

ORDINANCE NO.

2005-014

ADOPTED BY THE SACRAMENTO CITY COUNCIL

FEB 22 2005

ON DATE OF _____

AN ORDINANCE RELATING TO THE APPROVAL OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SACRAMENTO AND BEAZER HOMES HOLDINGS CORP., A DELAWARE CORPORATION FOR PROPERTY LOCATED IN NORTH NATOMAS, AT 3600 AIRPORT ROAD, SACRAMENTO, CA.

(APN: 225-0150-023) (P04-114)

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 Beazer Homes Holdings Corp., a Delaware Corporation, a copy of which is attached hereto.

SECTION 2

The City Council finds:

1. The agreement is consistent with the city general plan and the goals, policies, standards and objectives of any applicable specific or community plan;
2. The project should be encouraged in order to meet important economic, social, environmental or planning goals of any applicable specific or community plan;
3. The project would be unlikely to proceed in the manner proposed in the absence of a development agreement;
4. The landowner will incur substantial costs in order to provide public improvements, facilities or services from which the general public will benefit;

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5. The landowner will participate in all programs established and/or required under the general plan or any applicable specific or community plan and all of its approving resolutions (including any mitigation monitoring plan), and has agreed to financial participation required under any applicable financing plan and its implementation measures, all of which will accrue to the benefit of the public;

6. The landowner has made commitments to a high standard of quality and has agreed to all applicable land use and development regulations.

SECTION 3

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. 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: 2-18-05

PASSED: 2-22-05

EFFECTIVE: 3-25-05

HEATHER FARGO

MAYOR

ATTEST:

SHIRLEY CONCOLINO

CITY CLERK

P04-114

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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) 808-5381

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

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*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
730 I Street
Sacramento, CA 95814

**NORTH NATOMAS
DEVELOPMENT AGREEMENT**

• • •

BEAZER HOMES HOLDING CORP.

North Natomas Development Agreement
(form rev. 12/20/02; jpc 2/16/05)

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NORTH NATOMAS DEVELOPMENT AGREEMENT

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Exhibit "B"	Landowner's Development Plan
Exhibit "C"	Special Conditions

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North Natomas Development Agreement
(form rev. 12/20/02)

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**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SACRAMENTO
AND
BEAZER HOMES HOLDINGS CORP.**

This Development Agreement (hereinafter "Agreement") is made and entered into this 22ND day of FEBRUARY, 2005, by and between the CITY OF SACRAMENTO, a municipal corporation (hereinafter the "CITY"), and BEAZER HOMES HOLDINGS CORP., a Delaware 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 No. 225-0150-023**. LANDOWNER seeks to develop the Property consistent with 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

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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 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.

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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 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

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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 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.

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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.

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.

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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, 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.

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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.

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.

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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.

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 the ordinance approving this Agreement becomes effective, but only if LANDOWNER holds fee title to the Property on that date. If LANDOWNER acquires fee

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title to the Property after the date the approving ordinance becomes effective, then the Effective Date will be the date LANDOWNER acquires fee title, subject to the following: this Agreement will be void and unenforceable if LANDOWNER does not acquire fee title within 90 days after the approving ordinance becomes effective.

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 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.

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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.

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.

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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.

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.

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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.

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.

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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 (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 NONE (the Lender), have executed and are bound by this Agreement.

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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 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.

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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

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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 "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.

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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; 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.

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(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 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

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preserve the integrity of the NNCP, while to the extent feasible allow development of the Property in the manner contemplated by this Agreement.

(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

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maps, planned unit development permits, special permits, or any other maps, rezonings or land use 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.

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(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 of public improvements, where the Property is located within a district formed for that purpose by any

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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, 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

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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 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.

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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.

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

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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 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

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(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 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.

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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 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

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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 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

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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 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

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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 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

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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.**

(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.

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(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.

(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.

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(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.

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

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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.

(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,

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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 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

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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 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,

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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.

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

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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 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.

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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 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.

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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 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.

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Notice to the LANDOWNER: Beazer Homes North California
 Carol Hill
 3721 Douglas Boulevard, Suite 100
 Roseville, CA 95661

Notice to Lender: NONE

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.

