

City of Brisbane Agenda Report

TO: Honorable Mayor and City Council

FROM: Community Development Director via City Manager

SUBJECT: Agreement to Pay Processing Costs for Proposed Development Project in Brisbane Acres

DATE: November 21, 2011

City Council Goals:

To provide for effective and efficient delivery of City services. (#1)
To provide public service that assures the safety of property and citizens residing, working or visiting in Brisbane. (#9)

Purpose:

To execute an agreement between the City and a private applicant (Dr. Pritam S. Sabharwal) requiring the applicant to cover City costs , including consultant services, to process a proposed clustered residential development between Thomas and William Avenues in Brisbane Acres.

Recommendation:

Approve the “Agreement to Pay Processing Costs” with Dr. Pritam S. Sabharwal and authorize the Mayor to sign the document on the City’s behalf.

Background:

The applicant is proposing to submit an application for a clustered residential development within the R-BA Brisbane Acres Residential District. As part of the required applications and environmental review for such projects, a number of technical studies regarding endangered species habitat, geotechnical issues and traffic impacts may be required. It is the City’s practice to contract directly for required biological studies, and for the City to hire consultants as needed to perform peer review of other technical studies prepared by the applicant, such as geotechnical and traffic.

Discussion:

Execution of the proposed agreement allows only for the processing of the application to occur. A decision on the project will be subject to public review before the Planning Commission and City Council once an application has been formally filed and the requisite technical studies have been prepared and analyzed.

Fiscal Impact:


Execution of this agreement will ensure that the applicant is fully responsible for all costs associated with the processing of this development application.

Measure of Success:

Completion of processing of applications in full compliance with State and Federal law.

Attachments:

Agreement to Pay Processing Costs



Community Development Director



City Manager

AGREEMENT TO PAY PROCESSING COSTS

THIS AGREEMENT, dated October 12, 2011, between THE CITY OF BRISBANE, a municipal corporation ("City"), and Dr. Pritam S. Sabharwal ("Developer"), is made with reference to the following facts:

- A. Developer proposes to construct a clustered development on property he owns at the end of Thomas and William Avenues, APN 007-350-190, -220 & -300 ("the Project").
- B. Developer intends to apply to City for approval of permits for the Project.
- C. City is willing to process such applications so long as Developer pays all costs and expenses City will incur in connection therewith.

NOW, THEREFORE, the parties agree as follows:

1. **Establishment of Reserve Account.** Upon the execution of this Agreement, Developer shall deposit with City the sum of Ten Thousand Dollars and No Cents (\$10,000.00) to be held by City as a Reserve Account and disbursed from time to time in accordance with the terms of this Agreement. City shall keep separate records of the Reserve Account, showing all deposits made by Developer and all disbursements from the account made by City, and such records shall be available to Developer for inspection at any time during City's regular business hours. However, City shall not be required to segregate the Reserve Account into a separate fund and no interest shall accrue thereon.

2. **Payment of Processing Fees and Costs.** Developer shall pay the initial deposit. To the extent that the initial deposit is insufficient to cover the actual time spent by City, Developer shall pay the cost of the additional time, such additional time to be billed on a monthly basis. Developer shall pay: (i) the cost of all professional consultants retained by City to assist in processing and evaluating the application, including, but not limited to, civil engineers, engineering geologists, planners, traffic engineers, environmental consultants, landscape and horticulture experts, and plan checkers; (ii) the cost of all legal services rendered by the City Attorney pertaining to the application, including fees charged to City in connection with the negotiation and preparation of this Agreement; (iii) other out-of-pocket expenses necessarily incurred by City in connection with the processing of the application, including, but not limited to, the cost of publication and mailing of notices of public hearings and the cost of reproduction of surveys, plans, drawings and documents. All such fees, costs, and expenses shall be disbursed as needed from the Reserve Account.

3. **Reports to Developer and Reinstatement of Reserve Account.** City shall provide a monthly report to Developer showing the amount and purpose of each expenditure from the Reserve Account. With respect to disbursements for City staff time or payments to consultants, the report shall include a description of the services rendered and amount charged for such services. If, at any time, a disbursement from the Reserve Account will result in the balance in such account being reduced below the sum of Five Thousand Dollars (\$5,000.00), City shall give written notice of such fact to Developer and Developer shall, within fifteen (15) days after receipt of such notice, deposit with City such additional amount as may be necessary to restore the balance of the Reserve Account to Ten Thousand Dollars (\$10,000.00). In the event of any failure or refusal by Developer to deposit such additional amounts, City shall be entitled to suspend all further processing of the application filed by Developer, and in such case, Developer expressly waives any applicable provisions of the Permit Streamlining Act with regard to the rendering of a final decision on such application.

