

ORDINANCE NO. 2001-004

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF FEB 13 2001

AN ORDINANCE RELATING TO THE APPROVAL OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SACRAMENTO AND CAMBAY GROUP, FOR PROPERTY LOCATED IN NORTH NATOMAS, EAST OF EL CENTRO ROAD, SOUTH OF DEL PASO ROAD
(P99-135) (APNs:225-0070-028, 225-0080-030,031,032)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

This Ordinance incorporates, and by this reference makes part hereof, that certain Development Agreement, by and between the City of Sacramento and Cambay Group, a copy of which is attached hereto.

SECTION 2

The Development Agreement attached hereto is hereby approved, and the Mayor is authorized to execute after the effective date of this Ordinance said Development Agreement on behalf of the City of Sacramento. Provided, however, that the Development Agreement shall not be executed by the Mayor, and shall not be effective for any purpose, unless and until the amendments to the Mixed Income Housing Ordinance as proposed by the city staff are adopted and have become effective. This approval and authorization is based upon the Negative Declaration and Mitigation Monitoring Plan which is the subject of a separate resolution adopted by City Council prior to or concurrent with the adoption of this Ordinance.

PASSED FOR PUBLICATION: 2/6/01

PASSED: 2/13/01

EFFECTIVE: 3/15/01

Heather Fargo
MAYOR

ATTEST:

Theresa A. Burrows
CITY CLERK

P99-135

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ORDINANCE NO.: 2001-004

DATE ADOPTED: FEB 13 2001

A copy of the Development Agreement
is available for Review at:

City of Sacramento
Planning Division
1231 I Street, Room 300
Sacramento, CA 95814
(916) 264-5894

or

City Clerk's Office
915 I Street, Room 300
Sacramento, CA 95814
(916) 264-5799

8 a.m. - 5 p.m.
Monday through Friday

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ORDINANCE NO.: 2001-004

DATE ADOPTED: FEB 13 2001

1 P22 13

*Recording Benefits the City of Sacramento,
a Government Entity - No Fee Required.*

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City Clerk
City of Sacramento
915 I Street
Sacramento, CA 95814

RECEIVED

JUL 11 2001

PLANNING SERVICES

**NORTH NATOMAS
DEVELOPMENT AGREEMENT**

North Natomas Development Agreement
nda_13.rev (rev. 15 Sep 99)

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ORDINANCE NO. 2001-004

FEB 13 2001

ORDINANCE NO. _____
CITY

AGREEMENT NO. 2001-022

CITY AGREEMENT NO. _____

DATE ADOPTED: _____

ORDINANCE NO. 2001-004

FEB 13 2001

NORTH NATOMAS DEVELOPMENT AGREEMENT

Table of Contents

RECITALS

| | | |
|----|---|---|
| A. | Development Agreement/California Government Code | 1 |
| B. | Property (Subject to Agreement) | 1 |
| C. | City Council Actions | 2 |
| D. | City/Landowner Objective | 2 |
| E. | Landowners Commitment | 3 |
| F. | Landowner's Objective and Agreement | 3 |
| G. | Procedural Ordinance for Development Agreement | 3 |
| H. | Development Conditions and North Natomas Financing Plan | 3 |
| I. | North Natomas Land Acquisition Program | 4 |
| J. | Agreement Voluntary | 4 |
| K. | Agreement Authority | 5 |
| L. | Procedural Requirements Completed | 5 |
| M. | City Council Review and Approval | 5 |

I. DEFINITIONS

6

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

II. TERMS AND CONDITIONS OF AGREEMENT

| | | |
|-----|--|----|
| 1. | Property Description and Binding Covenants | 14 |
| 2. | Interests of Landowner | 14 |
| 3. | Term | 14 |
| 4. | Assignment | 15 |
| 5. | Development of the Property | |
| A. | Permitted Uses and Development Standards | 16 |
| B. | Discretionary Approvals | 17 |
| C. | Development Timing | 17 |
| D. | Special Conditions | 18 |
| E. | Land Use and Development Regulations | 18 |
| (1) | Regulations Applicable on Effective Date | 18 |
| (2) | Future Changes in Regulations (Inconsistent) | 18 |
| (3) | Future Changes in Regulations (Consistent) | 18 |
| (4) | Mandated State or Federal Laws | 19 |
| (5) | Effect on Agreement | 19 |
| (6) | Health, Safety or Physical Risks | 20 |
| (7) | Construction Standards and Permits | 20 |
| (8) | City Modifications after Effective Date | 20 |
| F. | City Review of Applications | 20 |

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

| | | |
|-----|---|----|
| G. | Extension of Entitlements | 20 |
| H. | Allocation Procedures | 21 |
| 6. | Fees, Charges, Assessments and Special Taxes | |
| A. | City Fees | 22 |
| B. | Levies Imposed by Other Jurisdictions | 22 |
| C. | Implementation of the North Natomas Finance Plan | 23 |
| D. | Landowner's Waivers | 24 |
| 7. | Reconfiguration of Parcels | 24 |
| 8. | Infrastructure | |
| A. | Construction by City | 25 |
| B. | Construction by Landowner | 25 |
| C. | Drainage Infrastructure | 26 |
| (1) | Establishment of Financing Mechanisms | 26 |
| (2) | Issuance of Bonds | 26 |
| (3) | Linkage of Development to Completion of Drainage System | 26 |
| D. | Infrastructure Financing Proceedings | 27 |
| (1) | Landowner Initiated Proceedings | 27 |
| (2) | Proceedings Initiated by City | 28 |
| (3) | Maintenance Districts | 29 |
| E. | Reimbursement to Landowner | 29 |
| (1) | From Financing Proceeds | 29 |

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. **2001-004**

DATE ADOPTED: **FEB 13 2001**

| | | |
|-----|--|----|
| (2) | Reimbursement From Others Benefitted | 30 |
| (3) | Reimbursement of Planning, Engineering and Staff Costs | 31 |
| 9. | Landowner Obligations | |
| A. | Transfer of Land to City | 31 |
| (1) | Condition of Entitlements | 32 |
| (2) | Request by City | 32 |
| B. | Development Timing | 32 |
| 10. | Litigation/Indemnification | |
| A. | Challenge to Agreement or Entitlements | 32 |
| (1) | City Discretion to Defend or Tender Defense | 33 |
| (2) | Effect of Invalidation in Whole or Part | 34 |
| B. | Indemnification | 35 |
| 11. | Effect of Subsequent Laws | |
| A. | Laws of Other Agencies | 35 |
| (1) | New Laws by Other Agencies | 35 |
| (2) | Termination of Agreement | 35 |
| (3) | Landowner/City Right To Institute Litigation | 36 |
| B. | Laws Passed by City | 36 |
| 12. | Enforced Delay; Extension of Times of Performance | 36 |
| 13. | Legal Actions; Applicable Law; Attorney Fees | |
| A. | Legal Actions | 37 |

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

| | | |
|-----|---|----|
| B. | Applicable Law | 37 |
| C. | Attorney Fees | 37 |
| 14. | Amendment of Agreement | 38 |
| 15. | City's Good Faith in Processing | 38 |
| 16. | Default, Remedies, Termination | |
| A. | General Provisions | 39 |
| (1) | Landowner Default | 39 |
| (2) | City Default | 39 |
| (3) | Successors in Interest | 39 |
| B. | Cure of Default | 39 |
| C. | Remedies After Expiration of Cure Period | 40 |
| (1) | Institution of Legal Proceedings | 40 |
| (2) | Notice of Intent to Terminate Agreement | 40 |
| 17. | Annual Review | |
| A. | General Provisions | 40 |
| B. | Scope of Review | 41 |
| C. | Proceedings | 41 |
| D. | Failure of Compliance | 41 |
| 18. | Termination Upon Completion of Development | |
| A. | General Provisions | 42 |
| B. | Multi-family and Single Family Residential Projects | 42 |

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. **2001-004**

DATE ADOPTED: **FEB 13 2001**

| | | |
|-----|--|----|
| C. | Effect of Termination on Landowner Obligations | 43 |
| 19. | No Joint Venture, Partnership, or Other Relationship | 43 |
| 20. | Notices | 43 |
| 21. | Severability | 44 |
| 22. | Recording | 45 |
| 23. | Reimbursement to City | 45 |
| 24. | Provisions Relating to Lenders | |
| A. | Lender Rights and Obligations | 45 |
| B. | Notice of Landowner's Default Hereunder | 46 |
| C. | Lender's Right to Cure | 47 |
| D. | Other Notices Given by City | 47 |
| 25. | Estoppel Certificate | 47 |
| 26. | Construction | 48 |
| 27. | Counterparts | 48 |
| 28. | Time | 48 |
| 29. | Limitation of Actions | 48 |
| 30. | No Third parties Benefitted | 48 |
| 31. | Effect of Agreement Upon Title to Property | 48 |
| 32. | Covenant of Good Faith | 49 |
| 33. | Exhibits | 49 |
| 34. | Entire Agreement | 49 |

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

| | |
|---------------------------------------|----|
| 35. City Attorney Costs | 50 |
| Execution Page for City and Landowner | 50 |
| Execution Page for Lender | 51 |

LIST OF EXHIBITS

| | |
|-------------|--|
| Exhibit "A" | Legal Description of Property |
| Exhibit "B" | Landowner's Development Plan |
| Exhibit "C" | Special Conditions |
| Exhibit "D" | Assignment and Assumption Agreement |
| Exhibit "E" | North Natomas Land Acquisition Program |
| Exhibit "F" | Protest Waiver Provisions Agreed to by Landowner |
| Exhibit "G" | Irrevocable Offer of Dedication Form |
| Exhibit "H" | Map and Categorical Listing of Land and Infrastructure |

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SACRAMENTO
AND**

This Development Agreement (hereinafter "Agreement") is made and entered into this 23rd day of February, 2001, 1999, by and between the CITY OF SACRAMENTO, a municipal corporation (hereinafter the "CITY"), and THE CAMBAY GROUP, INC., A CALIFORNIA CORPORATION (hereinafter the "LANDOWNER").

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risks of development, the Legislature of the State of California adopted Sections 65864, et seq., of the Government Code which authorizes any city, county, or city and county to enter into a development agreement with an applicant for a development project, in order to establish certain rights and obligations of the parties relative to the Property.

B. LANDOWNER owns a legal or equitable interest in those certain parcels of real property (hereinafter the "Property"), described in Exhibit "A" attached hereto and incorporated herein by this reference, which are located within the CITY. The Property consists of lands designated as Assessor Parcels Nos. 225-0070-028,
225-0080-030,
225-0080-031, AND
225-0080-032. LANDOWNER seeks to develop the Property consistent with

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

CITY's General Plan, the 1994 North Natomas Community Plan and the Zoning Ordinance as they exist on the Effective Date.

C. The City Council has held duly noticed public hearings on the CITY's General Plan, the 1994 North Natomas Community Plan and the Environmental Impact Reports prepared therefor. At the conclusion of these hearings, the City Council, on January 19 1988, certified the Environmental Impact Report on the City General Plan Update as adequate and complete, and on May 3, 1994, certified the Environmental Impact Report on the 1994 North Natomas Community Plan Update as being adequate and complete.

The City Council on January 19, 1988, after making specific findings and adopting a Statement of Overriding Considerations, approved a revised General Plan by Resolution No. 88-058 (hereinafter the "General Plan"). The City Council on May 3, 1994, after making specific findings and adopting a Statement of Overriding Considerations, approved the 1994 North Natomas Community Plan by Resolution No. 94-259. (hereinafter the "NNCP"). The uses allowed under the General Plan, NNCP, and the applicable zoning ordinances provide for a balanced mix of residential housing and employment opportunities as well as provide for the protection of major open space and recreational resources.

The City Council on August 9, 1994, after a duly noticed public hearing, approved the North Natomas Finance Plan to provide a plan for the financing of the Infrastructure and public improvements needed to successfully implement the NNCP over time.

D. CITY and LANDOWNER desire to enter into a development agreement pursuant to the provisions of Government Code Sections 65865, et seq., in order to provide for the orderly development

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

of the Property, in accordance with the goals set forth in Government Code section 65865, the General Plan and the NNCP.

E. The coordinated and orderly development of the Property, and LANDOWNER's commitment to the implementation of the North Natomas Finance Plan in order to assure the timely and properly-phased construction of all required Infrastructure and facilities, are essential to the proper implementation of the General Plan and the NNCP.

F. LANDOWNER desires to facilitate implementation of the General Plan, the NNCP and the North Natomas Finance Plan, and LANDOWNER therefore agrees to develop the Property in a manner consistent with the policies of the General Plan, the NNCP, the North Natomas Finance Plan and the Special Conditions, provided that LANDOWNER is assured that no subsequent changes in the General Plan, the NNCP, the North Natomas Finance Plan, the Zoning Ordinance or the Special Conditions shall apply to the Property during the term of this Agreement.

G. The City Council, on March 7, 1995, adopted the Procedural Ordinance, by which CITY will, inter alia, consider, adopt, amend and subsequently review the development agreements by and between CITY and a given landowner.

H. Development of the Property, in accordance with the conditions of this Development Agreement, will provide orderly growth and development of the Property in accordance with the requirements, policies, goals, standards, and objectives of the General Plan and the NNCP. At the same time, it will assure that LANDOWNER is committed to funding its appropriate share of the cost of Infrastructure and other facilities which are the subject of the North Natomas Finance Plan, and that the

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

CITY AGREEMENT NO. _____

DATE ADOPTED: FEB 13 2001

funding for acquisition and construction of those facilities will be available to CITY as and when required under the Infrastructure phasing program.

I. An integral part of the North Natomas Finance Plan is the North Natomas Land Acquisition Program ("NNLAP"), with the associated Land Acquisition Fee ("LAF"). The NNLAP is designed to provide a means for transfer to or acquisition by CITY, or such other public agency as is appropriate, of certain lands within the NNCP area (as those lands are specified in the NNLAP) which are designated to be held publicly. Such lands are identified under the North Natomas Finance Plan. The purpose of the NNLAP is to provide a method whereby all of such lands will be transferred or acquired with funds from the private development community without cost to the CITY general fund, or any of its other funds, and at the time when needed. The purpose of the LAF is to provide a means, through the fee program, of equalizing the cost of the NNLAP among the various landowners within the NNCP area, inasmuch as certain landowners will be required to relinquish land to public ownership in amounts in excess of their fair share as defined by the North Natomas Financing Plan. The LAF also provides a means for reimbursing landowners who have advanced funds to CITY for the purpose of acquiring land required for Infrastructure, where eminent domain or other procedures are needed, or where it is otherwise required to enable a particular landowner to develop its property. One of the purposes of this Agreement is to provide LANDOWNER's commitment to the provisions of the NNLAP and the LAF.

J. This Agreement is voluntarily entered into by LANDOWNER in order to assure the implementation of the General Plan, the NNCP and the North Natomas Finance Plan, and is made in consideration of the rights conferred and the procedures specified herein for the development of the

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

Property. This Agreement is voluntarily entered into by CITY in the exercise of its legislative discretion in order to assure the implementation of the General Plan, the NNCP, and the North Natomas Finance Plan and in consideration of the agreements and undertakings of LANDOWNER hereunder. But for LANDOWNER's contribution to and participation in programs to mitigate the impacts of the development of the Property and the cumulative impacts of development in the NNCP area, and to the implementation of the North Natomas Financing Plan, the CITY would not approve development of the Property.

K. The authority for this Agreement is contained in the City Charter of CITY, the Procedural Ordinance, other applicable CITY ordinances, resolutions and procedures and Government Code Sections 65864, et seq.

L. CITY and LANDOWNER have taken all actions mandated by and have fulfilled all requirements set forth in the Procedural Ordinance for the adoption of this Agreement by the City Council.

M. The City Council has reviewed and approved this Agreement. It finds that this Agreement is consistent with the General Plan, the NNCP, the North Natomas Finance Plan, and all other applicable CITY ordinances, rules and regulations. The implementation of this Agreement is in the best interest of CITY and the health, safety and welfare of its residents. The environmental impacts of the development contemplated herein were adequately considered in the environmental documentation prepared by CITY and adoption of the ordinance and approval of this Agreement complies in all respects with the California Environmental Quality Act.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

AGREEMENT

NOW, THEREFORE, in further consideration of the above recitals, all of which are expressly incorporated into this Agreement, and the mutual promises and covenants of the parties contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

I

DEFINITIONS

The terms set forth below, unless the context otherwise requires, shall have the meanings prescribed, for purposes of this Agreement.

Adopting Ordinance: the ordinance pursuant to which the City Council approves this Agreement.

Allocation Procedures: those procedures set forth in Section 5.H. of this Agreement, whereunder the various uses and densities are distributed to and among the various parcels, or portions of them, comprising the Property.

Annual Review: the process, and procedures therefor, whereby CITY reviews, pursuant to Government Code Section 65865.1, the nature and extent of compliance by LANDOWNER with all of the terms and conditions of this Agreement, which process and procedures are as specified in the Procedural Ordinance, and in section 17 of this Agreement.

Assessment: a special assessment levied on real property within the North Natomas Community Plan area, for the purpose of financing Infrastructure and/or public facilities, or maintenance thereof,

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

in accordance with the California Streets and Highways Code, the California Government Code, and/or the Sacramento City Code.

Assessment District Policy Manual: the document entitled "City of Sacramento Policy and Procedures for Use of Special Assessment and Mello-Roos Community Facilities District Financing for Infrastructure and Public Facilities", as adopted by the City Council on June 29, 1993 (Resolution 93-381), as said document may be amended from time to time.

Assignee: a third Person executing an Assumption Agreement prepared in accordance with the format prescribed in Exhibit D.

Assignment: the sale or other transfer by LANDOWNER of all or part of its right, title and interest in the Property and in this Agreement to another Person, in accordance with the terms and conditions of this Agreement.

Assumption Agreement: the agreement prescribed in Exhibit D, whereby an Assignee undertakes to perform all obligations, and other terms and conditions of this Agreement, as a condition of release of the Assignee's predecessor in interest from the responsibility for performance of such obligations and other terms and conditions, with respect to the portion of the Property assigned to the Assignee.

CEQA: the California Environmental Quality Act, set forth at California Public Resources Code Sections 21000, et seq., as amended from time to time.

CITY: the City of Sacramento.

City Agency: the Redevelopment Agency of the City of Sacramento, and the Housing Agency of the City of Sacramento.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

City Council: the Council of the City of Sacramento.

Comprehensive Drainage Plan: the Drainage System for North Natomas, prepared by the City of Sacramento, Borcalli & Associates, Ensign & Buckley, or other consulting firm, and adopted by the City Council, as it may be amended from time to time.

Comprehensive Flood Management Plan: that plan required to be prepared, and to be adopted by the City Council, pursuant to the CITY's floodplain policy adopted by Resolution No. 93-696.

Dedication: the transfer of real property, or a defined interest therein, to CITY or another public agency, free of all encumbrances and other matters affecting the title except as may otherwise be agreed to by CITY or such other public agency, and at no cost to CITY or such other public agency, as specifically set forth in the NNLAP, within the North Natomas Finance Plan, as it may exist from time to time.

Deed of Trust: a real property security device whereby the debtor (trustor) conveys title to real property to a trustee as security for a debt owed to the creditor (beneficiary).

Default: a failure of performance, or unreasonable delay in performance, by either party to this Agreement, of any of its terms, conditions, obligations or covenants. Default shall include, but not be limited to failure to comply with all provisions of the North Natomas Finance Plan and/or failure to pay any fee, tax or assessment enacted pursuant to that Plan.

Development: the use(s) to which the Property will be put, the buildings and improvements to be constructed on it, and the construction activities incident thereto, together with the process of obtaining all required land use entitlements.