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 only when both of the following conditions have been met: the ordinance approving this Agreement is effective, and LANDOWNER proves to CITY's satisfaction that LANDOWNER holds fee title to the Property.

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

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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.

(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

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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.

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

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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.

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)

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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.

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,

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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.

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 OF SACRAMENTO,
a Municipal Corporation

By: Heather Fargo
Heather Fargo, Mayor

ATTEST:

P. Encolano
City Clerk

APPROVED AS TO FORM:

J.P. Corallo
City Attorney

BEEZER HOMES HOLDING CORP.

By: Anthony R. Tonso
Anthony R. Tonso, Regional President

(ATTACH APPROPRIATE ACKNOWLEDGMENT)

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DATE ADOPTED: FEB 22 2005

ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of PLACER

SS.

On Feburary 18, 2005 before me,
(DATE)

SUZANNE MARIE SERRANO

(NOTARY)

personally appeared

ANTHONY R. TONSO

SIGNER(S)

☒ 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.

Suzanne Marie Serrano
NOTARY'S SIGNATURE

OPTIONAL INFORMATION

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgment to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

☐ INDIVIDUAL

☐ CORPORATE OFFICER

Regional President

TITLE(S)

☐ PARTNER(S)

☐ ATTORNEY-IN-FACT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

North Natomas Development Agreement

TITLE OR TYPE OF DOCUMENT

47

NUMBER OF PAGES

February 18, 2005

DATE OF DOCUMENT

OTHER

SIGNER IS REPRESENTING:

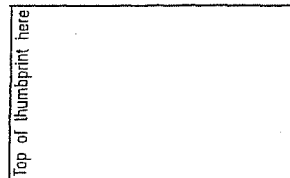
NAME OF PERSON(S) OR ENTITY(IES)

-Beazer Homes Holdings Corp.

RIGHT THUMBPRINT

OF

SIGNER



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Sacramento

SS.

On

March 14, 2005

before me,

CAROLYN E. HOOVER, NOTARY PUBLIC

Date

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

personally appeared

HEATHER FARGO

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.

Carolyn E. Hoover
Signature of Notary Public

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

Northatomas Development Agreement between the City of Sacramento and Beasly Homes Holding Group for Machado Estates

Document Date:

February 22, 2005

Number of Pages:

117, including notaries

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer

Signer's Name:

HEATHER FARGO

☐ Individual

☐ Corporate Officer — Title(s):

☐ Partner — ☐ Limited ☐ General

☐ Attorney-in-Fact

☐ Trustee

☐ Guardian or Conservator

☒ Other:

MAYOR

Signer Is Representing:

CITY OF SACRAMENTO

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

EXHIBIT A

DESCRIPTION OF LANDOWNER'S PROPERTY

All that real property situated in the City of Sacramento, County of Sacramento, State of California, and described as follows:

Parcel B, as shown on that certain map entitled "Lots 9, 10, 22 & Ptn. Lot 23, Natomas Central Subdivision (Book 16 Maps, Map No. 3)," recorded in Book 55 of Parcel Maps, at Page 13, Sacramento County Records.

Excepting therefrom the following described parcel:

Beginning at the southwest corner of said Parcel B, thence on the west line of said Parcel B, north 00°25'00" west, 294.04 feet; thence leaving said west line, north 89°48'35" east, 362.86 feet; thence south 00°27'01" east, 294.18 feet to the south line of said Parcel B; thence on said south line, south 89°49'56" west, 363.03 feet to the **point of beginning**.

Containing **6.23 acres**, more or less.

• • • • •

Attached to, and part of, this Exhibit A is a plat labeled Exhibit A-1, which depicts the property covered by this agreement as Parcel 2.

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.

