

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Randy Breault, Director of Public Works/City Engineer via City Manager

SUBJECT: Private Party Reimbursement for Public Roadway Improvement

DATE: September 18, 2014

City Council Goals:

To maintain and improve infrastructure. (#3)

Recommendation:

Approve Resolution No. 2014-38 authorizing the disbursement of \$33,070.38 to Torrance and Nancy Bynum, the owners of the residence at 350 Kings Road.

Background:

BMC §15.08.140 requires property owners to conform altered and new buildings to current standards when additions/alterations exceed 50% of the value or area of the then existing building. Conformation may also include improving substandard street access to the property.

The owners of 350 Kings Road were required to widen the public street in front of their property when they built a new single family dwelling on the site in the early 2000s. Because this widening created a public benefit and also created a benefit for certain other properties, the city entered into a Reimbursement Agreement with Torrance and Nancy Bynum in May 2004. This Agreement and subsequent Addendums identified the other “benefitting properties” and their proportionate share of the costs to widen the roadway, including a substantial retaining wall built contiguous to 345 Kings Road.

This Reimbursement Agreement was one of the first such agreements the City had entered into, and had a term of only ten years (subsequent agreements have longer terms of 15 or 20 years). The term of the Agreement had expired when a building permit was issued for the empty parcel at 345 Kings in July 2014.

Although the current property owner at 345 Kings is not legally obligated to reimburse the owners at 350 Kings any sum, after discussions with the City they have agreed to

reimburse one-third of the allocated cost of the road widening, after the close of escrow of the house now under construction at 345 Kings Road.

The initial cost of the widened roadway and retaining wall was \$102,279.50, which was paid completely by the Bynums. The cost allocated to the address at 345 Kings Road was \$49,605.56. Considering that the term of the Reimbursement Agreement would now be considered shorter than best practice to provide for equitable reimbursement, and that there is a significant public benefit to the general public provided by widening this section of roadway to meet California Fire Code access requirements, the recommendation is for the City to disburse \$33,070.38 to the Bynums. The Reimbursement Agreement required proof of payment of \$7,940.00 from the Bynum's to Louis Arata for engineering services related to the roadway work, and City payment will be conditioned on proof of payment to Arata.

The proposed recommended disbursement of funds to the Bynums is:

By 345 Kings owner	\$16,535.18
By City	<u>\$33,070.38</u>
Total	\$49,605.56

Fiscal Impact:

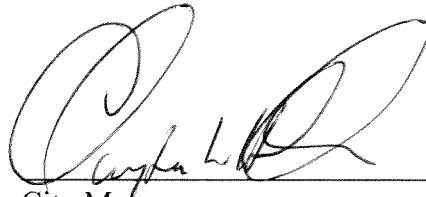
The City's contribution of \$33,070.38 is recommended to be taken from Fund 450 - Street Improvement/In Lieu.

Attachments:

Resolution No. 2014-38



Director of Public Works/City Engineer



City Manager

RESOLUTION NO. 2014-38

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BRISBANE AUTHORIZING PAYMENT CONTRIBUTION
FOR KINGS ROAD IMPROVEMENTS PROVIDING PUBLIC
BENEFITS**

WHEREAS, ON May 3, 2004, The City of Brisbane (“City”) entered into a Reimbursement Agreement (“Agreement”) with Torrance and Nancy Bynum, owners of 350 Kings Road, Brisbane (“Owners”), providing for reimbursement for construction and engineering costs for the widening and improvement of the public street adjacent to 350 Kings Road, Brisbane; and subsequently amended the Agreement on March 9, 2005 and October 18, 2006; and

WHEREAS, street improvements constructed by the Owners directly benefitted both other adjacent properties and provided public benefit to the City of Brisbane and all residents using Kings Road ; and

WHEREAS, the Agreement had a term of 10 years and expired without Owners receiving reimbursement for the \$102,279.50 in costs they paid for the widening and improvement of Kings Road ;and

WHEREAS, the property at 345 Kings Road is being developed and the owner of 345 Kings Road has agreed, notwithstanding the expiration of the Agreement, to reimburse Owner \$16,535.18 for the cost of the roadway widening and improvements; and

WHEREAS, the City of Brisbane has determined that it is fair and equitable for the City to contribute a portion of the cost of the Kings Road improvement and widening based on the significant benefit to the general public; and

WHEREAS, the City has determined that the value of the Kings Road widening and improvements to the general public is \$33,070.38; and

WHEREAS, any payment to Owner is conditioned on evidence that a balance of \$7,940.00 owed by Owner to Louis Arata for engineering services has been paid in full;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brisbane as follows:

1. The Kings Road improvements and widening constructed by the Owners of 350 Kings Road and as described in the Reimbursement Agreement dated May 3, 2004, provide a substantial public benefit to Brisbane citizens in general as well as to adjacent property owners.

2. The fair and equitable value to the City of the improvements is determined to be \$33,070.38, and this sum will be paid to Owner upon proof of payment of \$7,940.00 for engineering services to Louis Arata.

W. Clarke Conway, Mayor

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Brisbane held on the 18th day of September, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sheri Marie Spediacci, City Clerk