Development Agreement: this Agreement.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. **2001-004**

DATE ADOPTED: **FEB 13 2001**

Development Plan: LANDOWNER's plan for development of the Property, as set forth in Exhibit B. Where LANDOWNER, at the time of execution of this Agreement, does not propose a specific development project, the Development Plan shall be deemed to be development consistent with the Land Use and Development Regulations.

Drainage Phasing Plan: that portion of the Comprehensive Drainage Plan which identifies the sequence of construction of the Drainage System.

Drainage System: that drainage system set forth in the Comprehensive Drainage Plan, as that plan may exist from time to time.

Drainage Sub-basin: the individual drainage sub-areas identified in the Comprehensive Drainage Plan.

Effective Date: the date on which this Agreement has been approved by the City Council.

General Plan: the General Plan of the City of Sacramento, as adopted by the City Council on January 19, 1988, as said plan may be amended from time to time.

Habitat Conservation Plan: that plan, which must be adopted and implemented by the City Council, pursuant to which measures are taken to implement the provisions of the federal and state Endangered Species Acts, and pursuant to which incidental take permits will be issued to the City of Sacramento, to Landowner, or to others under said Acts.

Infrastructure: all public facilities and improvements needed to serve urban development, as identified in the NNCP and the North Natomas Finance Plan, or in subdivision maps, parcel maps, or as may otherwise be constructed and conveyed to CITY or another public agency, including but not

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

limited to street and freeway improvements, drainage improvements, sanitary sewer improvements and water storage and transmission facilities.

Interim Drainage: temporary surface water drainage to be provided to the North Natomas area by RD-1000, and/or any phase of the Drainage System, and/or any drainage project resulting in the removal of land within the North Natomas Finance Plan Area from a 100-year floodplain, pursuant to a plan approved by that agency and the City Council for the initial phase of development within North Natomas, until such time as the Drainage System is constructed and operational, all pursuant to the RD-1000 Agreement.

Irrevocable Offer of Dedication: an unconditional and irrevocable offer by LANDOWNER to transfer real property to CITY in accordance with the provisions of the>NNLAP and/or any condition of any land use entitlement applicable to the Property, in the form specified in Exhibit G.

Land Acquisition Program (>NNLAP): the plan, also called the North Natomas Land Acquisition Program, which as an integral part of the North Natomas Finance Plan, is designed to provide a means for transfer to or acquisition by CITY, or such other public agency as is appropriate, of all lands within the North Natomas Community Plan area which are designated to be held publicly, at no cost to CITY. A copy of the plan is attached hereto as Exhibit E and incorporated herein by this reference.

Land Acquisition Fee (LAF): the fee/reimbursement program, which is an integral part of the North Natomas Finance Plan, and which is designed to equalize the cost of the>NNLAP among the various landowners within the North Natomas Finance Plan area.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

Land Use and Development Regulations: the General Plan, the North Natomas Community Plan, the CITY's Subdivision Map Act Ordinance, and Zoning Ordinances, together with any other CITY ordinance, or resolutions, rules, regulations and official policies as they exist on the Effective Date, which govern or regulate land use and/or development in the North Natomas Community Plan area.

Lender: a Person (or a successor in interest to such person) who has advanced funds to, or who is otherwise owed money by a debtor, where the obligation is embodied in a promissory note or other evidence of indebtedness, and where such note or other evidence of indebtedness is secured by a Mortgage or Deed of Trust.

Mortgage: a contract by which the mortgagor (debtor) as owner hypothecates or pledges real property, or otherwise grants a security interest therein to a Lender (mortgagee), to secure performance under a promissory note or other evidence of indebtedness, and where the holder of the mortgage is granted a power of sale.

North Natomas Community Plan (NNCP): the Community Plan for development of the North Natomas area, as adopted by the City Council on May 3, 1994, as said plan exists on the Effective Date. The NNCP includes, without limitation, a Land Use Diagram and Policy Statements.

North Natomas Finance Plan: the plan, as it may be amended from time to time, which establishes methods for financing required Infrastructure and public facilities through a combination of land transfers, dedications, contributions, fees, assessment districts, community facilities districts, and other measures.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. **2001-004**

DATE ADOPTED: **FEB 13 2001**

North Natomas Finance Plan Area: the lands within the area covered by the North Natomas Finance Plan, and which are obligated thereby, as that area may exist from time to time.

Parties: the City of Sacramento and LANDOWNER.

Person: any person, firm, association, organization, partnership, business trust, corporation or company.

Procedural Ordinance: Ordinance No. 95-012, adopted by the City Council on March 7, 1995, and which sets forth procedures for execution, approval, implementation, amendment, and related matters, with respect to development agreements for lands within the NNCP area.

Project: part or all of the elements set forth in LANDOWNER's Development Plan.

Project Review: CITY's actions in reviewing any project proposed by LANDOWNER with respect to the Property, including but not limited to review of all required land use entitlement applications.

Property: the real property owned by LANDOWNER, as set forth in Exhibit A.

Protest Waiver: the agreement set forth in Exhibit F, executed by LANDOWNER pursuant to this Agreement, or in connection with the conditions of any required entitlement.

Purchaser: an assignee.

Reconfiguration: the reconfiguration, adjustment or alteration of property lines through parcel or subdivision mapping, or lot line adjustment.

RD-1000 Agreement: any agreement which governs the terms and conditions under which Interim Drainage, if applicable, will be provided to the Property.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

Reimbursement: the reimbursement of monies to a Person who has advanced funds for Infrastructure required for development of the Property, or who has advanced funding for Infrastructure or other improvements which are required by the NNCP, the North Natomas Finance Plan, or other document, and which have benefit to land beyond the Property, in accordance with a reimbursement agreement approved by CITY. Any such agreement will be limited to the portion of the funding advanced which is in excess of the allocable share of the cost of the Infrastructure or improvement attributable to the Property.

Reimbursable Infrastructure Costs: those costs paid by LANDOWNER, and which are identified as reimbursable pursuant to CITY's Assessment District Policy Manual (as defined in section 8.D.(1) of this Agreement).

Special Conditions: those conditions, terms and requirements specified in Exhibit C.

Special Permit: any discretionary permit required pursuant to the Land Use and Development Regulations, and issued by CITY for development of the Property, upon proper application therefor by LANDOWNER.

Term: the length of this Agreement in terms of time, as specified in section 3, or as that time may be extended pursuant to any applicable provision of this Agreement.

Transfer: an assignment.

Transferee: an assignee.

Zoning: the division of the City of Sacramento into districts, and the application of zoning regulations thereto, which include (without limitation) regulation of the height or bulk of buildings

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

CITY AGREEMENT NO. _____

DATE ADOPTED: FEB 13 2001

(structural and architectural design) and the use to which the land and buildings within prescribed districts may be put, all as specified in the Zoning Ordinance.

Zoning Ordinance: the Comprehensive Zoning Ordinance of the City of Sacramento, as that ordinance exists on the Effective Date.

II

TERMS AND CONDITIONS OF **AGREEMENT**

1. **Property Description and Binding Covenants.** The Property is that certain real property owned by LANDOWNER and described in Exhibit "A". The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to the benefit of, the parties and, subject to Section 4 below, to their successors-in-interest.

2. **Interests of Landowner.** LANDOWNER represents that LANDOWNER owns a legal or equitable interest in the Property and that all other Persons holding legal or equitable interests in the Property, including N/A (the Lender), have executed and are bound by this Agreement.

3. **Term.**

a. **Initial Term.** The term of this Agreement shall commence on the Effective Date and shall extend for a period of fifteen (15) years thereafter, unless it is sooner terminated or modified by the mutual consent of the parties.

b. **Renewal Options.** Subject to the provisions of this subparagraph, LANDOWNER shall have the right to renew this Agreement on its same terms and conditions, taking into account any

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

amendments hereto mutually agreed upon after the Effective Date. The term of this Agreement shall mean and include the initial term, plus any renewal periods. The specific conditions for exercise of the renewal options are as follows:

(1) On the Exercise Date, LANDOWNER shall not be in default in any material respect under this Agreement, including any amendments hereto. For purposes of this subsection, "Exercise Date" shall mean the date that LANDOWNER or LANDOWNER's successor in interest gives written notice of intention to exercise the option to renew this Agreement, in accordance with the provisions of Section 20 hereof.

(2) The option to renew shall be exercisable by giving CITY written notice of LANDOWNER's intention to exercise the option on or before the Exercise Date, which notice shall be given not later than one hundred eighty (180) days prior to expiration of the initial term or any renewal term.

(3) LANDOWNER shall be limited to three (3) renewal periods of five (5) years each; the parties specifically intend that under no circumstances shall the term of this Agreement extend beyond thirty (30) years, unless this Agreement is amended in accordance with the procedures set forth herein for Agreement amendments.

4. **Assignment.** LANDOWNER shall have the right to sell, assign, or transfer its interests under this Agreement as part of a contemporaneous and related sale, assignment or transfer of its interests in the Property, or any portion thereof, without the consent of CITY; provided, however, that LANDOWNER shall notify CITY of such sale, assignment or transfer by providing written notice thereof to CITY in the manner provided in this Agreement. LANDOWNER shall remain obligated to

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

CITY AGREEMENT NO. _____

perform all terms and conditions of this Agreement, unless such purchaser, assignee or transferee, to the satisfaction of and in a form acceptable to the City Attorney, executes and delivers to CITY an express agreement to assume all of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred. The execution of such an assumption agreement shall relieve LANDOWNER of the obligations expressly assumed only if:

- (a) LANDOWNER is not in default under this Agreement at the time of the assignment or transfer; and
- (b) LANDOWNER has provided CITY with notice of said assignment or transfer in the manner provided hereunder. Any such assumption agreement with respect to LANDOWNER's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assignment and Assumption Agreement attached hereto as Exhibit "D" and incorporated herein by this reference, or such other form as shall be proposed by LANDOWNER and approved by the City Attorney prior to the effective date of the assignment.

Any purchaser, assignee, or transferee shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, only with respect to the Property, or such portion thereof, sold, assigned, or transferred to it. Any such purchaser, assignee, or transferee shall observe and fully perform all of the duties and obligations of LANDOWNER under this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred.

5. **Development of the Property.**

A. **Permitted Uses and Development Standards.** Subject to the Special Conditions set forth in Exhibit C, attached hereto and incorporated herein by this reference (herein the

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

"Special Conditions"), any reserved discretionary approvals specified in this Agreement, and all other terms and conditions of this Agreement, LANDOWNER may develop the Property in accordance with and subject to the terms and conditions specified in the Land Use and Development Regulations in effect on the Effective Date, or, where applicable, the Development Plan, as set forth in Exhibit B, attached hereto and incorporated herein by this reference. Specifically, the permitted uses, density or intensity of use, height or size of buildings and provisions for reservation and dedication of land for public purposes shall be as set forth in the Development Plan.

B. Discretionary Approvals.

(1) **Project Review.** Development of the Property is subject to all required discretionary approvals. In reviewing and approving applications for special permits and other discretionary approvals, CITY may exercise Project Review and may attach such conditions and requirements as are consistent with the policies, goals, standards and objectives of the General Plan, the NNCP and the North Natomas Finance Plan, and as may be necessary to comply with all applicable legal requirements and policies of CITY pertaining to such reserved discretionary approvals.

(2) **Rezoning of the Property.** Upon proper and complete application by LANDOWNER, CITY agrees to rezone the Property in accordance with the provisions of the NNCP in effect on the Effective Date.

C. Development Timing. This Agreement contains no requirement that LANDOWNER must initiate or complete development of any phase of the development of the Property or any portion thereof within any period of time set by CITY. It is the intention of this provision that LANDOWNER be able to develop the Property in accordance with LANDOWNER's own schedule;

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

provided, however, that to the extent that phasing is required by the NNCP, or by the Special Conditions, such provisions shall govern. No future modification of the Sacramento City Code or any ordinance or regulation which limits the rate of development over time shall be applicable to the Property. However, nothing herein shall be construed to relieve LANDOWNER from any time conditions in any permit or subdivision map approval or to excuse the timely completion of any act which is required to be completed within a time period set by any applicable code or permit provisions.

D. **Special Conditions.** Development of the Property shall be subject to the Special Conditions, as specified in Exhibit C.

E. **Land Use and Development Regulations.**

(1) Subject to the Special Conditions specified in Exhibit C, development of the Property shall be subject to the Land Use and Development Regulations applicable to such development on the Effective Date.

(2) Except as otherwise provided in this Agreement, to the extent any future changes in Land Use and Development Regulations adopted by CITY purport to be applicable to the Property but are inconsistent with the terms and conditions of this Agreement, including subsection E.(1) above, the terms and conditions of this Agreement shall prevail, unless the parties or their successors in interest mutually agree to amend or modify this Agreement in accordance with the provisions for modification hereinafter set forth.

(3) To the extent that any future changes in the Land Use and Development Regulations adopted by CITY are applicable to the Property and are not inconsistent with the terms and

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

conditions of this Agreement or are otherwise made applicable by other provisions of this Agreement, such future changes shall be applicable to the Property.

(4) Nothing in this Agreement shall preclude the application to development of the Property of changes in the Land Use and Development Regulations, the terms of which are specifically mandated by changes in state or federal laws or regulations. In the event state or federal laws or regulations enacted after the effective date of this Agreement or action by any governmental jurisdiction other than CITY prevent or preclude compliance with one or more provisions of this Agreement or require changes in permits, maps or plans approved hereunder by CITY, this Agreement shall be modified, extended or suspended as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental jurisdiction.

(5) To the extent that any actions of federal or state agencies (or actions of regional and local agencies, including CITY, required by federal or state agencies or actions of CITY taken in good faith in order to prevent adverse impacts upon CITY by state or federal actions) have the effect of preventing, delaying or modifying development of the NNCP area or any area therein, CITY shall not in any manner be liable for such prevention, delay or modification of said development. Such actions may include, but are not limited to, flood plain or wetlands designations and actions of CITY or regional agencies as a result thereof and the imposition of air quality measures or sanctions and actions of CITY or regional and local agencies as a result thereof. In such a situation, CITY's actions shall not be arbitrary or capricious, and the parties shall meet and endeavor to achieve solutions which preserve the integrity of the NNCP, while to the extent feasible allow development of the Property in the manner contemplated by this Agreement.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

(6) Nothing herein shall be construed to limit the authority of CITY to enact amendments to the Land Use and Development Regulations, or enact other ordinances or resolutions, which have the legal effect of protecting persons or property from conditions which create a health, safety or physical risk.

(7) Building codes, ordinances and regulations relating to construction standards or permits shall apply as of the time of grant of each applicable construction permit.

(8) No modification of CITY's ordinances, resolutions, policies, rules or regulations adopted after the Effective Date, which purport to limit the rate of development over time or to govern the sequence of development of land within the NNCP area, shall apply to the Property. The provisions of this subparagraph apply to modifications adopted or imposed by the City Council, or through the initiative or referendum process; provided, however, nothing in this subparagraph shall limit the ability of CITY to act in accordance with the provisions of subparagraphs 5.E.(4), (5) and (6) of this Agreement.

F. **CITY Review of Applications.** Consistent with the standards set forth in section 15 of this Agreement, nothing contained in this Agreement shall preclude CITY from its right and responsibility to review applications for entitlements submitted by LANDOWNER in accordance with its normal and usual procedures and practices, as they may exist at the time the application is accepted as complete, or is otherwise deemed complete by operation of law.

G. **Extension of Entitlements.** Pursuant to Government Code Section 66452.6 all vesting tentative subdivision maps, master parcel tentative maps, parcel maps, subdivision tentative maps, planned unit development permits, special permits, or any other maps, rezonings or land use

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

entitlements of potentially limited duration previously, contemporaneously or subsequently approved for the Property subject to this Development Agreement, shall be valid for a minimum term equal to the full term of this Agreement (including the initial term, and any renewal period resulting from exercise by LANDOWNER of the options provided for in Section 3 hereof), or for a period of thirty-six (36) months, whichever is longer, but in no event for a shorter period than the maximum period of time permitted by the Subdivision Map Act or Government Code for such land use entitlements. The provisions of section 25 of this Agreement relating to estoppel certificates shall apply to any request made by LANDOWNER to CITY with respect to the life of any entitlement covered by this subparagraph. Nothing in this section shall be construed to, or operate to extend the term of this Agreement.

H. **Allocation Procedures for Building Square Footage.** Procedures for allocating the uses or densities approved for the Property among the various parcels and/or portions thereof, and for resolution of any disputes regarding such allocations, shall be as follows:

(1) **Allocation.** Unless otherwise identified in the Development Plan, which is attached as Exhibit B to this Agreement, the allocation of building square footage shall be as identified in subsequent entitlements for the Property, including but not limited to parcel maps, subdivision maps, PUD schematic plans and development guidelines. The appropriate entitlement to address the allocation of building square footage shall be determined by City. Allocations for residential development shall be determined in the subdivision mapping process, unless CITY determines that some other method is appropriate under the circumstances.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

(2) **Dispute Resolution.** Where a dispute exists between LANDOWNER, and/or any successor or successors in interest, with respect to any matter involving allocation of building square footage for or on the Property, such dispute shall be resolved by arbitration, utilizing the commercial arbitration procedures of the American Arbitration Association, or some other alternative dispute resolution procedure mutually agreed upon by the parties involved in the dispute. In no case shall CITY be a party to such dispute, or to the dispute resolution procedures. All of the provisions of this Agreement relating to indemnification and defense of CITY, and payment of CITY costs, shall apply to all disputes relating directly or indirectly to allocation.

6. **Fees, Charges, Assessments and Taxes.**

A. **City Fees.** All applications for CITY approvals, permits and entitlements shall be subject to the application fees, processing fees, mitigation fees and other development fees within the control of the CITY that are in force and effect as of the date that the application or other request for approval is filed.

B. **Levies Imposed by Other Jurisdictions.** LANDOWNER shall be responsible for: (i) all fees, charges, assessments, special taxes or levies of any sort imposed by any other state or local agency, including but not limited to the Sacramento Area Flood Control Agency, in the future as a charge for mitigation measures imposed for the purpose of mitigation of environmental impacts associated with the provision of flood control improvements and measures for the NNCP area; (ii) all fees, charges, assessments, special taxes or levies of any sort associated with the financing of the construction and implementation of said flood control improvements and measures; (iii) all special benefit assessments, special taxes or levies of any sort associated with construction of or maintenance

FOR CITY CLERK USE ONLY

ORDINANCE NO. **2001-004**

DATE ADOPTED: **FEB 13 2001**

CITY AGREEMENT NO. _____

of public improvements, where the Property is located within a district formed for that purpose by any agency other than CITY; (iv) any fees or other charges required by RD-1000 to be paid to it in implementation of the RD-1000 Agreement; and (v) ad valorem real estate taxes, and utility fees. In the event that any of the fees, charges, assessments, special taxes or levies covered by this subsection B. are imposed by or with the assistance of CITY, LANDOWNER shall nevertheless be responsible therefor. Nothing in this Agreement shall be construed to limit LANDOWNER's right to protest, in accordance with applicable provisions of law: (i) the formation of any district included within the provisions of this subparagraph or to protest the amount of any assessment levied by or on behalf of such district on the Property or any portion thereof; or (ii) to protest the nature and amount of any tax, fee, assessment or charge imposed pursuant to this subparagraph.

C. **Implementation of the North Natomas Finance Plan.** The North Natomas Finance Plan establishes a method for financing of required Infrastructure and public facilities through a combination of land transfers, dedications and contributions, fees, assessment districts, community facilities districts and other sources, so that the land within the North Natomas Finance Plan Area pays for its share of the cost of such Infrastructure and facilities. The plan also recognizes that there is a regional cost associated with certain portions of Infrastructure and facilities, and that that share will ultimately have to be paid from other sources, even though developers within the area, including LANDOWNER, acknowledge that they may have to participate in funding regional costs on a fair share basis. LANDOWNER shall participate in the North Natomas Finance Plan, as made applicable to the development of the Property, and shall faithfully and timely comply with each and every provision thereof, including but not limited to the>NNLAP, the Land Acquisition Fee, assessments, special taxes,

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

and other development fees and exactions set forth therein. Without limiting the foregoing, applications for special permits, subdivision maps or other land use entitlements and building permits may be made subject to LANDOWNER's participation in and compliance with the plan. Failure to so participate shall be an event of default to which the default provisions of this Agreement and the Procedural Ordinance shall apply. For purposes of this Agreement "participate" and "participation" shall mean payment of all monies required by virtue of the North Natomas Finance Plan, and performance of all obligations imposed thereby.