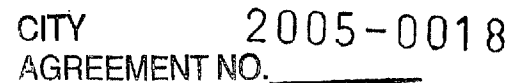
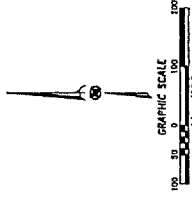
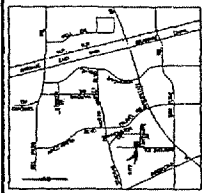


EXHIBIT B

LANDOWNER'S DEVELOPMENT PLAN

SEE ATTACHED



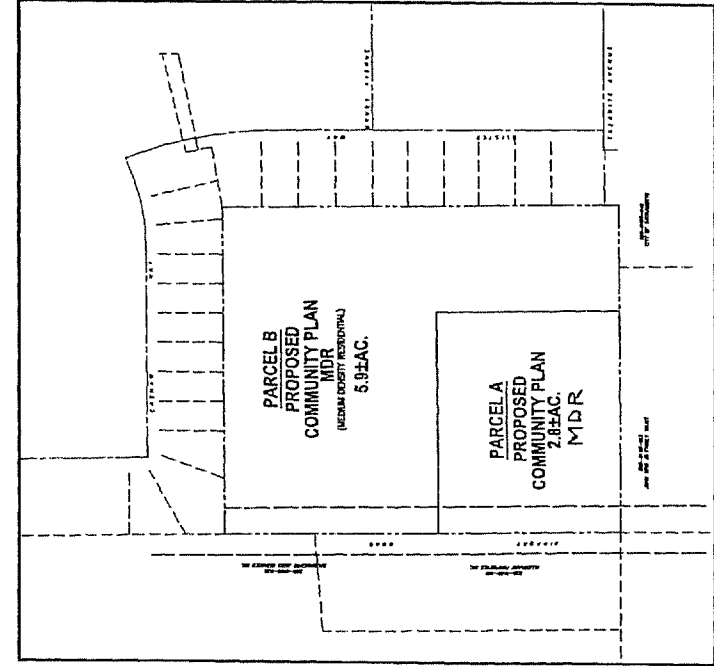
EXISTING GENERAL PLAN
 LOW DENSITY RESIDENTIAL
 MEDIUM DENSITY RESIDENTIAL

PROPOSED GENERAL PLAN
 LOW DENSITY RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL

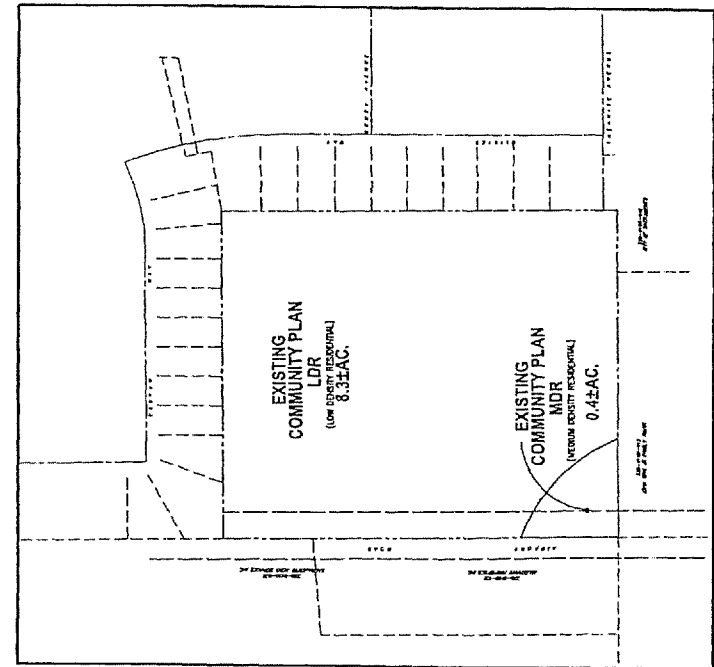
DEVELOPER
 MACHADO ESTATES
 1111 DOWD AVE., SUITE 100
 SACRAMENTO, CA 95811
 PHONE 916.481.1111

