

**RESOLUTION NO. 2990**

**A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO EXECUTE A SYSTEMS DEVELOPMENT CHARGES REFUND AGREEMENT WITH COFFEE CREEK LOGISTICS HOLDINGS, LLC FOR CONSTRUCTION OF OVERSIZED PUBLIC SEWER AND WATER INFRASTRUCTURE IMPROVEMENTS.**

WHEREAS, on October 15 2007, City Council adopted the Coffee Creek Master Plan which included a detailed infrastructure study that identified public utility infrastructure needs to serve the Coffee Creek Industrial area, including a 12 inch water main and an 18 inch sewer main in SW Clutter Street (“Qualified Public Improvements”); and

WHEREAS, in City of Wilsonville Planning Approval File No. DB20-0019 through DB20-0024, Coffee Creek Logistics Holdings, LLC was required through Condition of Approval PFA 12 to construct the Qualified Public Improvements and would be eligible for an System Development Charge (SDC) Credit per Wilsonville City Code Section 11.100; and

WHEREAS, Coffee Creek Logistics Holdings, LLC paid Water and Sewer Systems Development Charges with issuance of their building permit for the planned warehouse and manufacturing facility; and

WHEREAS, the Qualified Public Improvements in SW Clutter Street have been constructed by Coffee Creek Logistics Holdings, LLC and the City has inspected and accepted the completed Qualified Pubic Improvements; and

WHEREAS, Coffee Creek Logistics Holdings, LLC requested a refund of water and sewer SDCs for the oversized portion of the Qualified Public Improvements eligible under the terms of Wilsonville Code 11.000; and

WHEREAS, Coffee Creek Logistics Holdings, LLC submitted documentation for the actual cost of construction for the Qualified Public Improvements and the City has analyzed and found the documentation acceptable; and

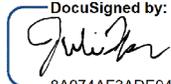
WHEREAS, the water and sewer SDC refund request does not exceed the value of the water and sewer SDCs assessed and paid by Coffee Creek Logistics Holdings, LLC for the development project.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. The City Council authorizes the City Manager to enter into and execute on behalf of the City of Wilsonville a System Development Charge Refund Agreement with Coffee Creek Logistics Holdings, LLC, in substantially the form attached in Exhibit A.

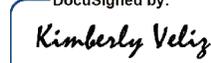
Section 2. Effective Date. This Resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 15th day of August, 2022, and filed with the Wilsonville City Recorder this date.

DocuSigned by:  
  
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JULIE FITZGERALD, MAYOR

ATTEST:

DocuSigned by:  
  
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Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald	Yes
Council President Akervall	Yes
Councilor Lehan	Yes
Councilor West	Yes
Councilor Linville	Yes

EXHIBITS:

A. Systems Development Charges Refund Agreement between City of Wilsonville and Coffee Creek Logistics Holdings, LLC

EXHIBIT A

**SYSTEMS DEVELOPMENT CHARGES REFUND AGREEMENT**

This Systems Development Charges Refund Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2022 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (the “City”), and **Coffee Creek Logistics Holdings, LLC**, a Delaware limited liability company (“Applicant”). The City and Applicant are collectively referred to herein as the “Parties.”

**RECITALS**

A. Pursuant to City requirements, Applicant paid Water Systems Development Charges (“WSDCs”) in the total amount of SEVENTY-ONE THOUSAND NINE HUNDRED NINETY-NINE DOLLARS (\$71,999) and Sewer Systems Development Charges (“SSDCs”) in the amount of SIXTY-THREE THOUSAND FIVE HUNDRED FIFTY-EIGHT DOLLARS AND TWENTY-EIGHT CENTS (\$63,558.28) contemporaneously with the issuance of building permit nos. LEBB20-0452 and BLDC22-0004 for Applicant’s planned warehouse and manufacturing facility (“Development”), to be located in Wilsonville, Oregon.

B. Applicant has requested a refund of WSDCs and SSDCs that are credit eligible under the terms of Wilsonville Code (“WC”) 11.000 et seq.

C. The City has sole discretion of whether to issue a systems development charges (“SDC” or “SDCs”) refund check to a developer in lieu of SDC credits pursuant to WC 11.100(6)(b).

D. Given Applicant’s unique Development, and considering that Applicant’s use of WSDC and SSDC credits in the future is unlikely, the City is willing to provide a refund check for WSDCs and SSDCs, up to the amount paid by Developer for each, in lieu of issuing credits for WSDCs and SSDCs. Applicant is not entitled to any SDC credits other than WSDCs and SSDCs.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and incorporating the above Recitals by reference herein, Applicant and the City agree as follows:

**AGREEMENT**

1. SDC Refund. The City agrees to refund to Developer WSDCs in the amount of SIXTY-NINE THOUSAND NINE HUNDRED SEVENTY-FIVE DOLLARS (\$69,975) (“WSDC Refund”), which the Parties agree represents the total amount of WSDC credits that Applicant would otherwise be entitled to receive. The City further agrees to refund to Developer SSDCs in the amount of FORTY-EIGHT THOUSAND THREE HUNDRED FIFTY-TWO DOLLARS (\$48,352) (“SSDC Refund”), which the Parties agree represents the total amount of SSDC credits that Applicant would otherwise be entitled to receive.

2. Issuance of SDC Refund Check. The City will issue a check representing the WSDC Refund and the SSDC Refund within thirty (30) days of the Effective Date.

3. Subcontractors and Suppliers. Applicant hereby certifies that it has paid, in full, all subcontractors and suppliers who performed work, supplied services, or provided materials for the SDC credit-eligible projects built as part of Applicant's development, and further certifies that there are no disputed claims related thereto.

4. Miscellaneous Provisions.

4.1. Integration. This Agreement contains the entire and integrated agreement between the Parties regarding SDC credits and supersedes all prior written or oral discussions, representations, or agreements regarding the same. In case of conflict among this Agreement and any other documents, the provisions of this Agreement shall control, and the terms most favorable to the City, within the City's sole discretion, will apply.

4.2. Legal Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors, and assigns. This Agreement may be enforced by an action at law or in equity.

4.3. No Assignment. This Agreement cannot be assigned.

4.4. Governing Law/Jurisdiction. This Agreement shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. Jurisdiction and venue for any dispute will be in Clackamas County Circuit Court, Oregon.

4.5. Severability. If any provision of this Agreement is found to be void or unenforceable to any extent, it is the intent of the Parties that the rest of the Agreement shall remain in full force and effect, to the greatest extent allowed by law.

4.6. Modification. This Agreement may not be modified except by written instrument executed by Applicant and the City.

4.7. Interpretation. As a further condition of this Agreement, the City and Applicant acknowledge that this Agreement shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party.

4.8. Entire Agreement. This Agreement and all documents attached to this Agreement represent the entire agreement between the Parties.

4.9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement but all of which together shall constitute one and the same instrument.

4.10. Authority. Each party signing on behalf of Applicant and the City hereby warrants actual authority to bind their respective party.

IN WITNESS WHEREOF the City and Applicant caused this Agreement to be executed by its duly authorized undersigned officer or agent on the date hereinabove first written.

**Coffee Creek Logistics Holdings, LLC**

**City of Wilsonville**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

As Its: \_\_\_\_\_

As Its: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Amanda Guile-Hinman, City Attorney