D. **LANDOWNER's Waivers.** LANDOWNER hereby agrees to the provisions of Exhibit F, which (without limitation) contains a comprehensive waiver of protest rights with respect to CITY's establishment and implementation of development and impact fees; CITY's actions in forming assessment districts and community facilities districts, and in levying assessments and taxes pursuant thereto; and CITY's actions in implementing any provision of the North Natomas Finance Plan. As set forth in Exhibit F, LANDOWNER reserves the right to protest the actual amount of the fee, assessment or tax levy, or other CITY charge imposed on or allocated to the Property pursuant to the Finance Plan.

7. **Reconfiguration of Parcels.** LANDOWNER shall have the right to file applications with CITY for subdivision, lot line adjustment, or for master parcelization of all or part of the Property, for the purpose of reconfiguration of the Property. Such applications shall be processed and determined in accordance with the provisions of section 5, and all other applicable provisions of this Agreement. Where reconfiguration requires a Special Permit, or a P.U.D. designation, or other entitlement

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

applicable to the Property or portion thereof which is subject to the application, CITY reserves the right to require such entitlements as a condition of granting the application.

8. **Infrastructure.**

A. **Construction by CITY.** To the extent that funds are available to CITY pursuant to the North Natomas Finance Plan, and to the extent that any required real property has been transferred to CITY pursuant to the NNLAP, or has been obtained by CITY through its power of eminent domain, which CITY agrees to utilize, where required, and subject to LANDOWNER's compliance with the terms of this Agreement and all of the terms and conditions of any entitlement applicable to the Property, CITY agrees to use its best efforts to bring about the construction of the Infrastructure required to implement the Development Plan (Exhibit B). Provided, however, that CITY's obligations hereunder shall be limited to those items of Infrastructure which, under the North Natomas Finance Plan, are to be constructed by CITY or under CITY's direction and control; where Infrastructure is to be constructed by LANDOWNER, either pursuant to conditions of approval or otherwise, the provisions of this subparagraph shall not apply.

B. **Construction by LANDOWNER.** When required by conditions of approval, and in accordance with CITY specifications and standards in effect as of the date of construction, LANDOWNER shall diligently construct Infrastructure required for implementation of the Development Plan (Exhibit B). LANDOWNER shall further comply with all required funding requirements specified in the North Natomas Finance Plan, and the real property transfer provisions of the NNLAP.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

C. **Drainage Infrastructure.** As of the Effective Date, it is contemplated that permanent drainage for the Property, and the entire North Natomas Finance Plan Area, will be provided by the Drainage System. It is further contemplated that Interim Drainage for the Property and the NNCP area will be provided pursuant to the RD-1000 Agreement or some other arrangement which has been implemented by CITY. Construction of the Drainage System will require land transfers to CITY pursuant to the NNLAP, or acquisition of required land by CITY through the use of eminent domain procedures, and funding for the required improvements, all on a timely basis and in accordance with the North Natomas Finance Plan, and subject to the provisions of the RD-1000 Agreement (or such other arrangement which has been implemented by CITY), together with the Drainage Sub-basin agreement, or substitute therefore, as specified in the Special Conditions. In recognition of the need for retention of flexibility and CITY discretion with respect to decisions relating to the ultimate solution to drainage for the NNCP area, and the need for unconditional provision of financing by LANDOWNER and other owners of land in the North Natomas Finance Plan Area through the mechanisms specified in the North Natomas Finance Plan, the parties agree as follows:

(1) **Establishment of Financing Mechanisms.** CITY shall, as soon as feasible following the adoption of the North Natomas Finance Plan by the City Council, establish public financing mechanisms as identified in the North Natomas Finance Plan, applicable to lands within the NNCP area which will benefit from the Drainage System.

(2) **Issuance of Bonds.** Decisions as to whether to issue bonds pursuant to such financing mechanisms, and the timing and manner of issuance thereof, shall be within the sole and exclusive discretion of CITY; provided, however, that CITY shall exercise its discretion in a good faith

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

CITY AGREEMENT NO. _____

DATE ADOPTED: FEB 13 2001

manner, so as to provide for timely construction of Infrastructure in order not to stop or slow development.

(3) **Linkage of Development to Completion of Drainage System.** CITY has established a performance standard that requires (inter alia) that the Drainage System be completed and in operation no later than the point in time when building permits have been issued for fifty percent (50%) buildout of the North Natomas Finance Plan Area, as measured by developable acreage as defined in the North Natomas Finance Plan. In the event that a different phasing plan is adopted and implemented by CITY, LANDOWNER shall comply with all provisions of such a plan, and shall execute any agreement or other document, or participate in any mechanism as is required by CITY to implement such a plan.

D. **Infrastructure Financing Proceedings.**

(1) **LANDOWNER-Initiated Proceedings.** In the event that LANDOWNER desires to initiate proceedings for the formation of an assessment district, community facilities district, or other similar form of improvement financing mechanism to fund the construction of Infrastructure required by conditions of approval or otherwise, LANDOWNER shall file an application with CITY for that purpose in accordance with CITY's Assessment District Policy Manual, as same may be amended from time to time, or such other policy document as may after the Effective Date be adopted by the City Council as a substitute therefor. CITY agrees to diligently process any such application, provided that such application: (i) is complete and is accompanied by payment of CITY fees applicable on the date of filing of the application; (ii) otherwise complies with the Land Use and Development Regulations and applicable law, as it exists on the date of the application, including but

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

not limited to the Assessment District Policy Manual; (iii) is consistent with CITY's policies and procedures; (iv) provides for a value to lien ratio and other financial terms that are reasonably acceptable to CITY; (v) provides for all funding requirements established by CITY for the purpose of payment of the costs of outside consultants needed, in CITY's sole discretion; and (vi) provides that the specific consultants (e.g., bond counsel, financial advisors, underwriters, or other consultants as may be necessary under the circumstances) shall be selected by CITY in its sole discretion.

Notwithstanding any other provision of this Agreement, CITY agrees that upon request made by LANDOWNER, CITY will consider making exceptions to the Assessment District Policy Manual, to allow for alternative methods of financing in-tract improvements, including but not limited to formation of assessment districts or similar financing mechanisms, where such alternatives are contemplated by the North Natomas Finance Plan, including any amendments thereto. Provided, however, that CITY reserves its discretion to condition use of any such alternatives on satisfaction of performance preconditions (including but not limited to drainage capacity), and to consider underwriting considerations and criteria, together with the manner in which such alternatives further the overall implementation of the North Natomas Finance Plan. Further, CITY may in its reasonable discretion deny any such request upon grounds, including but not limited to consistency of application of its policies and the potential for establishing negative precedent.

(2) **Proceedings Initiated by CITY.** In the event that pursuant to the North Natomas Finance Plan, CITY in its discretion determines that a particular financing mechanism, including but not limited to an assessment district, a community facilities district, a fee district, a development fees procedure, or any similar mechanism, is required in order to implement the North

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

Natomas Finance Plan, LANDOWNER's participation obligations set forth hereunder (including but not limited to Exhibit C), in the North Natomas Finance Plan, or in any condition of approval, shall apply.

(3) **Maintenance Districts.** LANDOWNER may, following the procedures specified in subparagraph (1) above, request that CITY establish one or more maintenance districts for the purpose of financing the maintenance of landscaping or other public improvements, whereunder lands benefitting from the improvements and their maintenance are assessed for a proportionate share of the maintenance cost.

E. **Reimbursement to LANDOWNER.**

(1) **From Financing Proceeds.** Subject to Chapter X of the North Natomas Finance Plan, where LANDOWNER has provided advance funding for public Infrastructure required by the North Natomas Finance Plan or has constructed such Infrastructure under the direction and control of CITY, LANDOWNER shall be reimbursed for Reimbursable Infrastructure Costs at such time as CITY has established a permanent financing mechanism in the form of an assessment district, community facilities district, or other similar mechanism through which permanent public financing for such improvements is established. Those items qualifying as Reimbursable Infrastructure Costs shall be determined pursuant to CITY policies in existence at the time of establishment of the permanent financing mechanism. CITY agrees to entertain reasonable requests from LANDOWNER for exceptions to such policies; provided, however, that CITY may, in its reasonable discretion, deny any such request upon grounds, including but not limited to consistency of application of its policies and

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

CITY AGREEMENT NO. _____

the potential for establishing negative precedent. Nothing in this Agreement shall authorize reimbursement of any cost which, in the opinion of CITY's bond counsel, is not permissible for purposes of establishing or retaining tax free status of any bonds issued, or contemplated to be issued by CITY.

(2) **Reimbursement From Others Benefitted.** In any case where CITY requires or permits LANDOWNER to plan, design, construct, or fund the planning, design or construction of improvements required for development by the North Natomas Finance Plan, in excess of or beyond those required for development of the Property, or, where required by the North Natomas Finance Plan, to make dedications, provide mitigation or incur costs in connection with public improvements or the planning of the North Natomas area in excess of or beyond those required for development of the Property, and the provisions of the preceding subparagraph do not apply, CITY shall utilize its best efforts to require that all other Persons benefitted by the improvements shall reimburse (through fee districts, agreements, conditions of approval, or otherwise) LANDOWNER for such Person's proportionate share of such costs as determined in accordance with the North Natomas Finance Plan, or by CITY. For purposes of this Agreement, the term "in excess of or beyond those required for development of the Property" shall mean requirements which exceed LANDOWNER's fair proportionate share, as determined in accordance with the provisions of the North Natomas Finance Plan and any associated documents or studies.

Such reimbursement shall be subject to the limitations specified in the preceding paragraph (including those provisions relating to consideration by CITY of exceptions to its policies), relating to CITY policy and Reimbursable Infrastructure Costs. Reimbursement shall be limited to that amount

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

which exceeds LANDOWNER's appropriate share of the cost, determined in accordance with principles established in the North Natomas Finance Plan, and any associated documents or studies.

(3) **Reimbursement of Planning, Engineering and Staff Costs.** In accordance with the provisions of the North Natomas Finance Plan, and as soon as feasible following City Council adoption of the said Plan, CITY shall enact a fee ordinance which imposes a fee upon NNCP area landowners, including LANDOWNER, to pay the planning, engineering, staff and related costs (including but not limited to CITY staff and related costs), as specified in the North Natomas Finance Plan, and which relate to development of the NNCP, the Finance Plan, the general form of the Development Agreement, the Comprehensive Drainage Plan, and all related documents. The fee shall be spread across lands within the NNCP area in the same fashion as the public facilities fees. Credits shall be given to those landowners who have paid some or all of their share of the said costs, for the amounts so paid. The fee shall be payable prior to issuance of the first discretionary entitlement for the land as to which an application has been filed with CITY.

9. **LANDOWNER Obligations.**

A. **Transfer of Land to CITY.** As set forth elsewhere in this Agreement, LANDOWNER has agreed to transfer lands needed for Infrastructure or public facilities to CITY, or to such other public agency as is appropriate, pursuant to the provisions of the>NNLAP. Set forth in Exhibit H, attached hereto and incorporated herein by this reference, is a map depicting the currently contemplated approximate location and amount of land which LANDOWNER will be required to transfer to CITY, together with a categorical listing of the types of Infrastructure and public facilities which are covered by the terms of this subparagraph. LANDOWNER shall transfer the said required

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

lands to CITY, utilizing the Irrevocable Offer of Dedication form set forth in Exhibit G, attached hereto and incorporated herein by this reference, at such time as is:

(1) required pursuant to a condition or term of any entitlement for use or development of the Property; or

(2) requested by CITY, where LANDOWNER has not applied for an entitlement for use or development of the Property, but the land is needed, in CITY's sole discretion, for purposes of construction of Infrastructure or public facilities.

In the event that, at the time of the required transfer to CITY, the location of, or the quantity of land required for the Infrastructure or public facilities has changed from that depicted on Exhibit H, to such a significant degree or extent that the location or quantity is inconsistent with both the NNCP as it exists on the effective date of this Agreement, and the North Natomas Finance Plan, the parties shall meet and negotiate, and in good faith endeavor to reach agreement on any amendments to this Agreement needed to allow development of the Property in a reasonable manner, taking into account the changes in Infrastructure and public facilities. If agreement is reached between the parties, the procedures specified herein and in the Procedural Ordinance shall apply to amendments to this Agreement. If agreement is not reached, either party shall have the right to terminate this Agreement by providing the other party sixty (60) days notice.

B. **Development Timing.** LANDOWNER shall have no obligation to initiate or commence development of any particular phase of the Property within any period of time.

10. **Litigation/Indemnification.**

A. **Challenge to Agreement or Entitlements.**

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

CITY AGREEMENT NO. _____

(1) In the event of any action instituted by a third party challenging the validity of any portion of this Agreement, including but not limited to, the proceedings taken for its approval (including the requirements of the California Environmental Quality Act -- "CEQA") or any other act undertaken by the parties hereto in furtherance of this Agreement or its terms, or any action instituted by a third party challenging the validity of any of the entitlements specified herein (including CEQA challenges), the parties agree to cooperate in the defense of the action.

In all such litigation brought to contest the validity of this Agreement or such entitlements, the following shall apply:

(a) City may, in its sole discretion, either defend such litigation or tender its defense to LANDOWNER.

(b) In the event that CITY determines to defend the action itself, LANDOWNER shall be entitled, subject to court approval, to join in or intervene in the action on its own behalf, or to advocate in favor of validity of this Agreement or any challenged entitlement. In such a case, each party shall bear its own attorney fees and costs.

(c) In the event that CITY determines to tender the defense of the action to LANDOWNER, LANDOWNER shall defend the action on its behalf and on behalf of CITY, and shall bear all attorney fees and costs associated with such defense from and after the date of the tender. Provided, however, that CITY may at any time after the tender elect to assume representation of itself; in that event, from and after the date CITY gives notice of its election to do so, CITY shall be responsible for its own attorney fees and costs incurred thereafter.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

(2) If, in such litigation, a final judgment or other final order is issued by the court which has the effect of invalidating or rendering ineffective, in whole or in part, any provision of this Agreement or the Agreement itself, or any entitlement issued during the term of this Agreement and pursuant to its terms, the following shall apply:

(a) if the judgment or order includes a provision for attorney fees and/or costs of the successful party or parties, LANDOWNER shall pay the entire cost thereof, without right of offset, contribution or indemnity from CITY, irrespective of anything to the contrary in the judgment or order. Provided, however, that if the litigation relates entirely, solely and exclusively to a challenge to the NNCP in general, or to the North Natomas Finance Plan in general, separate and apart from this Agreement or any entitlement relating to the Property, and if LANDOWNER is named or becomes a party in such litigation, LANDOWNER and CITY shall bear the cost of the successful party's attorney fees and/or costs in the manner specified in the court's judgment.

(b) CITY and LANDOWNER shall meet and endeavor, in good faith, to attempt to reach agreement on any amendments needed to allow development of the Property to proceed in a reasonable manner, taking into account the terms and conditions of the court's judgment or order. If agreement is reached, the procedures for amending this Agreement as specified herein, and in the Procedural Ordinance, shall apply. If agreement is not reached, either party shall have the right to terminate this Agreement by giving the other party sixty days' notice of termination.

(c) In the event that amendment is not required, and the court's judgment or order requires CITY to engage in other or further proceedings, CITY agrees to comply with the terms of the judgment or order expeditiously.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

B. **Indemnification.** LANDOWNER agrees to defend and indemnify CITY, its elective and appointive boards, commissions, officers, agents and employees against any liability for damage or claims for damage for personal injury, including death, or property damage, arising out of or relating in any way to actions or activities to develop the Property, undertaken by LANDOWNER or LANDOWNER's contractors, subcontractors, agents or employees.

11. **Effect of Subsequent Laws.**

A. **Laws of Other Agencies.**

(1) If any public agency, other than CITY, adopts any new law, regulation, ordinance or imposes any new condition (herein referred to collectively as "the New Law") after the date of this Agreement, which prevents or precludes either the CITY or LANDOWNER, or both, from complying with one or more provisions of this Agreement, then immediately following the enactment of the New Law the parties shall meet and confer in good faith to determine whether the New Law applies to the Property, and whether suitable amendments to this Agreement can be made, in order to maintain LANDOWNER's right to develop the Property in a reasonable manner pursuant to Exhibit B.

(2) In the event that the parties, after having engaged in good faith negotiations, are unable to agree on such amendments, the parties shall consider whether suspension of the term of this Agreement is appropriate, and if so, what the terms and conditions of any such suspension should be. In the event that the parties, after having engaged in good faith negotiations are unable to agree on the suspension issues, either party shall have the right to terminate this Agreement by giving the other party sixty (60) days' written notice of termination.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

(3) LANDOWNER or CITY shall have the right to institute litigation relating to the New Law, and raise any issues relating to its validity. If such litigation is filed, this Agreement shall remain in full force and effect until final judgment is issued. Provided, however, that if any action that CITY would take in furtherance of this Agreement would be rendered invalid, facially or otherwise, by the New Law, CITY shall not be required to undertake such action until the litigation is resolved, or the New Law is otherwise determined invalid, inapplicable, or is repealed. In the event that such judgment invalidates the New Law, or determines that it does not affect the validity of this Agreement, this Agreement shall remain in full force and effect, and its term shall be extended by the amount of time between the effective date of the New Law, and the effective date of the judgment. In the event that such judgment determines that the validity of this Agreement is, directly or indirectly affected by the New Law, the provisions of subparagraphs (1) and (2) above shall apply.

B. Laws Passed by CITY. Subject to the provisions of section 5 of this Agreement, neither the CITY nor any CITY Agency shall enact any initiative, ordinance, policy, resolution, general plan amendment or other measure that relates to the density or intensity of development on the Property, or the rate, timing or sequencing of the development or the construction on the Property on all or any part thereof, or that is otherwise in conflict, either directly or indirectly, with this Agreement.

12. Enforced Delay; Extension of Times of Performance. In addition to other specific provisions of this Agreement, performance by either party hereunder shall not be deemed in default where delay or inability to perform is due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, enactment of conflicting state or federal laws or regulations, new or supplementary environmental laws or regulations, litigation instituted by third parties

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

CITY AGREEMENT NO. _____

DATE ADOPTED: FEB 13 2001

challenging the validity of this Agreement or any of the vested entitlements described in Section 5 of this Agreement. Upon request of either party to the other, a written extension of time for such cause shall be granted for the period of the enforced delay, or longer as may be mutually agreed upon.

13. **Legal Actions; Applicable Law; Attorney's Fees.**

A. **Legal Actions.** In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default by any other party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder. Notwithstanding any other provision of law, or of this Agreement, in no event shall LANDOWNER or CITY, its officers, agents or employees be liable in damages for any breach, default or violation of this Agreement, it being specifically understood and agreed that the parties' sole legal remedy for a breach, default or violation of this Agreement shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

B. **Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California. LANDOWNER agrees and acknowledges that CITY has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of CITY.

C. **Attorney Fees.** In any arbitration, quasi-judicial, administrative or judicial proceeding (including appeals), brought by either party hereto to enforce or interpret any covenant or any of such party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing party shall be entitled to reasonable attorneys' fees and all costs, expenses

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

and disbursements in connection with such action, including the costs of reasonable investigation, preparation and professional or expert consultation, which sums may be included in any judgment or decree entered in such action in favor of the prevailing party. For purposes of this section, and any other portion of this agreement relating to attorney fees, reasonable attorneys fees of the City Attorney's Office shall be based on comparable fees of private attorneys practicing in Sacramento County.