4. **Termination of Agreement.** Upon completion of all processing of Developer's application, either as a result of final action having been taken thereon by City or withdrawal of the application by Developer, any balance remaining in the Reserve Account after payment in full of all costs and expenses owed to City under the terms of this Agreement, shall be refunded to Developer.

5. **Notices.** Any notices required or permitted to be given hereunder shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, to the other party at the following address:

To City: City of Brisbane
Attn: Community Development Director
50 Park Place
Brisbane, CA 94005

To Developer: Dr. Pritam S. Sabharwal
255 Marina Boulevard
San Francisco, CA 94123

6. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes and cancels any prior agreements or understandings, whether written or oral. This Agreement can only be modified by a written amendment hereto executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF BRISBANE,
a municipal corporation

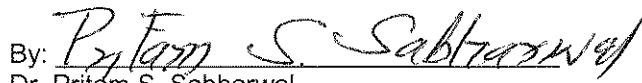
APPROVED AS TO FORM


HAROLD S. TOPPEL, City Attorney

By: _____
Cyril G. Bologoff, Mayor

Attest: _____
SHERI MARIE SCHROEDER, City Clerk

DEVELOPER

By: 
Dr. Pritam S. Sabharwal



BRISBANE CITY HALL COMMUNITY DEVELOPMENT RECEIPT

Date 10/12/11 Cash(), Check() Other() \$ 10,000⁰⁰
SPECIFY AMOUNT

Received the Sum of Ten thousand and 00/100 dollars

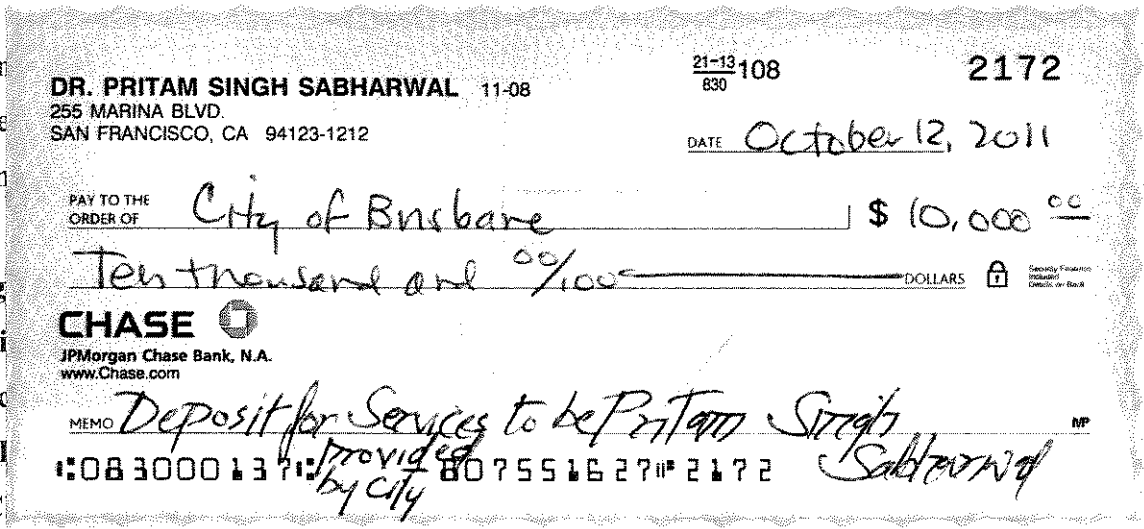
From Dr. Pritam Singh Sabharwal

Address 255 Marina Blvd, San Francisco, CA 94123-1212

For Agreement to Pay Processing Costs - William Ave.

PLEASE SPECIFY ACCOUNT & AMOUNT FOR WHICH PAYMENT WAS RECEIVED

	AMOUNT	FUND	ACCOUNT
Business Licen		21-13 630 108	2172
Plan Check Fe			
Building Perm			
SMI Fee			
BP Processing			
Planning/Zoni			
Microfilm/Arc			
Sale of Maps/I			
Duplication C			
Fire Construction Permit Fees	\$ _____	100	40724
C & D Debris Deposit	\$ _____	100	20515
Bldg Standards SB 1473 Fund	\$ _____	100	40704



OTHER: (Specify):

<u>USE PERMIT</u>	\$ _____	100	40340
<u>VARIANCE</u>	\$ _____	100	40341
<u>CREDIT CARD FEE</u>	\$ _____	540	40950
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

7871

Received By T. Turner