APPLICANT
 MACHADO ESTATES
 1111 DOWD AVE., SUITE 100
 SACRAMENTO, CA 95811
 PHONE 916.481.1111

ASSESSOR'S PARCEL NOS.
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PROPOSED COMMUNITY PLAN



EXISTING COMMUNITY PLAN

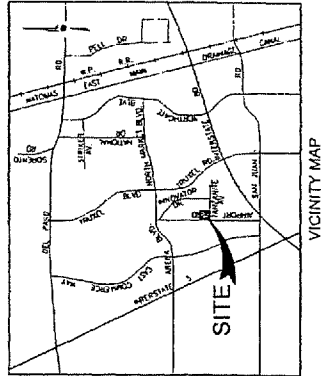
**NORTH NATOMAS
 COMMUNITY PLAN
 AMENDMENT**

MACHADO ESTATES
 CITY OF SACRAMENTO, CALIFORNIA
 DATE: MARCH, 2004

SCALE: 1"=40'

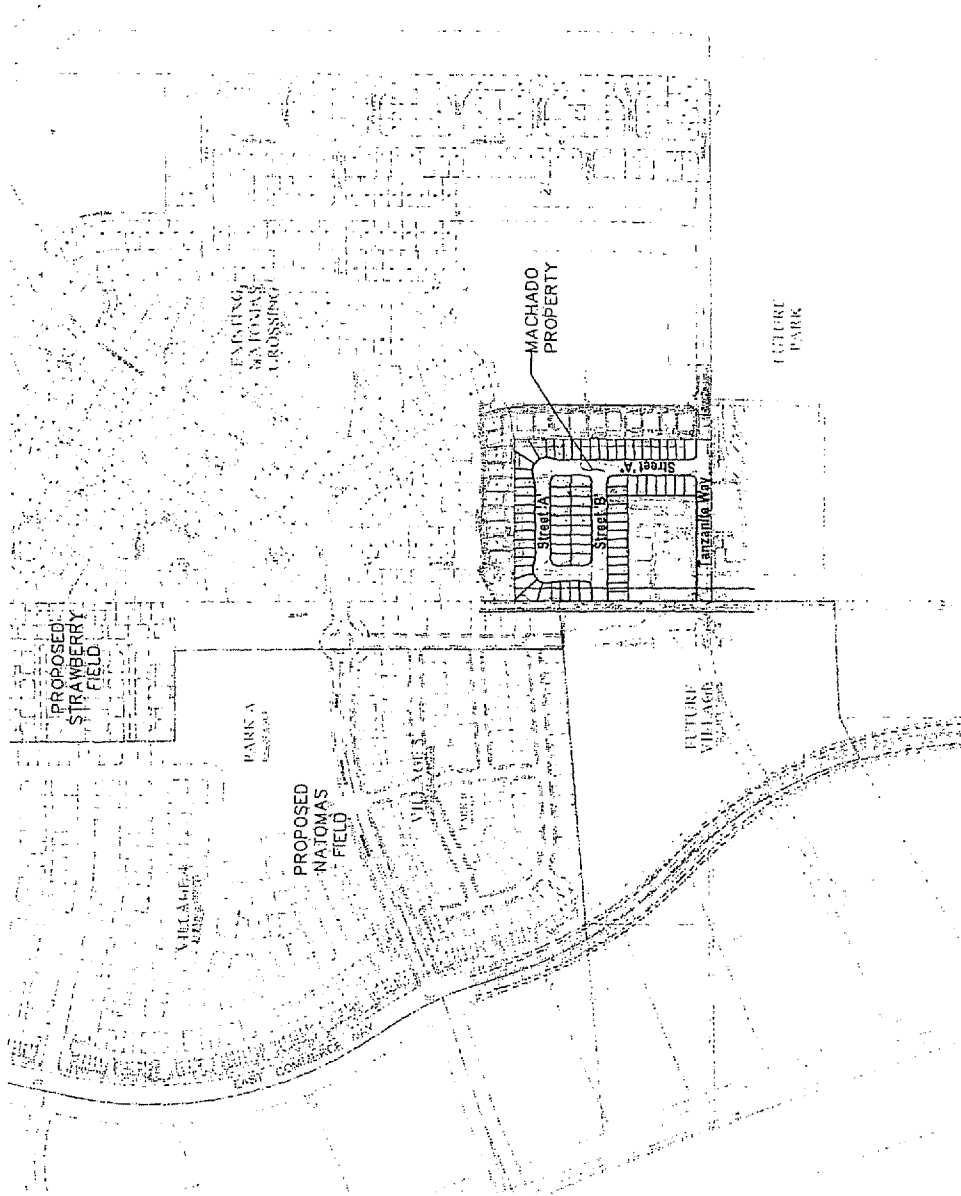
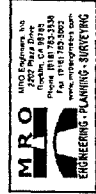
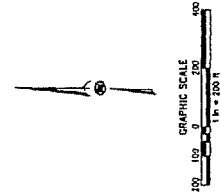