14. **Amendment of Agreement.** This Agreement may be amended from time to time only by the mutual written consent of the parties, in accordance with the provisions of Government Code Sections 65867 and 65868. In addition, all of the provisions of the Procedural Ordinance relating to the need for amendment, and the manner thereof, shall apply. Upon request of a party, this Agreement shall be amended to include the terms and conditions of any discretionary entitlement granted with respect to the Property after the Effective Date.

15. **CITY's Good Faith in Processing.** Subject to the provisions of section 5.B. hereof, and LANDOWNER's compliance with each and every term and condition of this Agreement and all of its exhibits, CITY agrees that it will accept in good faith for processing, review, and action, all complete applications for master parcel maps, zoning, planned unit development designation, planned unit development guidelines, schematic plans, special permits, building permits, parcel maps, subdivision maps, or other entitlements for use of the Property in accordance with the General Plan, the NNCP and this Agreement.

CITY shall inform the LANDOWNER, upon request, of the necessary submission requirements for each application for a permit or other entitlement for use in advance, and shall review said application and shall schedule the application for expeditious review by the appropriate authority.

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

CITY AGREEMENT NO. _____

16. **Default, Remedies, Termination.**

A. **General Provisions.** Subject to any extensions of time by mutual consent of the parties, and subject to the cure provisions set forth herein, any failure or unreasonable delay by either party to perform any material term or provision of this Agreement shall constitute a default.

(1) **LANDOWNER Default.** In addition to any other remedy specified herein, in the event that notice of default has been given in accordance with this section, wherein a default by LANDOWNER is alleged, CITY shall not be obligated to issue any building permit, or grant any entitlement as to which an application has been filed.

(2) **CITY Default.** In addition to any other remedy specified herein, in the event that notice of default has been given in accordance with this section, wherein a default by CITY is alleged, any resulting delays in LANDOWNER's performance caused by CITY's default shall not constitute a LANDOWNER default, or be grounds for termination or cancellation of this Agreement.

(3) **Successors in Interest.** Where the Property, following the Effective Date, has been lawfully conveyed in whole or in part to one or more successors in interest, in such a manner as to invoke the provisions of section 4 of this Agreement, and one or more of such successors in interest is in default with respect to the portion of the Property owned by it, neither LANDOWNER nor any other non-defaulting successor in interest shall be liable for the default, if the provisions of section 4 have been complied with, and in accordance with the terms and conditions of that section.

B. **Cure of Default.** In the event of an alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party notice in writing specifying the nature of the alleged default and the manner in which said default may be

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

CITY AGREEMENT NO. _____

DATE ADOPTED: FEB 13 2001

satisfactorily cured and a reasonable period of time in which to cure, that shall in no event be less than thirty (30) days. During any such period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

C. **Remedies After Expiration of Cure Period.** After notice and expiration of the thirty (30) day period, if the alleged default has not been cured in the manner set forth in the notice, the other party may at its option:

(1) institute legal proceedings to obtain appropriate judicial relief, including but not limited to mandamus, specific performance, injunctive relief, or termination of this Agreement; or

(2) give the other party notice of intent to terminate this Agreement pursuant to Government Code Section 65868 and the Procedural Ordinance. In the event that such notice is given, CITY shall schedule the matter for public hearing before the City Council to review the matter and make specific written findings regarding the alleged default. Where LANDOWNER is the party alleged to be in default, LANDOWNER shall be afforded a reasonable opportunity to respond to all allegations of default at such public hearing. CITY shall provide LANDOWNER at least thirty (30) days prior written notice of such public hearing, as well as provide LANDOWNER copies of all CITY staff reports prepared in connection therewith at least five (5) days prior to the hearing.

17. **Annual Review.**

A. **General Provisions.** In accordance with Government Code Section 65865.1, and the Procedural Ordinance, CITY shall, at least every twelve (12) months during the Term of this Agreement, review the extent of good faith compliance by LANDOWNER with the terms of this

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

Agreement. Failure of CITY to conduct an annual review shall not constitute a waiver by CITY or LANDOWNER of the right to conduct future annual review or to otherwise enforce the provisions of this Agreement, nor shall a party have or assert any defense to such enforcement by reason of any such failure. The failure of CITY to undertake such review, shall not, in itself, invalidate the terms of this Agreement or excuse any party hereto from performing its obligations under this Agreement.

B. **Scope of Review.** The annual review shall be limited in scope to compliance with the terms and conditions of this Agreement.

C. **Proceedings.** The procedures specified in the Procedural Ordinance for conduct of the annual review by the City Manager, and by the City Council, shall apply to each annual review of this Agreement. At least ten (10) days prior to the commencement of any annual review, CITY shall deliver to LANDOWNER a copy of any public staff reports and other documents to be used or relied upon in conducting the review. LANDOWNER shall be permitted an opportunity to respond to CITY's evaluation of LANDOWNER's performance by written and oral testimony at the public hearing to be held before the City Council, if LANDOWNER so elects.

At the conclusion of the annual review, CITY shall make written findings and determinations on the basis of substantial evidence, as to whether or not LANDOWNER or its successors have complied in good faith with the terms and conditions of this Agreement.

D. **Failure of Compliance.** Any determination of failure of compliance shall be subject to the notice requirements and cure periods set forth in section 16 of this Agreement. If termination is proposed, it shall apply solely with respect to that portion of the Property (if less than all) affected by the failure to show good faith compliance. If modification of the Development Agreement

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

CITY AGREEMENT NO. _____

DATE ADOPTED: FEB 13 2001

is proposed, the modification shall pertain solely to the provisions hereof as applicable to that portion of the Property (if less than all) affected by the condition that has prompted the proposed modification.

18. **Termination Upon Completion of Development.**

A. **General Provisions.** This Agreement shall terminate as to each parcel of property contained within the Property when that parcel of property has been fully developed and all of LANDOWNER'S obligations in connection therewith are satisfied, as reasonably determined by CITY. CITY shall, upon written request made by LANDOWNER to CITY's Department of Planning and Development, determine if the Agreement has terminated, with respect to any parcel, and shall not unreasonably withhold termination as to that parcel if LANDOWNER'S obligations therewith are satisfied. CITY shall be entitled to receive payment of a fee commensurate with the cost of processing the request and making such a determination, including but not limited to CITY's administrative and legal expenses. Upon termination of this Agreement, CITY shall upon LANDOWNER's request record a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated. The aforesaid notice may specify, and LANDOWNER agrees, that termination shall not affect in any manner any continuing obligation to pay any item specified by this Agreement, by the North Natomas Financing Plan or any of the measures implementing said plan, and shall have the effect as set forth in section 18.C.

B. **Multi-family and Single Family Residential Projects.** This Agreement shall automatically terminate and be of no further force and effect as to any single family residence or multi-family building, and the lot or parcel upon which said residence or building is located, when it has been approved by CITY for occupancy.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

C. Effect Of Termination On Landowner Obligations. Termination of this Agreement as to the Property or any portion thereof shall not affect any of the LANDOWNER's obligations to comply with CITY's General Plan, the NNCP, and all entitlements issued for the Property, nor shall it affect any other covenants of this Agreement specified in this Agreement to continue after the termination of this Agreement, including but not limited to those specified in sections 6, 10 and 13.C.

19. No Joint Venture, Partnership, or Other Relationship. Nothing contained in this Agreement or in any other document executed in connection with this Agreement shall be construed as creating a joint venture or partnership between CITY and LANDOWNER. No relationship exists as between LANDOWNER and CITY other than that of a governmental entity regulating the development of private property, and the owners of such private property.

20. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the CITY and LANDOWNER or LANDOWNER's assigns and successors, and to Lender, if applicable. Notice shall be effective on the date delivered in person, or the date when received if such notice was mailed to the address of the other party as indicated below:

Notice to the CITY:

City of Sacramento
915 I Street
Sacramento, California, 95814
ATTN: City Manager

Notice to the LANDOWNER:

THE CAMBAY GROUP, INC.
1350 TREAT BLVD., SUITE 560
WALNUT CREEK, CA 94596

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

ATTN: MR. BILL SCOTT, CFO

with copies to:

PACIFIC-TEAL DEVELOPMENT, LLC
22672 LAMBERT ST., #616
LAKE FOREST, CA 92630
TERRY TEEPLE

Notice to Lender:

N/A

Any party may change the address to which notices are to be mailed by giving written notice of such changed address to each other party in the manner provided herein.

21. **Severability**. If any provision of this Agreement is held invalid, void or unenforceable but the remainder of the Agreement can be enforced without failure of material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified by mutual consent of the parties, utilizing the procedures specified herein and the Procedural Ordinance. Provided, however, that if such holding affects a material provision of this Agreement, LANDOWNER shall have the right in its sole discretion to terminate this Agreement upon providing written notice of such termination to CITY; provided further, however, that in the event LANDOWNER so elects to terminate, such election shall not affect in any manner the terms and conditions of any entitlement theretofore granted by CITY with respect to the Property, or any portion thereof.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

22. **Recording.** The City Clerk shall cause a copy of this Agreement to be recorded with the Sacramento County Recorder no later than ten (10) days following execution of this Agreement by CITY, which execution will take place no sooner than the effective date of the ordinance approving this Agreement.

23. **Reimbursement to CITY.** LANDOWNER agrees to reimburse the CITY for reasonable and actual expenses incurred by CITY that relate directly to CITY'S review, consideration and execution of this Agreement. Such expenses include but are not limited to recording fees, publishing fees and any special meeting costs, staff time (including review by the City Attorney), and notice costs. Such expenses shall be paid by LANDOWNER within thirty (30) days of receipt of a detailed written statement of such expenses.

24. **Provisions Relating to Lenders.**

A. **Lender Rights and Obligations.**

(1) **Prior to Lender Possession.** No Lender shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion, and shall not be obligated to pay any fees or charges which are liabilities of LANDOWNER or LANDOWNER's successors in interest, but shall otherwise be bound by all of the terms and conditions of this Agreement, which pertains to the Property or such portion thereof in which it holds an interest. Nothing in this section shall be construed to grant to a Lender rights beyond those of LANDOWNER hereunder, or to limit any remedy CITY has hereunder in the event of default by LANDOWNER, including but not limited to termination and/or refusal to grant entitlements with respect to the Property.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

(2) **Lender in Possession.** A Lender who comes into possession of the Property, or any portion thereof, pursuant to foreclosure of a mortgage or deed of trust, or a deed in lieu of foreclosure, shall not be obligated to pay any fees or charges which are obligations of LANDOWNER, and which remain unpaid as of the date such Lender takes possession of the Property or portion thereof. Provided, however, that a Lender shall not be eligible to apply for or receive entitlements with respect to the Property, or otherwise be entitled to develop the Property or devote the Property to any uses or to construct any improvements thereon other than the development contemplated or authorized by this Agreement and subject to all of the terms and conditions hereof, including payment of all fees (delinquent, current and accruing in the future) and charges, and assumption of all obligations of LANDOWNER hereunder; provided, further, that no Lender, or successor thereof, shall be entitled to the rights and benefits of the LANDOWNER hereunder or entitled to enforce the provisions of this Agreement against CITY unless and until such Lender or successor thereof qualifies as a recognized assignee under the provisions of section 4 of this Agreement.

B. **Notice of LANDOWNER's Default Hereunder.** If CITY receives notice from a Lender requesting a copy of any notice of default given LANDOWNER hereunder and specifying the address for service thereof, then CITY shall deliver to such Lender, concurrently with service thereon to LANDOWNER, any notice given to LANDOWNER with respect to any claim by CITY that LANDOWNER has committed a default, and if CITY makes a determination of non-compliance, CITY shall likewise serve notice of such non-compliance on such Lender concurrently with service thereof on LANDOWNER.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

C. **Lender's Right to Cure.** Each Lender shall have the right (but not the obligation) during the same period of time available to LANDOWNER to cure or remedy, on behalf of LANDOWNER, the default claimed or the areas of non-compliance set forth in CITY's notice. Such action shall not entitle a Lender to develop the property or otherwise partake of any benefits of this Agreement unless such Lender shall assume and perform all obligations of LANDOWNER hereunder.

D. **Other Notices Given By City.** A copy of all notices given by CITY pursuant to the terms of this Agreement shall be sent to Lender at the address provided in Section 20 hereof.

25. **Estoppel Certificate.** Either party may, at any time, and from time to time, deliver written notice to the other party requesting such other party to certify in writing that, to the knowledge of the certifying party, (i) this Development Agreement is in full force and effect and a binding obligation of the parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Development Agreement, or if in default, describing therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such estoppel certificate, or give a written detailed response explaining why it will not do so, within thirty (30) days following the receipt of each such request. Each party acknowledges that such an estoppel certificate may be relied upon by third parties acting in good faith. A certificate provided by CITY establishing the status of this Agreement with respect to the Property or any portion thereof shall be in recordable form and may be recorded at the expense of the recording party.

FOR CITY CLERK USE ONLY

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

CITY AGREEMENT NO. _____

26. **Construction.** All parties have had the opportunity to be represented by legal counsel of their own choice in the preparation of this Development Agreement and no presumption or rule that "an ambiguity shall be construed against a drafting party" shall apply to the interpretation or enforcement of any provision hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain.

27. **Counterparts.** This Agreement may be executed in any number of counterparts and shall be deemed duly executed when each of the parties has executed such a counterpart.

28. **Time.** Time is of the essence of each and every provision hereof.

29. **Limitation of Actions.** No court action shall be filed by a party to this Agreement on the ground of default or breach of its terms unless such action is filed within one hundred eighty (180) days from the date of discovery by the aggrieved party of the facts underlying the claim of breach or default.

30. **No Third Parties Benefitted.** No Person who is not a qualified successor or assign of a party hereto pursuant to section 4 of this Agreement, or who has not become a party by duly adopted amendment hereof may claim the benefit of any provision of this Agreement.

31. **Effect of Agreement Upon Title to Property.** In accordance with the provisions of Government Code Section 65868.5, from and after the time of recordation of this Agreement, the Agreement shall impart such notice thereof to all persons as is afforded by the recording laws of the State of California. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

32. **Covenant of Good Faith.** CITY and LANDOWNER agree that each of them shall at all times act in good faith in order to carry out the terms of this Agreement.

33. **Exhibits:** The following are the exhibits to this Agreement:

- A Legal Description of the Property
- B Landowner's Development Plan
- C Special Conditions
- D Assignment and Assumption Agreement
- E North Natomas Land Acquisition Program
- F Protest Waiver Form
- G Irrevocable Offer of Dedication Form
- H Map and Categorical Listing of Land and Infrastructure

34. **Entire Agreement.** This Agreement, together with its Exhibits A to H, inclusive, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement is specifically intended by the parties hereto to supersede all prior development agreements, if any, for the Property which may exist between CITY and LANDOWNER. The provisions of section 10.B. of this Agreement, relating to indemnification and defense of CITY, its officers, employees and agents, shall be applicable to any claim whatsoever against CITY, its officers, employees and agents, arising out of or in any way relating to any prior development agreement relating to the Property.

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004
DATE ADOPTED: FEB 13 2001

35. City Attorney Costs. Landowner shall pay to the City of Sacramento the sum of \$1,500.00 as and for reimbursement of the costs of the City Attorney in preparation and processing of this Agreement.

IN WITNESS WHEREOF, the CITY and LANDOWNER have executed this Development Agreement as of the date first set forth above.

CITY:

CITY OF SACRAMENTO,
a municipal corporation

By: Heather Fargo
Heather Fargo, Mayor

ATTEST:

Patricia C. Burrows
City Clerk

APPROVED AS TO FORM:

[Signature]
Chief Assistant City Attorney

LANDOWNER:

By: [Signature]
Name: William C. Scott, Jr.
Title: CFO.

(ATTACH APPROPRIATE ACKNOWLEDGMENT)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Contra Costa

SS.

On Feb. 7, 2001

Date

before me, Lilibeth V. Abad, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

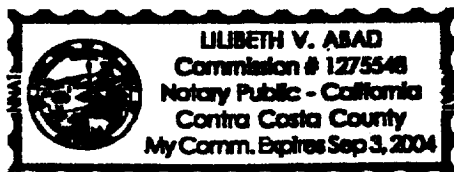
personally appeared

William C. Scott, Jr.

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Lilibeth V. Abad

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Development Agreement

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer

Signer's Name:

☐ Individual

☒ Corporate Officer — Title(s):

Chief Financial Officer

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other:

Signer Is Representing:

The Cambay Group, Inc.

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

ORDINANCE NO.

2001-004

FEB 13 2001

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of CALIFORNIA

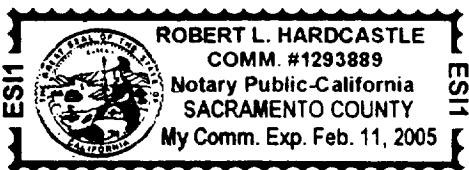
County of Sacramento

On February 23, 2001 before me, Robert L. Hardcastle, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Heather Fargo

☒ personally known to me ~~OR~~ ☐ ~~proved to me on the basis of satisfactory evidence~~

to be the person(s) whose name(s) is ~~are~~ subscribed to the within instrument and acknowledged to me that he ~~she/they~~ executed the same in his ~~her/their~~ authorized capacity(~~ies~~), and that by his ~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Robert L. Hardcastle
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☒ CORPORATE OFFICER

Mayor

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

Development Agreement -

North Natomas

TITLE OR TYPE OF DOCUMENT

137

NUMBER OF PAGES

February 23, 2001

DATE OF DOCUMENT

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

CITY OF SACRAMENTO

SIGNER(S) OTHER THAN NAMED ABOVE

EXECUTION PAGE FOR LENDER

N/A, a N/A (herein "LENDER") owns an equitable interest in the Property described in Exhibit "A" of this Agreement as the beneficiary of that certain deed of trust and assignment of rents dated _____ and recorded on _____, as Instrument _____, in Book _____, Page _____, Official Records, Sacramento County, California.

LENDER hereby executes this Agreement and agrees to be bound by the terms and condition hereof, subject to the limitations set forth in Section 24 hereof.

LENDER requests that it be provided with copies of all notices mailed to LANDOWNER pursuant to the terms of this Agreement and that said copies be addressed as follows:

N/A

Attn: _____

Dated: N/A

LENDER:

N/A

By: _____
Its: _____

(ATTACH APPROPRIATE ACKNOWLEDGMENT)

FOR CITY CLERK USE ONLY

CITY AGREEMENT NO. _____

ORDINANCE NO. 2001-004

DATE ADOPTED: FEB 13 2001

EXHIBIT A

**DESCRIPTION OF LANDOWNER'S
PROPERTY**

SEE ATTACHED

NOTE: UPON RECORDATION OF FINAL MASTER PARCEL MAP,
THIS EXHIBIT A WILL BE REPLACED BY THE SAID MAP,
WITHOUT NEED FOR AMENDMENT OF THIS AGREEMENT.

EXHIBIT A

Order No. 27588



First American Title Company

1610 Arden Way, Suite 190

Sacramento, CA 95815

Ph: (916) 920-3100

PRELIMINARY REPORT

Title Officer: Mike Hudson
Escrow Officer: Lisa Blasquez
Escrow No.: 907889
Loan No.:

Owner: The Cambay Group Inc.
Buyer:

Property Address: No Site Address, Sacramento, CA 95834

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception below or not excluded from coverage pursuant to the printed schedules, conditions and stipulations of the policy forms.

The printed exceptions and exclusions from the coverage of the policy or policies are set forth in Exhibit A attached. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a binder or commitment should be requested.

Dated as of June 15, 2000 at 7:30 A.M.

