursement district to fund construction costs of a developer-built 21-inch sewer main located in Brush College Road NW. The sewer main was required in conjunction with a 235-lot subdivision developed by Decal Homes, Inc. The reimbursement district (Attachment 3) was established at the request of Decal Homes, Inc. to collect \$771,871.32 in construction costs for the sewer main that were not reimbursed by other means. Decal Homes, Inc. later transferred reimbursement rights to Brush College Credits, LLC (Attachment 2).

To date, the City has forwarded \$13,712.81 in reimbursement fees to Brush College Credits, LLC (Developer). Recently, the Developer requested staff to calculate a fair and equitable amount in

order to release interest in future reimbursement district fees. Staff and the Developer agreed to a consideration amount of \$550,000, to be paid from \$89,016.12 in reimbursement fees and \$460,983.88 in Sewer Systems Development Charge funds.

Once the consideration amount is paid and the Assignment and Release agreement (Attachment 4) is executed, then no further reimbursement fees will be forwarded to the Developer from reimbursement fees; future reimbursement fees will be retained by the City and deposited into sewer Systems Development Charge funds.

## **FACTS AND FINDINGS:**

1. On September 22, 2003, the Planning Administrator granted conditional approval to Urban Growth Area Preliminary Declaration Case No. UGA 03-11, which required that a 21-inch sewer main be constructed in Brush College Road as a condition of final plat approval for a 235-lot subdivision located in the 2500 to 2700 blocks of Brush College Road.
2. On August 4, 2008, City Council adopted Resolution 2008-78, creating a reimbursement district for payment of construction costs of the developer-built sewer main located in Brush College Road NW.
3. To date, the City has forwarded \$13,712.81 in reimbursement fees to the Developer. The City received a reimbursement fee payment of \$89,016.12 on November 17, 2017, which has not yet been forwarded to the Developer.
4. The consideration amount of \$550,000 was based on anticipated reimbursement fee payments to be collected in the future from properties within the district.
5. City records indicate that tentative subdivision approvals have been granted for approximately 190 lots within the district boundary, but which have not progressed in the development process to the point where reimbursement fees have become due. All of these lots within the district boundary will be served directly or indirectly from the 21-inch sewer main constructed by the Developer.
6. The 21-inch sewer main is eligible for reimbursement from sewer systems development charges (Sewer SDCs). Funding is currently available from Sewer SDC funds. The consideration payment is an overall benefit to the Sewer SDC fund because the payment is anticipated to be less than the funds that would have otherwise been paid to the Developer from reimbursement fees collected throughout the 20-year duration of the district.
7. Staff recommends authorization of the use of Sewer SDC funds and execution of the

Assignment And Release Of Reimbursement District Fee agreement.

Attachments:

1. Resolution 2008-78
2. Brush College Credits LLC assignment
3. Brush College Reimbursement District Boundary
4. Assignment and Release of Reimbursement District Fees