NATOMAS CROSSING, AREA #2
 PUD SCHEMATIC PLAN
MACHADO PROPERTY
 CITY OF SACRAMENTO, CALIFORNIA
 DATE: NOVEMBER, 2004

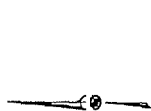
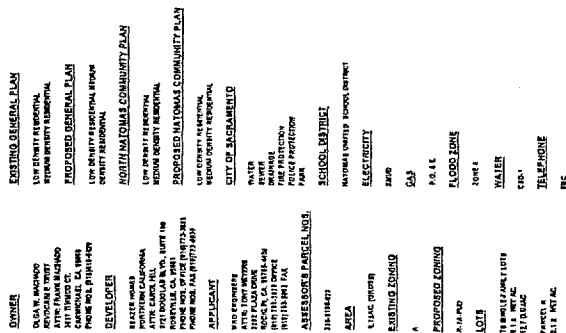


LAND USE SUMMARY

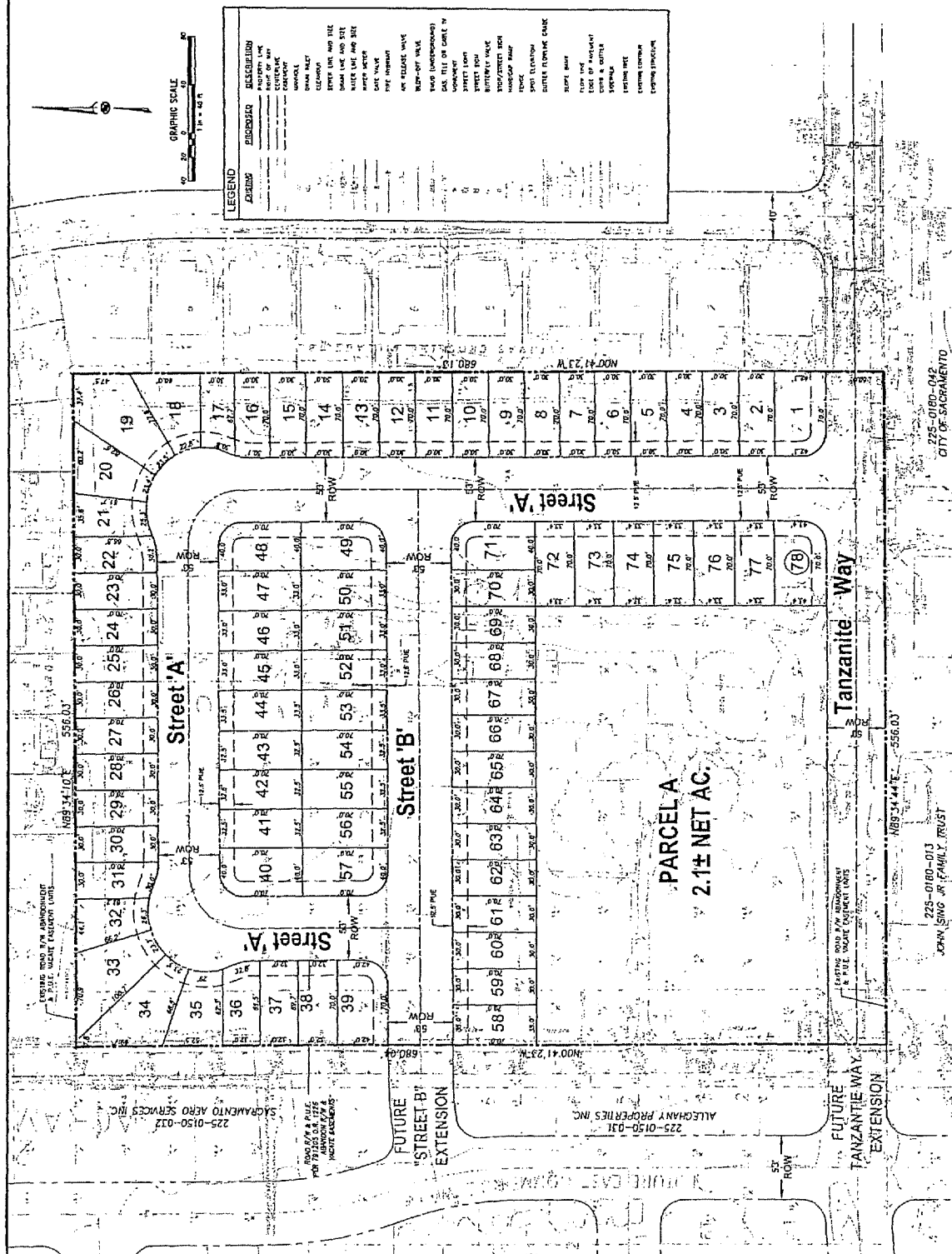
LAND USE	GROSS ACRES	NET ACRES	UNITS
MEDIUM DENSITY RESIDENTIAL (7-21 DU/AC)	6.85	5.65	78
TANZANITE WAY	-	0.67	
LANDSCAPE CORRIDOR	-	0.33	
TOTAL	6.85	6.65	78