ORDINANCE NO. 2001-004

FEB 13 2001

The form of policy of title insurance contemplated by this report is:

ALTA Owner's Policy (10-17-92) with Regional Exceptions (Standard Coverage)

Title to the estate or interest at the date hereof is vested in:

The Cambay Group, Inc., a California Corporation

The estate or interest in the land hereinafter described or referred to covered by this report is:

A fee

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in the policy form would be as follows:

1. General and special taxes for the fiscal year 2000-2001, a lien not yet due or payable.
2. The lien of supplemental taxes assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
3. Any unpaid amounts now owing for utilities, of record or not, due the City or County of Sacramento. Amounts may be ascertained by contacting the City of Sacramento at (916) 264-5454, the County of Sacramento at (916) 875-5555, the City of Folsom at (916) 355-7200, or the City of Galt at (209) 745-2961.
4. Special assessment for the North Natomas Drainage Community Facilities District in accordance with the Mello Roos Community Facilities Act of 1982. Said assessment is collected with the county taxes.
5. Any assessments against the land herein described and its proportion of any general outstanding indebtedness of Reclamation District No. 1000.
6. Rights of the public and/or Reclamation District No. 1000 in and to highways, roads, ditches, canals and levees embraced within the boundaries of said land.
7. Any easements as shown on the map of Natomas Central Subdivision filed for record September 18, 1920, in book 16 of Maps, at page 3.

Any and all offers of dedication, conditions, restrictions, notes and/or provisions, or any fencelines or other boundary discrepancies which may be shown on or delineated by the plat of Natomas Central Subdivision filed for record September 18, 1920, in book 16 of Maps, at page 3.

8. An easement for ditches and canals and incidental purposes, recorded in book 589, page 184 of Deeds.

Granted to : Natomas Central Mutual Water Company, a corporation.
Affects : Record reference is hereby made for full particulars.

9. An easement for drainage canal and private road and incidental purposes, recorded in book 76, page 388 of Official Records.

Granted to : Reclamation District No. 1000.
Affects : Reference to said document for full particulars.

ORDINANCE NO. 2001-004

FEB 13 2001

9. An easement for drainage canal and private road and incidental purposes, recorded in book 76, page 388 of Official Records.

Granted to : Reclamation District No. 1000.

Affects : Reference to said document for full particulars.

10. An easement for highways and incidental purposes, recorded in book 264, page 379 of Official Records.

Granted to : County of Sacramento.

Affects : Reference to said document for full particulars.

11. An easement for highways and incidental purposes, recorded in book 264, page 389 of Official Records.

Granted to : County of Sacramento.

Affects : Reference to said document for full particulars.

12. Abutter's rights of ingress and egress to or from the freeway adjoining said land, said right having been relinquished in the document recorded July 25, 1968 in book 6807-25, page 679 of Official Records.

13. An easement for irrigation and incidental purposes, recorded July 25, 1968 in book 6807-25, page 679 of Official Records.

Affects : Reference to said document for full particulars.

14. An oil and gas lease executed by Phillip H. Moore and Kathleen Moore, his wife; Dwight R. Moore; Dwight R. Moore, as the Trustee of the Estate of Adele J. Moore, deceased, as lessor and Nahama & Weagant, Inc. as lessee, recorded May 17, 1974 in book 7405-17, page 604 of Official Records.

The lessee's interest under the lease has been assigned to Atlantic Oil Company, a California Corporation by assignment recorded February 21, 1975 in book 7502-21, page 579 of Official Records.

THE ABOVE AS TO 75 PERCENT

A reassignment of the lessee's interest in said land

Executed by : Nahama & Weagant, Inc., a California Corporation, to Atlantic Oil Company, a California Corporation and the Newhall Land and Farming Company, a Delaware Corporation

Recorded : December 12, 1977, book 7712-12, page 1052, Official Records

15. The terms and provisions contained in the document entitled "Water Company Stock Certificate", executed by and between Natomas Central Mutual Water Company and Marvin L. Oates, recorded December 5, 1994 in book 9412-5, page 0674 of Official Records.

The terms and provisions contained in the document entitled "Water Company Stock Certificate", executed by and between Natomas Central Mutual Water Company and Sanwa Bank of California, recorded December 5, 1994 in book 9412-5, page 0675 of Official Records.

The terms and provisions contained in the document entitled "Water Company Stock Certificate", executed by and between Natomas Central Mutual Water Company and Cambay Group, Inc., recorded April 8, 1998 in book 9804-08, page 1492 of Official Records.

16. The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for Community Facilities District No. 97-01, as disclosed by Notice of Special Tax Lien recorded June 24, 1997 in book 9706-24, page 0824 of Official Records.

ORDINANCE NO. 2001-004

17. A deed of trust to secure an original indebtedness of \$3,800,000.00, and any other amounts or obligations secured thereby, recorded October 21, 1998 in book 9810-21, page 1188 of Official Records.

Dated : October 16, 1998
 Trustor : The Cambay Group, Inc., a California Corporation
 Trustee : First American Title Insurance Company, a California Corporation
 Beneficiary : Mary Moore Henry de Tesson, Trustee of the Mary Moore Henry de Tesson Trust dated November 12, 1986, as to an undivided 1/4 interest of an undivided 1/2 interest; Sandra A. Moore-Berrey, an unmarried woman, as her sole and separate property, as to an undivided 1/4 interest of an undivided 1/2 interest; Christine Moore O'Gara, a married woman, as her sole and separate property, as to an undivided 1/4 interest of an undivided 1/2 interest; John G. Moore, as his sole and separate property, as to an undivided 1/4 interest of an undivided 1/2 interest; Peggy Moore Willumson, a married woman, as her sole and separate property, as to an undivided 1/6 interest of an undivided 1/4 interest; Kathryn Moore Ridley, a married woman, as her sole and separate property, as to an undivided 2/6 interest of an undivided 1/4 interest; Jean Marie Moore also known as Jeanne-Marie Moore, a married woman, as her sole and separate property, as to an undivided 2/6 interest of an undivided 1/4 interest; Michael J. Moore, a single man, as to an undivided 1/6 interest of an undivided 1/4 interest; Karl W. Dolk, Trustee of The Irma Carmen Moore Trust, as to an undivided 1/4 interest

18. The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for North Natomas Community Facilities District No. 3, as disclosed by Notice of Special Tax Lien recorded November 17, 1998 in book 9811-17, page 0767 of Official Records.

19. The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for North Natomas Basin 8C Community Facilities District No. 99-04, as disclosed by Notice of Special Tax Lien recorded July 13, 1999 in book 9907-13, page 0905 of Official Records.

20. The lien of special tax assessed pursuant to Chapter 2.5 commencing with Section 53311 of the California Government Code for North Natomas Transportation Management Association Community Facilities District No. 99-01, as disclosed by Notice of Special Tax Lien recorded July 22, 1999 in book 9907-22, page 0398 of Official Records.

A document declaring modifications thereof recorded August 4, 1999 in book 9908-04, page 0643 of Official Records.

21. Water rights, claims or title to water, whether or not shown by the public records.

22. Rights of parties in possession.

23. Evidence must be provided that there are no commitment statements in effect under civil code section 850 et seq. with respect to the property.

In order to remove this statement, the landowner will need to provide us with an affidavit stating that they are not aware of any release reports or commitment statements which have been issued under this statute with respect to the property.

*** END OF EXCEPTIONS ***

ORDINANCE NO. 2001-004

DESCRIPTION

That certain property situated in the State of California, County of Sacramento, City of Sacramento, described as follows:

PARCEL 1:

All that portion of Lots 44, 45 and 46 of Natomas Central Subdivision, according to the official plat thereof, filed in the office of the Recorder of Sacramento County, California, on September 18, 1920 in Book 16 of Maps, Map No. 3, lying Southerly of the Southerly boundary of Parcel 7A and Parcel 7C, as said parcels are described in the Final Order of Condemnation, entered July 25, 1968, in Action No. 166413 of the Superior Court of the State of California, in and for the County of Sacramento, entitled: The People of the State of California, Acting By and Through the Department of Public Works, Plaintiff, vs. Frank V. Frates, et al, Defendants, a certified copy of which was recorded July 25, 1968, in Book 6807-25 of Official Records, Page 679.

PARCEL 2:

All that portion of Lot 48 of Natomas Central Subdivision according to the official plat thereof, filed in the office of the Recorder of Sacramento County, California, on September 18, 1920 in Book 16 of Maps, Map No. 3, lying Southwesterly of the Southwesterly boundary of Parcel 7A and Parcel 7C, as said parcels are described in the Final Order of Condemnation entered July 25, 1968, in Action No. 166413 of the Superior Court of the State of California, in and for the County of Sacramento, entitled: The People of the State of California, Acting By and Through the Department of Public Works, Plaintiff vs. Frank V. Frates, et al, Defendants, a certified copy of which was recorded July 25, 1968, in Book 6807-25 of Official Records, Page 679.

ORDINANCE NO. 2001-004

FEB 13 2001

INFORMATIONAL NOTES

The following is supplied for informational purposes only:

1. Short term rate: Yes

2. The herein described property lies within the Sacramento City limits and is subject to an additional real property transfer tax in the amount of .00275 percent of the sales price pursuant to City Ordinance #4101 dated June 29, 1978.

3. Taxes for proration for the fiscal year 1999-2000

First half : \$1,571.27, paid.

Second half : \$1,571.27, paid.

Code Area : 03-101

A.P.No. : 225-0070-028-0000

Supplemental Taxes for proration for the fiscal year 1999-2000

First half : \$476.07, paid.

Second half : \$476.07, paid.

Code Area : 03-101

A.P.No. : 225-0070-028-0000

4. Taxes for proration for the fiscal year 1999-2000

First half : \$17,778.04, paid.

Second half : \$17,778.04, paid.

Code Area : 03-325

A.P.No. : 225-0080-030-0000

Supplemental Taxes for proration for the fiscal year 1999-2000

First half : \$5,583.31, paid.

Second half : \$5,583.30, paid.

Code Area : 03-325

A.P.No. : 225-0080-030-0000

5. Taxes for proration for the fiscal year 1999-2000

First half : \$18,307.99, paid.

Second half : \$18,307.99, paid.

Code Area : 03-325

A.P.No. : 225-0080-031-0000

Supplemental Taxes for proration for the fiscal year 1999-2000

First half : \$5,748.21, paid.

Second half : \$5,748.20, paid.

Code Area : 03-325

A.P.No. : 225-0080-031-0000

6. Taxes for proration for the fiscal year 1999-2000

First half : \$11,925.72, paid.

Second half : \$11,925.72, paid.

Code Area : 03-325

A.P.No. : 225-0080-032-0000

ORDINANCE NO. 2001-004

Supplemental Taxes for proration for the fiscal year 1999-2000

First half : \$3,829.04, paid.
 Second half : \$3,829.04, paid.
 Code Area : 03-325
 A.P.No. : 225-0080-032-0000

7. According to the public records, there have been no deeds conveying the land described herein within a period of 24 months prior to the date of this report, except as follows:

A deed recorded October 21, 1998 in book 9810-21, page 1187 of Official Records.

Executed by : Mary Moore Henry de Tessan (formerly known as Mary M. Moore), Trustee of the Mary Moore Henry de Tessan Trust dated November 12, 1986 (formerly called the Mary M. Moore Trust); Sandra A. Moore-Berrey, an unmarried woman, as her sole and separate property; Christine Moore O'Gara, also known as Christine M. O'Gara, a married woman, as her sole and separate property; John G. Moore, as his sole and separate property; Peggy Moore Willumson, a married woman, as her sole and separate property; Kathryn Moore Ridley, a married woman, as her sole and separate property; Jean Marie Moore also known as Jeanne-Marie Moore, a married woman, as her sole and separate property; Michael J. Moore, a single man; Karl W. Dolk, Successor Trustee of The Dwight R. Moore Revocable Trust 1990 (such having become irrevocable as a result of the death of Dwight R. Moore on May 31, 1991) which trust is now known as The Irma Carmen Moore Trust

To : The Cambay Group, Inc., a California Corporation

RC/sg

* * * END OF NOTES * * *

ORDINANCE NO. 2001-004

WARNING

The map or maps attached hereto may or may not be a survey of the land depicted thereon. You should not rely upon it for any purpose other than orientation to the general location of the parcel or parcels depicted. First American expressly disclaims any liability for loss or damage which may result from reliance upon these map(s) except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which the map(s) is attached.

June 22, 2000

ORDINANCE NO. 2001-004

FEB 13 2001

NOTICE

In accordance with Sections 18662 and 18668 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to three and one-third percent of the sales price in the case of the disposition of California real property interest by either:

1. A seller who is an individual with a last known street address outside of California or when the disbursement instructions authorize the proceeds be sent to a financial intermediary of the seller, OR
2. A corporate seller which has no permanent place of business in California.

The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500).

However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

1. The sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000), OR
2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a resident of California, or if a corporation, has a permanent place of business in California, OR
3. The seller, who is an individual, executes a written certificate, under the penalty of perjury, that the California real property being conveyed is the seller's principal residence (as defined in Section 1034 of the Internal Revenue Code).

The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

The California statutes referenced above include provisions which authorize the Franchise Tax Board to grant reduced withholding and waivers from withholding on a case-by-case basis.

The parties to this transaction should seek an attorney's, accountant's, or other tax specialist's opinion concerning the effect of this law on this transaction and should not act on any statements made or omitted by the escrow or closing officer.

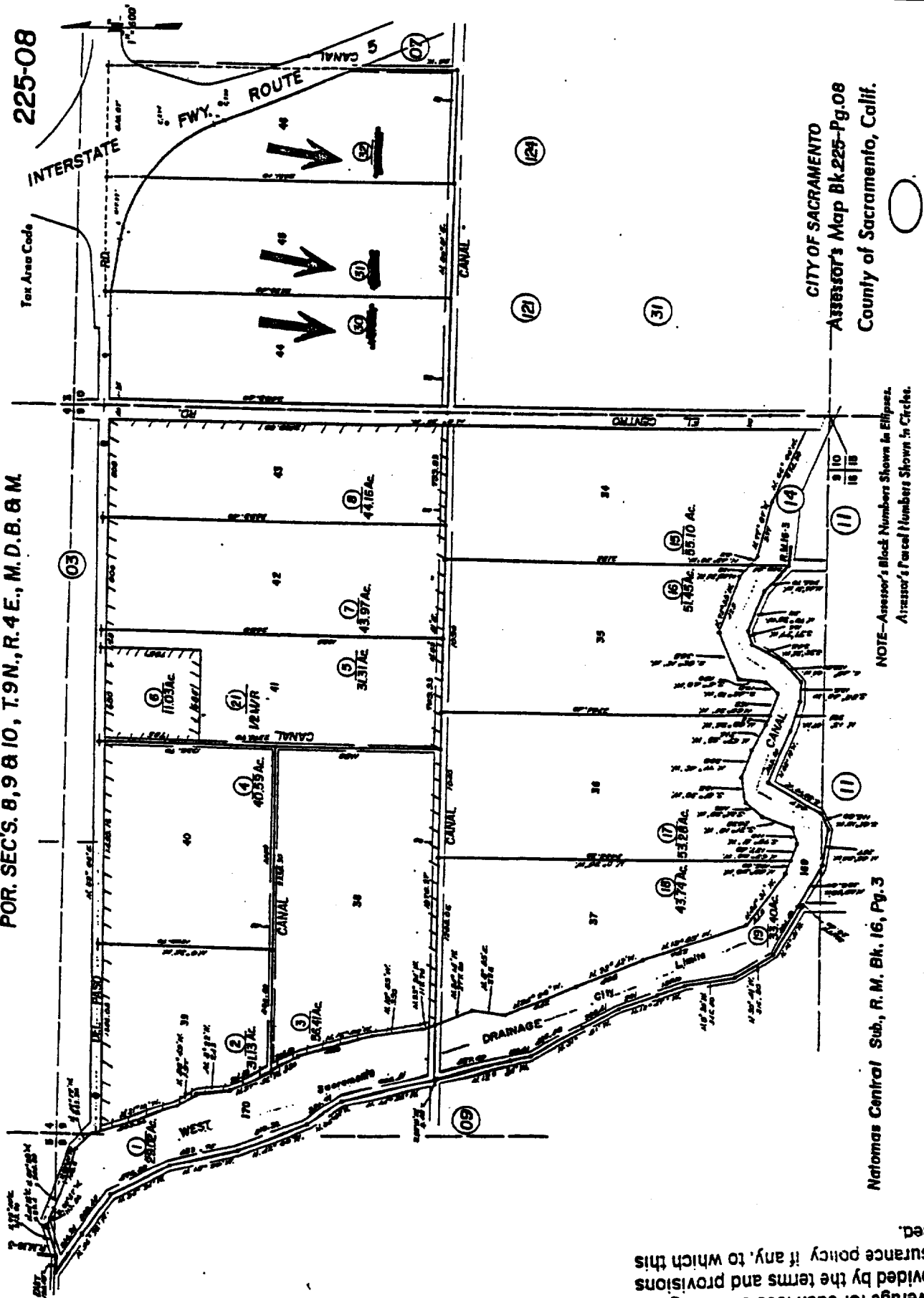
Form No. 4001 (3/92)

ORDINANCE NO. 2001-004

FEB 13 2001

POR. SEC'S. 8, 9 & 10, T.9N., R.4E., M.D.B. & M.

225-08



NOTE—Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Natomas Central Sub., R. M. Bk. 16, Pg. 3

ORDINANCE NO. 2001-004

FEB 13 2001

This map may or may not be a survey of land depicted hereon. First American expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy if any, to which this map is attached.

POR. SEC'S. 10 & 11, T.9N., R.4E., M.D.B. & M.

