

# City of Sacramento

## Legislation Text

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File #: 2020-00023, Version: 1

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**Title:**

**Second Amendment to the Greenbriar Development Agreement Regarding Timing of Payment Toward the CFD 97-01 Catch-up Fee and Sacramento County Radio Tower (Noticed 01/24/2020; Passed for Publication 01/28/2020; Published 01/31/2020) [Continued from 02/04/2020]**

File ID: 2020-00023

**Location:** South of Elkhorn Blvd, West of Highway 99, North of Interstate 5, and East of Lone Tree Road, District 1

**Recommendation:**

Conduct a public hearing and upon conclusion adopt an Ordinance approving the Second Amendment to the Development Agreement between the City of Sacramento and the Greenbriar Project Owner, LLC.

**Contact:** Mary Jean Rodriguez, Program Specialist, (916) 808-1980; Sheri Smith, Special Districts Manager, (916) 808-7204, Department of Finance

**Presenter:** Mary Jean Rodriguez, Program Specialist, (916) 808-1980, Department of Finance.

**Attachments:**

- 1-Description/Analysis
- 2-Background
- 3-Draft Ordinance Approving Second Amendment to DA for Greenbriar
- 4-Exhibit A - Second Amendment to DA for Greenbriar

**Description/Analysis**

**Issue Detail:** On May 30, 2017, the City Council approved a number of actions to approve the Greenbriar project, including the Development Agreement for Greenbriar [P11-093] (City Agreement No. 2017-0850; the DA) and amendments to the Greenbriar Project Public Facilities Financing Plan. The DA was later amended on November 28, 2017, to change the timing of a payment to the Traffic Congestion Relief Fund (City Agreement No. 2017-0850-01).

Under the DA, the project owner and developer-The Greenbriar Project Owner, LLC (Owner)-agrees

to pay the following:

- \$120,000 to the County of Sacramento (County) to defray the costs of constructing an 880-megahertz radio tower.
- A “catch-up fee” as the project’s contribution to the cost of drainage facilities to be constructed in 2020 by Reclamation District 1000 (RD 1000) with funding from Community Facilities District No. 97-01 (CFD 97-01). Because the Owner will pay the catch-up fee, the project is not required to pay RD 1000’s development impact fee or to be annexed into CFD 97-01.

Section L in Exhibit L to the DA provides that the Owner must pay the \$120,000 to the County “upon the issuance of the first building permit.” The proposed amendment will clarify that payment is due upon the issuance of the first *residential* building permit. As amended, section L in Exhibit L will read as follows:

**L. County of Sacramento Radio Tower.**

The applicant voluntarily agrees to pay to the County of Sacramento the amount of \$120,000 upon the issuance of the first residential building permit to defray the costs of the construction of the 880-megahertz radio tower constructed by the County.

Exhibit M to the DA implements the catch-up fee. It is a fully subscribed Funding Agreement between the City, the Owner, and RD 1000, under which the Owner agrees in section 1 to pay the catch-up fee to the City when the “first final subdivision map” for the project is recorded. The term “first final subdivision map” is unclear, however, as the City’s Planning and Development Code refers only to parcel maps, master parcel maps (i.e., a large-lot maps), tentative maps, and final maps, so the parties to the Funding Agreement desire to clarify that the fee will be due either (a) when the first final map or first parcel map is recorded or (b) on or before December 31, 2020, whichever occurs later. To that end, they propose to amend section 1 of the Funding Agreement to read as follows:

- 1. Catch-up Fee.** Landowner shall pay a “catch-up” fee (the “Fee”) to the City in the amount of \$2,561,880. Payment is due upon the later of (a) December 31, 2020; or (b) the recordation of the first final map or the first parcel map for the Project Site but not the recordation of a master parcel map (see Sacramento City Code chapter 17.836). For example, if Landowner records the first final or first parcel map on or before December 31, 2020, then the Fee is due on, and Landowner must pay the Fee by, December 31, 2020; but if a final map or parcel map is not recorded on or before December 31, 2020, then Landowner must pay the Fee before the first final or first parcel map is recorded.

**Policy Considerations:** This project remains consistent with all the policies cited in prior approvals.

**Economic Impacts:** Not applicable.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** On January 29, 2008, the City Council certified the EIR for the project (Resolution No. 2008-053; the EIR). Nine years later, on May 30, 2017, the City adopted an Addendum to the EIR, which concluded that the original EIR is adequate under CEQA to identify and evaluate the physical changes in the environment that would occur with adoption and implementation of the project.

The proposed amendment modifies a special condition in the DA by clarifying when the payment of catch-up fee and contribution to Sacramento County Radio Tower must be paid. The modification will not result in physical effects on the environment and will not change the conclusions of the EIR. None of the circumstances set forth in CEQA Guidelines section 15162 (substantial changes in the project or circumstances, receipt of new information of substantial importance, or mitigation measures that would not be implemented) are present. No additional environmental review or document is required.

**Sustainability:** Not applicable.

**Commission/Committee Action:** The Planning and Design Commission heard this item on January 9, 2020; and forwarded a recommendation of approval.

**Rationale for Recommendation:** This amendment will make clear when payment of the \$120,000 to the County and payment of the catch-up fee are due but will not alter the project or the timing of the construction of the radio tower or the RD 1000 improvements.

**Financial Considerations:** The required contribution to drainage facilities constructed by CFD 97-01 will be collected from the developer prior to issuing payments to RD 1000 under the Funding Agreement.

The recommended actions do not affect the General Fund or any other funds of the City.

**Local Business Enterprise (LBE):** Not applicable.