

COUNCIL ACTION FORM

**SUBJECT: RELEASE OF ASSESSMENT AND UTILITY CONNECTION FEE
OBLIGATION FOR EASTGATE SUBDIVISION LOTS 8 AND 9**

BACKGROUND:

In 1998, the original Eastgate developer signed a Development Agreement promising payment for improvements to roads and utilities in the Subdivision. The development was then the subject of a bankruptcy proceeding; and the property was ultimately acquired by First National Bank in 2001 through the bankruptcy proceeding. The City then entered into a covenant that modified the owner's public infrastructure obligations.

That covenant required payment to the City for the estimated costs of widening Dayton Avenue for a turn lane and for connections to water and sewer service. These payments were to be made upon the sale or transfer of each lot. The covenant prorates the amount owed for each lot on the basis of the lot's land area. In 2005 First National Bank paid the outstanding utility tapping fees owed on the lots, leaving only the road widening assessment outstanding.

Lots 8 and 9 in the Eastgate Subdivision were recently sold for development. Per the schedule of fees owed to the City, \$6,510 was owed for Lot 8 and \$6,510 was owed for Lot 9. These amounts have now been paid to the City, and releases are necessary so that the purchasers of the lots can close on the properties.

ALTERNATIVES:

1. Accept payments as noted above and authorize of the Releases of Assessment and Utility Connection Fee Obligation for Lots 8 and 9 in Eastgate Subdivision.
2. Do not accept payment and do not authorize the Releases.

CITY MANAGER'S RECOMMENDED ACTION:

The development agreement and covenant on these properties require payment for road widening costs upon the sale or transfer of lots in Eastgate Subdivision. The buyers of Lots 8 and 9 have now remitted payment in the required amounts to the City.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative No. 1 as described above.