225-07

Tax Area Code

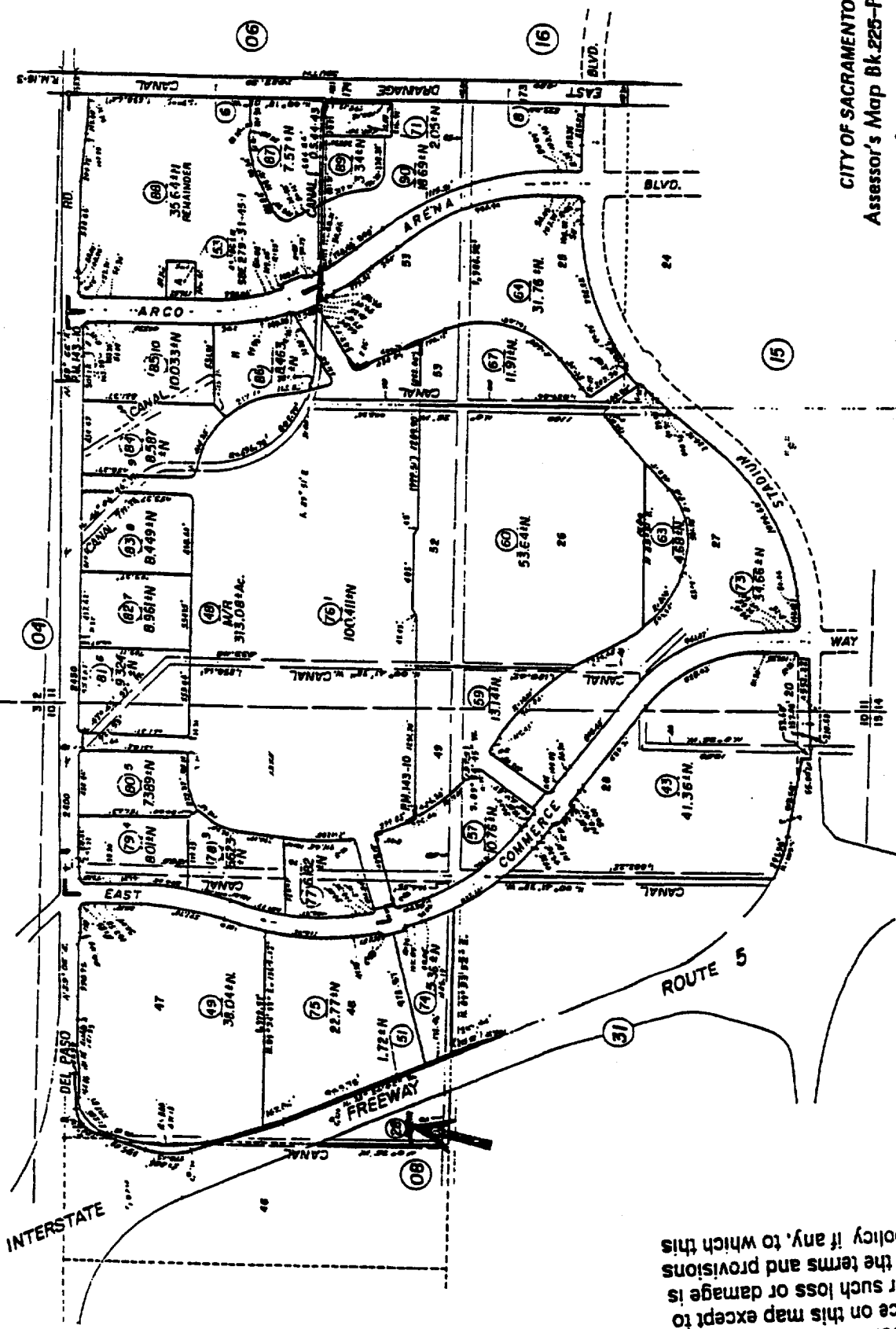


EXHIBIT B

LANDOWNER'S DEVELOPMENT PLAN

SEE ATTACHED

EXHIBIT "B"
LAND OWNER'S DEVELOPMENT PLAN

| Land Use Summary | | |
|----------------------------------|------------|----------|
| Use | Gross Area | Net Area |
| HIGH DENSITY RESIDENTIAL | 16.1 Acres | 16.0 |
| MEDIUM DENSITY RESIDENTIAL | 1.6 | 1.6 |
| LOW DENSITY RESIDENTIAL | 41.5 | 50.3 |
| EC 65 | 1.9 | 6.0 |
| EC 48 | 18.3 | 11.4 |
| PARK | 6.4 | 9.3 |
| OPEN SPACE (LOT 1) | 6.3 | 6.3 |
| CALTRANS ROW ACQUISITION (LOT 1) | 1.3 | 1.3 |
| PANHANDLE OPEN SPACE (LOT 2) | 6.1 | 6.1 |
| OPEN SPACE/RAILWAY (LOT 3) | N/A | 6.1 |
| OPEN SPACE (LOT 4 & 5) | N/A | 3.3 |
| PUTTING GREEN, BOWLING, ROW | 4.1 | 4.1 |
| INTERIOR SUBDIVISION ROADS | N/A | 18.3 |
| TOTAL ACRES | 189.4 | 189.4 |

Quimby Park Requirement

PARK ACRES PROVIDED BY THIS PLAN:
NEIGHBORHOOD PARK:
PARQUAY OPEN SPACE:
TOTAL ACRES OF PARK PROVIDED:
TOTAL ACRES REQUIRED:

2000 OPEN SPACE (WALKING CONTOUR)
 40% OF THE SITE MEETS THE REQUIREMENT
 30% OR 61 LOTS, DO NOT AND ARE
 SHADDED AS SHOWN AT LEFT.

HOWEVER, A VAST MAJORITY OF THE LOTS
 (LOTS C 4 D AND MORE (LOTS E 4 G) ARE
 USED PLOT NEARLY ENTIRELY WITHIN THE
 2000 FOOT WALKING CONTOUR AND THEREFORE
 THE SITE MEETS OR EXCEEDS THE 2000
 FOOT WALKING REQUIREMENT.

225-0070-575
Allergany Properties Inc.

225-0070-048
Adequacy Properties Inc.

LOT 1 (15 AC)

07 AC NET

2

1

10

10

—

—

72

— • —

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INTERSTATE 6

EC 40

MDR
class 2

PARK
(LOT F)

1

ROAD

—

ORDINANCE NO. 2001-004

FEB 13 2001

25-0080-015
 Sakopoulos
 Emily Trust

2 T F

1

EXHIBIT C

SPECIAL CONDITIONS

I. PURPOSE AND INTENT

The definitions applicable to the body of the Agreement shall apply to this Exhibit C.

In order to achieve its objectives, and in order to obtain from each LANDOWNER and developer, all required contributions, fees, land transfers, agreements, and other mechanisms required to implement its terms, the NNCP provides that all rezoning and development shall occur through the planned unit development process. Development agreements should be entered into with LANDOWNERS whenever feasible under the circumstances.

Under no circumstances can development of the Property proceed without satisfaction of the conditions specified in this exhibit. These Special Conditions shall constitute binding and legally enforceable obligations of LANDOWNER and its successors and assigns, and binding and legally enforceable requirements and conditions for the development of the Property, in addition to other obligations, requirements and conditions imposed during the rezoning, special permit, subdivision map and other land use entitlement processes.

II. LANDOWNERS' OBLIGATIONS

A. Mitigation Monitoring; Habitat Conservation Plan.

1. **Mitigation Monitoring.** When required in order to obtain entitlements, LANDOWNER shall execute a mitigation monitoring agreement, and such other agreements as may be necessary in CITY's judgment in order to implement any mitigation measure relating to the NNCP and any mitigation monitoring plans applicable to the Property, and shall fully cooperate with CITY in implementing any mitigation monitoring plan adopted as part of the approval process for development of the Property.

2. Habitat Conservation Plan.

a. In the event that a Habitat Conservation Plan has been adopted by CITY, LANDOWNER shall be obligated to undertake and exercise one of the following options:

(i) participate in that Plan by payment of the fees applicable to LANDOWNER and/or the Property or provide required proportionate land dedications, at the time specified in the Plan for payment of fees or dedication of required proportionate lands; or

(ii) obtain and present to CITY a duly issued, executed and effective incidental take permit issued by federal and state agencies charged with implementation of the provisions of federal and state Endangered Species Acts, which would allow development of the Property; or

(iii) obtain and present to CITY a duly issued, executed, and effective form of document from said federal and state agencies that development of the Property may proceed without the need for an incidental take permit; or

(iv) participate in such other plan or program which has been approved by said federal and state agencies; or

(v) take any other action required by CITY in its sole discretion, relating to satisfaction of all applicable laws, including but not limited to CEQA and the federal and state Endangered Species Acts, where none of the provisions of subsections (i), (ii), (iii) or (iv) are applicable.

b. In the event that at the time of issuance of a building permit for the Property, CITY has not adopted a Habitat Conservation Plan, and subject to the provisions of subsection "a" above, LANDOWNER shall as a condition to issuance of such building permit pay the sum of \$2,240.00* per acre of the Property subject to the building permit; the requirement specified in this subsection b. shall be included in each entitlement issued with respect to the Property where, at the time of issuance, CITY has not adopted a Habitat Conservation Plan. In the event that CITY determines, in its sole and exclusive discretion, that such a Plan is not required and the fees required by this subsection b. have been paid, CITY shall within a reasonable time of making such determination refund any fees paid by LANDOWNER pursuant to this subsection b. The provisions of Government Code Section 66000 through 66025, as those sections are amended, renumbered or reconstituted, shall not apply to the fees covered by this subsection b.

B. Agreements With Other Agencies. As required by CITY, LANDOWNER shall enter into agreements with other affected agencies, including but not limited to:

1. Appropriate sanitation districts, including but not limited to Sacramento County Regional Sanitation District, for provision of facilities, payment of fees and charges, and payment (if applicable) of any proportionate share of penalties imposed by the Environmental Protection Agency; and

* To be determined by the City Council. No building permit shall issue until such amount is determined and the City Council has implemented the fees required by this subsection b., and such fees have been paid.

2. Reclamation District 1000, if in CITY's sole and exclusive discretion and judgment such an agreement is in fact required, or any other agreement which is required in CITY's sole and exclusive discretion and judgment for the implementation of Interim Drainage or the Drainage Plan.

C. **Drainage Sub-basin Agreement.** LANDOWNER shall enter into an agreement with each of the other landowners within the Drainage Sub-basin within which the Property lies, which provides the manner in which the Infrastructure required for development of all of the lands within said Drainage Sub-basin shall be constructed and financed. As an alternative form of compliance with this provision, LANDOWNER may enter into an agreement with CITY, satisfactory to the City Attorney, which provides that LANDOWNER shall finance all costs associated with the Infrastructure required for development of all of the undeveloped lands within said Drainage Sub-basin. Any such agreement shall additionally provide for reimbursement in accordance with the terms of this Agreement, and the North Natomas Finance Plan, for LANDOWNER's payment of Infrastructure costs in excess of or beyond those required for development of the Property, as that term is defined in Section 8 of this Agreement. As a further alternative, CITY may impose a Drainage Sub-basin assessment district for purposes of financing the required Infrastructure. The provisions of section 6.D. of this Agreement shall apply in such a case.

III. CONDITIONS OF DEVELOPMENT; SPECIAL FINDINGS REQUIRED

A. In addition to other findings and conditions as may be deemed applicable, no special permit, subdivision map or other land use entitlement for the Property shall be approved unless the approving body either: (1) makes the following findings; or (2) expressly waives such findings, in whole or in part, as not applicable to the Property and stating the reasons therefor with such waiver and the reasons therefor appear in the record or document of approval. These findings are:

1. The approval of the proposed project is consistent with the policies, goals, standards and objectives of the NNCP and other relevant factors and circumstances, including but not limited to:

a. The adequacy of the required interim and permanent Infrastructure needed to support the project planned for the Property;

b. The extent of participation required of LANDOWNER under the North Natomas Finance Plan has been secured;

c. The extent to which LANDOWNER has complied with the provisions of the NNLAP.

2. The North Natomas Finance Plan has been adopted by the City Council.

3. All transfers of land, owned by or under the control of LANDOWNER, which are specified in the>NNLAP as being necessary for public purposes, have been transferred to CITY or to the appropriate public agency. For this purpose, a transfer will be deemed to occur upon delivery to CITY of an Irrevocable Offer of Dedication in form and manner approved by the City Department of Public Works and the City Attorney. These dedications include, but are not limited to streets, utilities, drainage facilities and public transit.

4. LANDOWNER has, where applicable, demonstrated that the proposed project as designed meets or exceeds the jobs to housing ratio of the NNCP, either actually or through the medium of the Housing Trust Fund, or through assisting housing starts in North Sacramento, or a combination thereof.

5. LANDOWNER has entered into all agreements required pursuant to sections II.A., II.B. and II.C. above.

6. Appropriate environmental review of the proposed project has been completed, and any suggested mitigation measures resulting therefrom have been included in the approval of the project to the extent feasible.

B. In the event that any of the special findings required herein cannot be made and are not waived, approval may nevertheless be given to the proposed project if all of the following conditions can be satisfied with respect to each such special finding not made:

1. Practicable and feasible requirements or mitigation measures can be imposed upon the project, the implementation of which would allow such special finding to be made;

2. The applicant has agreed to be bound (through written agreement satisfactory to the City Attorney) by and to implement such requirements or mitigation measures, and has posted such security for compliance therewith as may be required by the City Manager; and

3. It is in the public interest and consistent with the policies, goals, standards and objectives of the Community Plan for the project to be approved with such requirements and mitigation measures.

EXHIBIT D

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (herein "this Agreement") is entered into this _____ day of _____, 19____, by and between _____ (herein "LANDOWNER") and _____ (herein "ASSIGNEE").

RECITALS

A. LANDOWNER has entered into a Development Agreement (herein "the Development Agreement") dated _____, with the City of Sacramento, pursuant to which LANDOWNER agreed to develop certain property more particularly described in the Development Agreement (herein "the Property") in the North Natomas Community Plan Area subject to certain conditions and obligations set forth in the Development Agreement.

B. LANDOWNER has assigned its interests under the Development Agreement to ASSIGNEE under a written agreement dated _____, as to that portion of the Property identified and incorporated herein by this reference (herein the "Assigned Parcel(s)").

C. ASSIGNEE desires to assume all of LANDOWNER's rights and obligations and other terms and conditions under the Development Agreement with respect to the Assigned Parcel(s).

AGREEMENTS

NOW, THEREFORE, LANDOWNER AND ASSIGNEE HEREBY AGREE AS FOLLOWS:

1. ASSIGNEE hereby assumes all of the burdens and obligations of LANDOWNER under the Development Agreement, and agrees to observe and fully perform all of the duties and obligations of LANDOWNER under the Development Agreement, and to be subject to all of the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both LANDOWNER and ASSIGNEE that, upon the execution of this Agreement, ASSIGNEE shall become substituted for LANDOWNER as the "LANDOWNER" under the Development Agreement with respect to the Assigned Parcel(s).

2. ASSIGNEE understands and agrees that this Agreement is subject to Section 4 of the Development Agreement. Section 4 reads as follows:

4. Assignment. LANDOWNER shall have the right to sell, assign, or transfer its interests under this Agreement as part of a contemporaneous and related sale, assignment or transfer of its interests in the Property, or any portion thereof, without the consent of CITY; provided, however, that LANDOWNER shall notify CITY of such sale, assignment or transfer by providing written notice thereof to CITY in the manner provided in this Agreement. LANDOWNER shall remain obligated to perform all terms and conditions of this Agreement, unless such purchaser, assignee or transferee, to the satisfaction of and in a form acceptable to the City Attorney, executes and delivers to CITY an express agreement to assume all of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred. The execution of such an assumption agreement shall relieve LANDOWNER of the obligations expressly assumed only if: (a) LANDOWNER is not in default under this Agreement at the time of the assignment or transfer; and (b) LANDOWNER has provided CITY with notice of said assignment or transfer in the manner provided hereunder. Any such assumption agreement with respect to LANDOWNER's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assignment and Assumption Agreement attached hereto as Exhibit "D" and incorporated herein by this reference, or such other form as shall be proposed by LANDOWNER and approved by the City Attorney prior to the effective date of the assignment.

Any purchaser, assignee, or transferee shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, only with respect to the Property, or such portion thereof, sold, assigned, or transferred to it. Any such purchaser, assignee, or transferee shall observe and fully perform all of the duties and obligations of LANDOWNER under this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred.

3. At the request of the City, ASSIGNEE agrees to enter into a separate development agreement with respect to the Assigned Parcel(s).

4. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, successors and assigns.

5. ASSIGNEE agrees that it has read, and has sought and received all required legal and other expert consultation with regard to the Development Agreement, and fully understands all of its terms and conditions. ASSIGNEE further agrees that: (i) LANDOWNER has furnished ASSIGNEE with a copy of the North Natomas Community Plan, the Comprehensive Drainage

Plan, the North Natomas Finance Plan, the RD-1000 Agreement (where applicable), the Habitat Conservation Plan, and all other documents and materials containing or relating to terms and conditions of development in the NNCP area; (ii) ASSIGNEE has read and understands all of the terms and conditions of said documents and materials; and (iii) with such knowledge and understanding, which includes the nature and extent of the fees, taxes, assessments and other financial mechanisms and obligations inherent in such documents and materials, nevertheless has voluntarily, freely and knowingly assumed and agreed to perform all of obligations and requirements, and be bound by all of the provisions of such documents and materials.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

By: _____
"ASSIGNEE"

EXHIBIT E

**NORTH NATOMAS LAND
ACQUISITION PROGRAM
(NNLAP)**

SEE ATTACHED

EXHIBIT E

North Natomas Financing Plan Update
August 17, 1999

V. LAND ACQUISITION PROGRAM

INTRODUCTION

Development of the North Natomas Finance Plan Area will require a significant amount of land for public uses including: open space, drainage system, roadways, interchanges, transit facilities, parks, civic facilities, schools and buffers to other land uses. Much of the land is provided through normal land dedication in the land development process. However, the quantity of land in North Natomas for public use is unusual due to the large area being planned for development and the amount of land required for mitigation of various development impacts. The City adopted the North Natomas Land Acquisition Program on October 31, 1995 - Ordinance 95-059.

The purpose of the Land Acquisition Program discussed in this section is twofold:

- 1) to insure that public use lands are available to the City to construct infrastructure and facilities on a timely basis as established by the City; and
- 2) to maintain equity among landowners for land provided above and beyond standard dedications. The discussion that follows recognizes the difference between each purpose and describes how each purpose is satisfied by the North Natomas Land Acquisition Program (NNLAP).

The City requires that land for all critical facilities be dedicated or acquired as early in the process as possible to avoid land assembly problems at the time of construction and increased costs due to condemnation proceedings. The types of land included are described in a subsequent section of this chapter.

Property owners are concerned that they might be required to provide more than their fair share of land for public use. If they are required to provide extra land, they should receive reasonable payment for the value of land provided in excess of their fair share. The fair-share is defined as the average amount of public land required per acre of developable land for the entire North Natomas Finance Plan Area. Property owners providing land in excess of this average would be exceeding their fair share. Property owners without any developable land may receive special consideration in return for dedication.

To ensure that all participating landowners are treated equitably in the amount of land that is provided for public use, the City will acquire land above the average amount of public land using revenue from the Land Acquisition Fee included in the NNLAP. A landowner providing more land than the average allocation of public land would be reimbursed from fee revenue when available. Landowners providing less than the average amount of land will pay a net fee at building permit. The net fee per unit or acre for each development project will be based on the amount of acreage provided below the average.

EXHIBIT E

ORDINANCE NO. 2001-004
FEB 13 2001

The per unit or per net acre fee will be self adjusting over time based on the increase in the average values of acquired land. In addition, the fee will contain an administration factor of approximately 2.5 percent (or actual cost when known) to pay for the City's time and expense in acquiring the land and monitoring the program plus a 5 percent contingency for the cost of acquiring land through condemnation proceedings and to assure the program is covering the acquisition costs.

REVISION IN FEE CALCULATION METHODOLOGY

The 1999 Financing Plan contains a revision to the method by which the Land Acquisition Fee for public facilities and the regional park is calculated. In the previous Financing Plan, the Land Acquisition Fee was calculated on a per gross developable acre basis. When master parcels were broken into smaller parcels for development it became difficult to track gross developable acres. As a result, the fee calculation proved very difficult for City staff and developers to calculate without considerable effort. To alleviate this problem in the future, the fee calculation methodology has been changed to be calculated on a per net acre or per residential unit by lot size. Conversion to this revised method of fee calculation will benefit all participants in the>NNLAP.

PARTICIPANTS VERSUS NON-PARTICIPANTS

Property owners will participate in the program through the development agreement, tentative map and master parcel map process. Participation will be a condition of every development agreement or as a condition on a tentative map, if a development agreement were not utilized. Property owners not developing their property would not be required to participate.

Those electing not to participate in the>NNLAP would have land acquired by standard City procedures. Land would be acquired from non-participants through condemnation proceedings or purchase agreements whereby the non-participant would receive payment for the acquired land. To the extent that this value is above the estimated land value per acre, the Land Acquisition Fee contains a contingency to cover this potential expense. If sufficient fee revenues were not available, the property owner whose development triggers the acquisition would advance the funds and be reimbursed from future fee revenues.

Special consideration is necessary for property owners submitting development applications who previously had property included in the>NNLAP acquired through condemnation or purchase agreements. The difference between the purchase price and the Public Land Acquisition Value (defined in the Land Acquisition Fee section) established for the current year would be determined. If the property owner were to receive a reimbursement from the Land Acquisition Program, the reimbursement would be reduced by the excess amount. If the property owner owed a Land Acquisition Fee, the fee would be increased by the excess amount. In addition, all City costs required to handle the initial purchase would be charged to the property owner. Issues regarding land acquisition and participation in the Land Acquisition Program would be resolved as part of the development approval process.

PUBLIC LAND ACQUIRED THROUGH THE>NNLAP

Lands included in the>NNLAP are considered to be of general benefit to all developable land uses within North Natomas. As such, the cost of acquiring these lands is allocated to all private developable land uses. Figure V-1 shows a map of the public land to be acquired through the>NNLAP with the exception of off-street bike trails and drainage easements. Acreage for the public land, acquisition cost per acre, and the total acquisition cost are shown in Figure V-2. The acquisition cost per acre is based on the November 1998 update of the North Natomas Valuation Study completed by Tom Clark.

The types of land acquired by the program are described as either Public Land or Regional Park Land, as defined below. As such, the Land Acquisition Fee consists of both the Public Facilities Land Acquisition Fee and the Regional Park Land Acquisition Fee. The City will maintain the map showing all land to be acquired through the>NNLAP.

"Public land" means the property acquired through this program for public facilities for the North Natomas Financing Plan Area, excluding the Regional Park Land, under the North Natomas Land Acquisition Program. All Public Land is required as a condition of allowing development to proceed in the area in order to facilitate the installation of infrastructure and other public facilities required to meet the needs and address the impacts caused by such development. All Public Land is to be dedicated, transferred to, or acquired by the City without cost to the City. The following paragraphs describe the Public Land included in the>NNLAP.

Freeway and Agricultural Buffers

Open space and land buffers are required throughout the area along the I-5 and I-80 freeways, as habitat buffers along Fisherman's Lake, as a buffer to agricultural land along the south side of Elkhorn Boulevard and open space along the western City limits. The nature of these buffers and open space are considered beyond "normal" dedications of development setbacks.

Civic Lands

Civic lands include two fire stations, a library, a police substation, three of the four community centers, and other cultural and entertainment uses. Civic lands also include civic utilities such as pump station sites, but do not include private utilities such as SMUD, PG&E, or Comcast Cable which will be purchased by the private user via a negotiated purchase price. Acreage estimates are shown in Figure F-1.

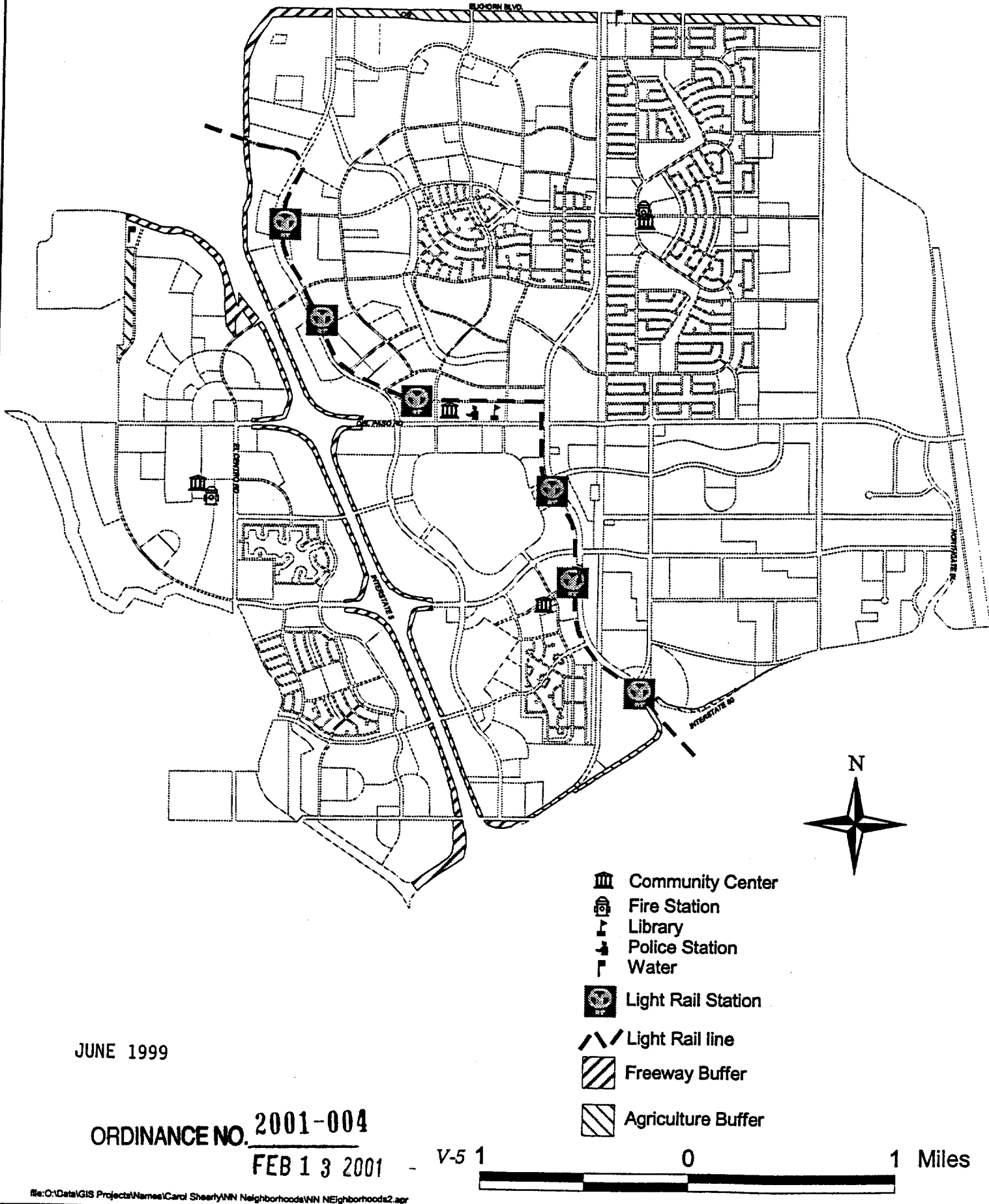
Light Rail Right-of-Way

Approximately 19.4 acres of right-of-way are required for the light rail alignment that is not included as part of the road right-of-way. Approximately 2.9 acres lie within the regional park. An additional 1.65 acres is required for LRT stations. The acreage estimates for light rail and off-street bikeways are shown in Figure F-2.

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Figure V-1

Public Land Acquisition



**Figure V-2
North Natomas Financing Plan Update 1999
Estimated Public Land Acquisition Cost**

| Public Facilities Land Acquisition Category | Acreage Calculations | Acreage | Acquisition Cost / Acre | Total Acquisition Cost |
|--|---------------------------|----------------|-------------------------|------------------------|
| Public Lands | Appendices B and F | | (1) | |
| | | | \$71,845 | |
| Freeway Interchange and Overcrossings | Figure B-4 | 39.4 | \$71,845 | \$2,832,202 |
| Freeway Buffer | Figure F-1 | 122.7 | \$71,845 | \$8,811,789 |
| Agricultural Buffer | Figure F-1 | 105.2 | \$71,845 | \$7,555,939 |
| Open Space | Figure F-1 | 1.6 | \$71,845 | \$113,515 |
| Community Centers (2) | Figure F-1 | 8.9 | \$71,845 | \$639,421 |
| Police Station | Figure F-1 | 5.0 | \$71,845 | \$359,225 |
| Fire Stations | Figure F-1 | 2.3 | \$71,845 | \$165,244 |
| General Public Facilities - Utilities | Figure F-1 | 8.7 | \$71,845 | \$623,615 |
| LRT Right-of-Way | Figure F-2 | 21.1 | \$71,845 | \$1,512,545 |
| Off-Street Bikeways | Figure F-2 | 2.9 | \$71,845 | \$207,832 |
| RD-1000 Easement (3) | Figure F-3 | 43.2 | \$71,845 | \$3,100,830 |
| Overwidth Street Right-of-Way | Figure F-4 | 84.2 | \$71,845 | \$6,047,086 |
| Subtotal Public Lands | | 445.0 | | \$31,969,242 |
| TOTAL Finance Plan Area Developable Acres | Figure V-5 | 4,945.8 | | |

- "land_value"
- (1) Reflects uniform cost basis for all acquisitions regardless of the use of the site. The estimated per acre cost is based on the final appraisal November 1998 by Tom Clark, and does not necessarily reflect each individual's fair market value.
- (2) Does not include the community center in the Regional Park.
- (3) North Natomas Comprehensive Drainage property dedications calculated in February 1999.

Source: City of Sacramento Real Estate, Ensign and Buckley, City of Sacramento Public Works, City of Sacramento Neighborhoods, Planning and Development Services Department GIS, and EPS.

ORDINANCE NO. 2001-004
FEB 13 2001

RD-1000 Easement

Approximately 43.2 acres of drainage property dedications was estimated by the City of Sacramento in February 1999. Dedications are shown in Figure F-3.

Street Oversizing Right-of-Way

The portion of streets oversized for regional traffic is included in the>NNLAP as a community-wide expense. To the extent that water and sewer trunk lines cannot be located under roadways, additional right-of-way for utility easements will be required. No estimate has been made for this acreage although it is anticipated to be insignificant.

The standard street dedication is 25 feet from the face of curb. Excess dedication is counted from the 25-foot point to the center of the road. Figure V-3 shows the calculation of excess dedication for 4, 6, and 8 lane roads. Total overwidth costs for each section of road is shown in Figure F-4.

If a property owner is required to provide the land for the roadway on the other side of the centerline, that entire section of right-of-way land would be considered excess dedication and would be subject to acquisition through the>NNLAP such as the half section of Truxel north of Del Paso alongside the drainage canal.

A.D. 88-03 LAND

Most property owners in Quadrant 1 are included in Assessment District 88-03 (A.D. 88-03) which primarily funded roadway improvements plus some freeway, landscaping and drainage improvements. In addition, right-of-way and road overwidth right-of-way was acquired by the District for construction of roadway and freeway improvements. Although these lands have already been acquired, the>NNLAP will include this acreage to treat A.D. 88-03 lands the same as other Public Lands. Reimbursement to the A.D. 88-03 participants for this land will be valued at the current Public Land Acquisition Value when an eligible property owner's tentative map is processed. The following summarizes the acreage acquired under A.D. 88-03 that is included in the>NNLAP.

| | |
|-------------------------------------|-------------|
| Oversized street width right-of-way | 39.05 acres |
| Light Rail right-of-way | 3.71 acres |
| Freeway off-ramp right-of-way | 0.83 acres |
| Total | 43.59 acres |

Calculation of AD 88-03 reimbursements in 1993 dollars are shown in Figures F-5 and F-6.

Figure V-3
North Natomas Finance Plan Update 1999
Right-of-Ways and Overwidths

| Roadway Section | Street Type | Full Section R-O-W | Half Section | | | | Full Section Overwidth |
|-----------------|---|--------------------|-------------------------------|--------------|--|------------------------------------|---------------------------|
| | | | Total R-O-W Including Setback | Less Setback | North Natomas FOC (2) to center of R-O-W (1) | City's FOC Dedication of R-O-W (3) | |
| | | a | $b=a/2$ | c | $d = b-c$ | e | $f = d+e$ |
| A | 4 Lane Divided | 100 | 50 | 13 | 37 | 25 | 24 |
| B | 6 Lane Divided | 136 | 68 | 14 | 54 | 25 | 58 |
| C | 8 Lane Divided | 158 | 79 | 14 | 65 | 25 | 80 |
| D | Modified 4 Lane West Side East Side | 92 | 50 | 16 | 34 | 25 | Total Overwidth (4) 43 |
| | | | 42 | 8 | 34 | 25 | |
| E | Modified 6 Lane West Side East Side | 114 | 61 | 16 | 45 | 25 | Total Overwidth (4) 65 |
| | | | 53 | 8 | 45 | 25 | |

"R-O-W"

- (1) R-O-W = Right of Way
- (2) FOC = Face of Curb.
- (3) The City's dedication from the face of the curb is 25 feet.
- (4) Modified 4 Lane is Truxel Road from Elkhorn Boulevard to North Loop Road.
 Modified 6 Lane is Truxel Road from North Loop Road to Street 1.
 Setback depends on which side of the street you are on. Modified lanes have a bike path on one side not included in the R.O.W.

REGIONAL PARK

North Natomas includes approximately 184.8 acres of dedicated regional park and conjunctive civic uses. Approximately 10 acres of the 202 acre park is defined as joint use with the high school and will be acquired by Natomas Unified School District through the school fee and 7.1 acres of detention basin will be acquired with proceeds from the drainage fees. Acquisition costs of the regional park land will be spread to all of the developable property in North Natomas. The share of the land acquisition fee necessary to acquire the regional park will not be subject to the reimbursement calculation described below, but will be collected in full from every project.

PUBLIC LANDS NOT INCLUDED IN THE>NNLAP

This program excludes "normal" dedications such as:

- Neighborhood and community parks dedicated under the City's Quimby Act Ordinance
- Road right-of-way required by standard dedication requirements.
- Landscaping easements dedicated under the Subdivision Map Act.

These dedications are handled through standard City processing of development applications.

The>NNLAP also excludes public land required for drainage including detention basins, pump stations, and trunk lines. This land will be purchased from the drainage fees or other drainage financing mechanisms applicable to each drainage basin. School sites are not included as public land because they are acquired directly by the school districts.

PRIVATE DEVELOPABLE LANDS SUBJECT TO THE>NNLAP

The North Natomas Land Acquisition Program is based on the participation of private developable lands towards the acquisition of the necessary public lands identified in the North Natomas Community Plan. For the>NNLAP, private developable lands consist of residential, employment center, commercial, light industrial and sports complex land use categories defined in the Community Plan and identified as land use cells on the Composite Plan Map.

For purposes of the calculating the "fair share" acreage contribution and the calculation of fees and reimbursements for a project, acreage for these private developable land use designations subject to the program are defined as the Net Acres. Net Acres refer to the property within the North Natomas Finance Plan Area that is available after the dedication of all public uses and rights-of-way. For purposes of calculating the Public Facilities Land Acquisition Fee and Estimate of Land Value, Total Net Acres refer to the summation of all of the Net Acres in the Finance Plan Area.

ESTABLISHMENT OF THE PUBLIC LAND ACQUISITION VALUE

Each year, the Public Land Acquisition Value will establish the value of Public Land to be acquired through the North Natomas Land Acquisition Program. It will be established through the following steps.

- Step 1. Estimate of Land Value.** At the beginning of each year an appraiser will provide the City of Sacramento an "estimate of land value" (not a complete narrative appraisal) as of November 1 of the preceding year for each North Natomas Community Plan land use designation. The "estimate of land value" will assume that the land is readily developable with an approved tentative map. The value of land to be acquired would be based on the value per acre and defined as the fee simple value less estimated Mello-Roos bond debt, assessment fees, and development costs associated with land development. The land value established by the City for a calendar year would be based on an adjusted three-year average of the "estimate of land value." The value established would be based on each individual parcel likely to develop in the next several years, not a discounted cash flow of all developable property in North Natomas.

The initial "estimate of land value" was based upon an appraiser's estimate of value for each land use designation for the North Natomas Community Plan in 1995 excluding the value of improvements assuming North Natomas property is ready for development and all entitlement restrictions have been removed. This study is the North Natomas Valuation Study for the City of Sacramento prepared by Thomas Clark Co., Inc. updated November 1998.

- Step 2. Public Land Acquisition Value - Three-Year Weighted Average.** Based on the estimate of land value for each land use designation and the amount of acreage in each developable land use designation, a weighted average of estimated land value for the current year would be calculated. This value would be averaged with the two prior year's average of estimated land values to arrive at the three-year weighted average land value. This amount shall be named the Public Land Acquisition Value (PLAV).
- Step 3. Adjustments to PLAV for Administration and Contingency.** The PLAV must be adjusted to account for the 7.5 percent allowance for administration and contingency. To establish the adjusted PLAV, divide the PLAV by 0.925. Dividing the PLAV by 0.925 accounts for administration and contingency allowances as follows:
- 5 percent of total cost basis for contingency for land acquired through condemnation and other contingencies.
 - 2.5 percent of total cost basis for administration and the cost of the annual land value estimate update.

CALCULATION OF PUBLIC FACILITIES LAND ACQUISITION FEE

The Public Facilities Land Acquisition Fee is a function of the Public Lands included in the>NNLAP, the value assigned to each type of land, and the amount of developable land uses. The types of land included in the Public Facilities Land Acquisition Program were discussed above.

The Public Facilities Land Acquisition Fee charged to development projects would equal the adjusted Public Land Acquisition Value established for the calendar year multiplied by all of the public land subject to acquisition by the>NNLAP (excluding the regional park) divided by the Total Net Acres within the North Natomas Finance Plan Area. The fee would be adjusted annually using the updated Public Land Acquisition Value. The acres of land acquired by the>NNLAP and Total Net Acres used to calculate the fee would not change from year to year unless new public land became subject to acquisition and/or the Community Plan was amended with a change to the amount of Total Net Acres of Public Land.

Figure V-4 shows the calculations used to arrive at the estimated Base Public Facilities Land Acquisition Fee based on an initial weighted average PLAV of \$71,845 per acre. The total cost of Public Lands divided by the estimated Total Net Acres in the Finance Plan Area result in a Public Facilities Land Acquisition Fee of \$8,185 per Net Acre.

Figure V-5 shows the Public Facilities Land Acquisition Fee by residential and non-residential land use. For all residential land uses within the Finance Plan Area, the fee is calculated on a per unit basis based on lot size. For all non-residential land uses, the fee is calculated on a Net Acre basis. As is also shown in Figure V-5, the Regional Park Acquisition Fee is calculated in the same manner.

Below is an example of how the fee will be updated by the three-year weighted average estimate of land value.

Figure V-4
North Natomas Financing Plan Update 1999
Estimated Land Acquisition Fees

| Land Acquisition | Estimated Acquisition Cost | Plus Administration 2.5% | Plus Land Value Contingency 5.0% | Total Cost Basis for Fee | Land Acquisition Fees <i>per net acre</i> |
|--|----------------------------|-----------------------------|-------------------------------------|--------------------------|--|
| Public Facilities Land Acquisition [1] | \$31,969,242 | \$864,034 | \$1,728,067 | \$34,561,342 | \$8,185 |
| Regional Park Acquisition [2] | \$13,276,956 | \$358,837 | \$717,673 | \$14,353,466 | \$3,399 |

NNLAF_units

[1] Public Facilities Land acquisition fee per net acre prior to credits.

[2] Estimated acquisition cost is 184.8 acres of regional park multiplied by the public land acquisition cost \$71,845

| Assumptions for Figures V-5 and V-6: | | |
|---|-------------------------------|------------------------|
| | Estimated Gross Dev. Acres | Estimated Net Acres |
| Total Developable Acres | | |
| Single Family Acres (Low Density) | 1,902.3 | 1,559.9 |
| Single Family Acres (Medium Density) | 911.3 | 774.6 |
| Multi-Family Acres (High Density) | 389.4 | 338.8 |
| Total Residential | 3,203.1 | 2,673.3 |
| Non-Residential (commercial, office, & lt. industrial) | 1,742.7 | 1,549.4 |
| Total Developable Acres | 4,945.8 | 4,222.7 |

Figure V-5
North Natomas Financing Plan Update 1999
Land Acquisition Fees [1]

| Land Use | 1999 Fee Update [2] | |
|--|--|-------------------------------|
| | Public Facilities Land Acquisition Fee | Regional Park Acquisition Fee |
| RESIDENTIAL | <i>Fee per Unit</i> | |
| <i>Single Family Attached / Detached</i> | | |
| Rural Estates | \$0 | \$0 |
| Lot Size > 5,000 sq. ft. | \$1,218 | \$506 |
| Lot Size 3,250 - 5,000 sq.ft. | \$961 | \$399 |
| Lot Size < 3,250 sq. ft. | \$749 | \$311 |
| <i>Multi-Family (>2 attached units)</i> | | |
| 8-12 units per net acre | \$749 | \$311 |
| > 12-18 units per net acre | \$516 | \$214 |
| > 18 units per net acre | \$328 | \$136 |
| NON-RESIDENTIAL | <i>Fee per Net Acre</i> | |
| Convenience Commercial | \$8,185 | \$3,399 |
| Community Commercial | \$8,185 | \$3,399 |
| Village Commercial | \$8,185 | \$3,399 |
| Transit Commercial | \$8,185 | \$3,399 |
| Highway Commercial | \$8,185 | \$3,399 |
| Regional Commercial | \$8,185 | \$3,399 |
| Office - EC 30 | \$8,185 | \$3,399 |
| Office - EC 40 | \$8,185 | \$3,399 |
| Office/Hospital - EC50 | \$8,185 | \$3,399 |
| Office - EC65 | \$8,185 | \$3,399 |
| Office - EC80 | \$8,185 | \$3,399 |
| <i>Light industrial</i> | | |
| Light Industrial with <20% Office | \$8,185 | \$3,399 |
| Light Industrial with 20%-50% Office | \$8,185 | \$3,399 |
| Arena | \$8,185 | \$3,399 |
| Stadium | \$8,185 | \$3,399 |

"land_fees"

[1] Land Acquisition Fees are prior to credits for land dedicated.

[2] Based on final November 1998, North Natomas Valuation Study prepared by Tom Clark.

ORDINANCE NO. 2001-004

FEB 13 2001

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Example

Note: Only two weighted average land value estimates have been done for North Natomas therefore a midpoint value was used to show a 3-year weighted value.

3-Year Weighted Average PLAV

| | | | |
|-----------------------------------|----------|-------------------|-----------------|
| Weighted Average Values of Land | 1995 | \$72,873 | (Actual figure) |
| | Midpoint | \$71,845 | (Example value) |
| | 1999 | \$70,816 | (Actual figure) |
| Sum of Weighted Average Values | | \$215,534 | |
| Years PLAV averaged over | | / 3 | |
| 1999 3-Year Weighted Average PLAV | | \$71,845 per acre | |

Public Facilities Land Acquisition Fee

| | | |
|---|------------------|----------------------|
| 1999 3 Year Weighted Average PLAV | | \$71,845 |
| Adjustment for Administration & Contingency | | / 0.925 |
| Adjusted 1999 3-Yr. Weighted Avg. PLAV | | \$77,670 per acre |
| Times Acres to be Acquired | (See Figure V-2) | x 445.0 |
| Subtotal | (See Figure V-4) | \$34,561,342 |
| Divided by Finance Plan Area Net Acres | (See Figure V-4) | /4,222.7 |
| Public Facilities Land Acquisition Fee | | \$8,185 per net acre |

The Public Facilities Land Acquisition Fee is charged to all landowners within the North Natomas Finance Plan Area. Landowners receive credit for Public Land dedicated, and may use these credits to reduce the Public Facilities Land Acquisition Fee due at the issuance of building permit, excluding the administrative portion of the fee. If the value of the land dedicated credits exceeds the fees due, landowners may receive reimbursements when Land Acquisition Fee revenues are available from other property owners.

REGIONAL PARK LAND ACQUISITION FEE

A 202 acre regional park site with conjunctive use is planned for the center of the North Natomas development. Acreage calculation from available maps indicates the acreage to be approximately 201.9 acres including the allowance for the conjunctive uses. Excluding acreage funded through other programs (10 acres for the high school and 7.1 acres for drainage basin no. 1); 184.8 acres will be acquired. This is summarized in Figure V-6.

Figure V-6
North Natomas Financing Plan Update 1999
Regional Park Acreage

| Land Use | Acreage |
|--|--------------|
| Regional Park | 149.4 |
| Regional Civic | 25.0 |
| Light Rail | 2.9 |
| Library | 2.5 |
| Community Center | 5.0 |
| Total Regional Park Acreage in>NNLAP | 184.8 |
| High School Joint Use | 10.0 |
| Detention Basin 1 Joint Use | 7.1 |
| Total Regional Park - All Uses | 201.9 |

"reg_prk_acreage"

Source: City of Sacramento.

ORDINANCE NO. 2001-004

FEB 13 2001

NNLAP7253v2 7/26/99

The park is designed to serve not only North Natomas residents but residents throughout the City and County. The regional park could include group competition areas, individual competition areas, picnic areas, an amphitheater, a village green and botanical gardens, a family entertainment area, and other amenities. Figure V-7 shows the location of the Regional Park.

The City of Sacramento's 1989 Park Master Plan includes a policy of (1) providing five acres of regional park land per thousand population in addition to the five acres required for neighborhood and community parks and (2) having a regional park within a 30 minute drive for all residents. Historically, funds for regional parkland acquisitions are provided by the general fund or from voluntary donations, such as Land Park. The City and North Natomas property owners agreed that if North Natomas landowners would acquire the regional park site and dedicate it to the City, the City would be responsible for funding development of the regional park with City-wide sources.

In 1989, the City adopted the citywide Landscaping and Lighting Assessment District (LLAD) No. 2. The district can provide funds for four types of facilities: (1) common facilities, (2) neighborhood street lighting, (3) tree maintenance, and (4) park maintenance and development. Common facilities are spread citywide while the other facilities are spread to specific neighborhoods or zones. Regional park maintenance is part of common facilities funding by the citywide LLAD.

The Land Acquisition Program includes funding for the acquisition of the regional park. This fee will be charged to all development projects and will not be subject to credit calculation, except for those developers who own regional parkland. However, the strategy for funding the acquisition is complicated by the potential for escalating land values if the site cannot be acquired up-front at a fixed price and the difficulty in funding it up-front when large expenditures for backbone infrastructure are necessary and bond capacity is not available. The City must negotiate an agreement with the property owners of the regional park. The City may need to advance funding for the Regional Park Land Acquisition. The funding advance would be repaid through the collection of the>NNLAP fee.

REGIONAL PARK LAND ACQUISITION COST

The cost of acquiring the regional park has not been determined at this time. Negotiations between property owners and the City regarding the acquisition will likely take place following adoption of the financing plan. For purposes of discussing the financing strategy for acquiring the regional park, a cost of \$13.3 million has been assumed using \$71,845 per acre for 184.8 acres (see Figure B-65). The Regional Park Land Acquisition Fee per Net Acre is calculated as shown on the following page:

| | |
|--|----------------------|
| Total Regional Park Land Acquisition Cost | \$13,276,956 |
| Adjustment for Administration & Contingency | / 0.925 |
| Adjusted Regional Park Land Acquisition Cost | \$14,353,466 |
| Divided by Finance Plan Area Net Acres | / 4,222.7 |
| Regional Park Land Acquisition Fee | \$3,399 per net acre |

The acquisition cost assumptions are preliminary and subject to change. Once the Regional Park Land Acquisition price is known the Regional Park Land Acquisition fee will be modified.

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Exhibit F

Protest Waiver Provisions Agreed to by LANDOWNER

LANDOWNER understands and agrees that financing of the Infrastructure, public improvements and facilities (including the land covered by the NNLP) and other programs required under the NNCP will be accomplished through a variety of financing mechanisms, including but not limited to a combination of special assessment districts, tax districts (such as Mello-Roos Community Facilities Districts) and developer fees, all of which mechanisms are designed to spread the cost of those items in accordance with benefit and other methodologies. LANDOWNER further understands and agrees that an important component of this Agreement is LANDOWNER's advance consent to the formation of, or implementation of any such district or imposition of any such fee, and LANDOWNER's agreement not to protest or contest such formation, implementation or fee imposition.

Accordingly, LANDOWNER agrees for itself, its constituents, successors and assigns that it fully, finally and forever waives and relinquishes any right it may have to protest or contest the formation or implementation of any special assessment or tax district or any similar form of financing mechanism, or any combination thereof, together with any rights it may have to contest the imposition of any developer fee established or imposed pursuant to the North Natomas Finance Plan. Nothing in this Agreement, however, shall prevent LANDOWNER from presenting CITY any information or opinions regarding any financing mechanism CITY may from time to time consider establishing or imposing, which information or opinions relate to the dollar amount of any fees, assessments, taxes or other charges imposed by CITY pursuant to the North Natomas Finance Plan, or which information or opinions relate to the question of consistency of the financing mechanism with the North Natomas Finance Plan. If a financing mechanism is proposed for adoption by CITY, which mechanism both: (i) directly and significantly conflicts with the language and the intent of the North Natomas Finance Plan, as amended; and (ii) directly and significantly conflicts with the North Natomas Nexus Study adopted by the City Council in connection with establishment of development fees for the North Natomas Finance Plan Area, LANDOWNER shall have the right to protest only the actual amount of the directly and significantly conflicting proposed fee, charge, special tax, or assessment proposed to be levied, charged, assessed or taxed against the Property by virtue of the proposed financing mechanism. Provided, however, that LANDOWNER's said right to protest, together with any right to object, shall be waived unless LANDOWNER's protest of objection is made at or before the time of the public hearing wherein the proposed financing mechanism, together with the fee, charge, special tax or assessment is established by the City Council. LANDOWNER's right to judicial challenge of any such mechanism, and the fees, charges, assessments or special taxes imposed or to be imposed in connection therewith, shall be limited to review of the decision of the City Council establishing the said mechanism and the said fees, charges, assessments or special taxes; LANDOWNER shall not have the right, in connection with any land use entitlement proceeding with respect to the Property, to judicially challenge the financing

mechanism or the fees, charges, assessments or special taxes as applied to the Property, and waives any statutory or common law right to pay such fees, charges, assessment or special taxes under protest. For purposes of this Agreement, "fees, charges, assessments or special taxes" shall include any monetary exaction or payment required to be paid by LANDOWNER by virtue of or relating to development of the Property.

Without limiting the generality of the foregoing, LANDOWNER for itself, its constituents, successors and assignees specifically, as to the Property, agrees to the following which are adopted by the City Council pursuant to the North Natomas Finance Plan:

(1) Waives, and hereby grants advance consent to the formation and implementation of any and all special assessment districts, tax districts (such as Mello-Roos Community Facilities Districts), fee districts or other financing mechanisms of a similar nature recommended or established by CITY for the purpose of financing Infrastructure, public improvements and facilities (including land transfers as set forth in the>NNLAP).

Without limiting the generality of the foregoing, LANDOWNER specifically waives: (i) the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 of the Streets and Highways Code, beginning at Section 2800), together with associated provisions of the California Constitution; (ii) the provisions of any other statute designed to provide a protest or contest procedure in connection with formation and implementation of a district or similar financing mechanism; and (iii) the provisions of any procedure embodied in the Sacramento City Code designed to provide a protest or contest procedure in connection with formation and implementation of a district or similar financing mechanism.

(2) Waives, and hereby grants advance consent to the formation and implementation of any and all special fees, exactions, development fees, assessments, taxes or other charges established by CITY for the purpose of financing Infrastructure, public improvements and facilities (including land transfers as set forth in the>NNLAP). Without limiting the generality of the foregoing, LANDOWNER specifically waives: (i) to the extent applicable, those statutory and constitutional provisions specified in paragraph (1) above; and (ii) the provisions of Government Code Sections 66000, et seq., or any other provision of law providing a procedure for contest or protest of establishment or imposition of special fees, exactions, development fees, assessments, taxes or other charges of a similar nature.

(3) Agrees to: (i) affirmatively petition CITY, where applicable, for the formation of all special districts and other financing mechanisms that have been or will be in the future selected or recommended by CITY in order to implement the North Natomas Finance Plan; (ii) execute an irrevocable proxy or proxies when necessary (such as in the formation of, or imposition of taxes relative to, a Mello-Roos Community Facilities District) authorizing a representative designated by CITY, who will vote in favor of establishing the

specific financing mechanism in question; and (iii) execute immediately upon presentation any document which is required or convenient for the formation of the district or facilitation of the particular financing mechanism.

LANDOWNER agrees and specifically represents to CITY that it is fully aware of all of its legal rights relative to the waivers, advance consents and other agreements set forth herein, having been fully advised by its own independent attorneys. Having such knowledge and understanding of its rights, LANDOWNER has nevertheless voluntarily entered into the Agreement, of which this Exhibit is a material part. LANDOWNER is aware that CITY is relying on the representations contained in this Exhibit in entering into the Agreement.

EXHIBIT G

IRREVOCABLE OFFER OF DEDICATION FORM

SEE ATTACHED

RECORDED FOR THE BENEFIT OF
THE CITY OF SACRAMENTO

WHEN RECORDED RETURN TO:

DEPARTMENT OF PUBLIC WORKS
ENGINEERING SERVICES
1231 "I" STREET, SUITE 200
SACRAMENTO, CA 95814

ACCEPTANCE OF OFFER OF DEDICATION

IRREVOCABLE OFFER OF DEDICATION OF _____, INTERESTS IN REAL PROPERTY
HAVING BEEN MADE BY _____, TO CITY OF SACRAMENTO
AND RECORDED IN THE OFFICE OF THE RECORDER OF SACRAMENTO COUNTY, STATE OF
CALIFORNIA, IN BOOK _____ OF MAPS, AT PAGE _____. (.....)

THE UNDERSIGNED OFFICER HAVING BEEN AUTHORIZED TO ACCEPT DEDICATION PURSUANT
TO THE AUTHORITY CONFERRED BY RESOLUTION NO. 84-537, ADOPTED ON JUNE 26, 1984
BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO:

NOW, THEREFORE, THE UNDERSIGNED OFFICER HEREBY ACCEPTS SAID OFFER OF DEDICATION
IN FEE TITLE, REFERENCE TO SAID OFFER AND THE RECORD THEREOF BEING MADE FOR A
DESCRIPTION OF THE PROPERTY.

DATED: _____

MICHAEL KASHIWAGI
DIRECTOR OF PUBLIC WORKS,
TECHNICAL SERVICES,
CITY OF SACRAMENTO

STATE OF CALIFORNIA) SS

COUNTY OF _____)

ON THIS _____ DAY OF _____, 19____, BEFORE ME _____
PERSONALLY APPEARED _____ PERSONALLY KNOWN TO ME (OR
PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSON(S) WHOSE
NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME
THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES).
AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE
ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL.

SIGNATURE: _____

ORDINANCE NO. 2001-004

FEB 13 2001

EXHIBIT H

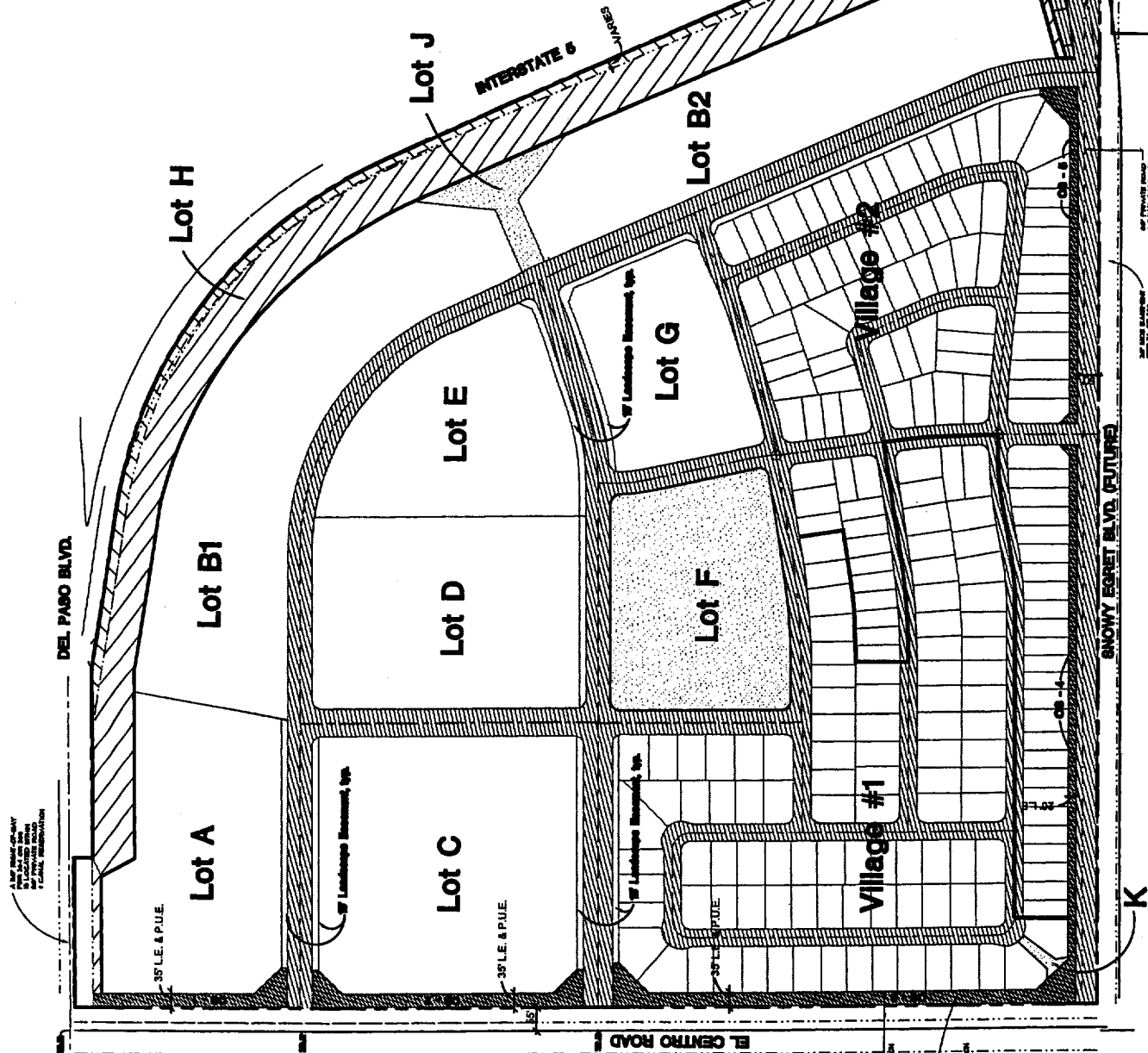
**MAP AND CATEGORICAL LISTING
OF LAND AND INFRASTRUCTURE**

SEE ATTACHED

ORDINANCE NO. 2001-004

FEB 13 2001

| LEGEND | | |
|----------------|---|-------------|
| LOT A | EMPLOYMENT CENTER (EC 65) | 6.0 NET AC |
| LOT B1 | EMPLOYMENT CENTER (EC 40) | 9.7 NET AC |
| LOT B2 | EMPLOYMENT CENTER (EC 40) | 7.7 NET AC |
| LOT C | HIGH DENSITY RESIDENTIAL | 6.6 NET AC |
| LOT D | HIGH DENSITY RESIDENTIAL | 6.6 NET AC |
| LOT E | MEDIUM DENSITY RESIDENTIAL | 5.2 NET AC |
| LOT F | PARK | 5.2 NET AC |
| LOT G | MEDIUM DENSITY RESIDENTIAL | 3.8 NET AC |
| LOT H | OPEN SPACE (FREWAY BUFFER) | 8.2 NET AC |
| LOT I | CAL TRANS R.O.W. | 1.3 NET AC |
| LOT J | PARKWAY | 0.7 NET AC |
| LOT K | OPEN SPACE/SEWER I.O.D. | 0.1 NET AC |
| 06-1 THRU 06-5 | OPEN SPACE (SEWER & PUBLIC UTILITY EASEMENTS) | 3.9 OR. AC |
| VILLAGE 1 | PUBLIC ROADWAY R.O.W. | 22.4 NET AC |
| VILLAGE 2 | LOW DENSITY RESIDENTIAL | 16.1 NET AC |
| | LOW DENSITY RESIDENTIAL | 14.4 NET AC |



Cambay West
North Macedonia
Tentative Master Parcel Map
SACRAMENTO

EXHIBIT "H"
MAP AND CATEGORICAL LISTING OF
LAND AND INFRASTRUCTURE

A trial Table of Contents will be generated on this and following pages. It can be used to confirm the pagination of the set Table of Contents in the body of the agreement.

Delete this trial Table of Contents from final DA

TRIAL TOC

RECITALS

ORDINANCE NO. 2001-004

FEB 13 2001