MACHADO PROPERTY & ASSOCIATES



LEADING	TRADING	PRODUCING	DESCENDING
1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
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92	92	92	92
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97	97	97	97
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99	99	99	99
100	100	100	100



CITY 2005-0018
AGREEMENT NO.

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. The Natomas Basin Habitat Conservation Plan Fee is payable by Landowner at the time of and as a condition of issuance of a grading or building permit. The fee is, at the time of execution of this Agreement, the sum of **\$16,400 per acre** of the Property subject to the grading or building permit. In addition to the payment of that sum, Landowner shall be subject to the provisions of any "catch-up fee" ordinance, resolution, rule or regulation in effect at the time of issuance of the grading or building permit. The requirement specified in this subsection b. shall be included in each entitlement issued with respect to the Property. Landowner understands and agrees that the provisions of Government Code Sections 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

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.

D. **Inclusionary Housing Requirements.** CITY has enacted a mixed income housing policy ("Policy"), as set forth in Title 17, Chapter 17.190 of the Sacramento City Code. If and to the extent that the Property is subject to the Policy, certain project entitlements for the Property will contain conditions which implement the Policy, including but not limited to conditions requiring an inclusionary housing plan ("IHP") and an inclusionary housing agreement ("IHA"). The IHP for the property, where the Policy is applicable, is attached to this Exhibit C as **Exhibit C-1**, and incorporated herein by this reference. The requirements specified in the IHP shall be implemented by LANDOWNER, and LANDOWNER shall execute the required IHP.

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 NNLP.

d. The extent to which LANDOWNER has complied with the provisions of the Policy.

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 C-1

INCLUSIONARY HOUSING PLAN

The Machado Property

January 27, 2005

Introduction

The Machado Family Trust is the owner and Beazer Homes is the developer (the "Developer") of certain real property in the City of Sacramento known as the Machado Project on which it proposes to construct an exclusively single family development (the "Development Project") including 78 single family home sites (the "Residential Project").

The Mixed Income Housing Ordinance, City of Sacramento Municipal Code Chapter Title 17 (Zoning), Chapter 17.190, requires that ten percent (10%) of the units in a Residential Project be affordable to very low income households and five percent (5%) to low income households (the "Inclusionary Requirement" and "Inclusionary Units").

Pursuant to the City Code section 17.190.110 (B), an Inclusionary Housing Plan must be approved prior to or concurrent with the approval of legislative entitlements for the Development Project. City Code section 17.190.110 (A) sets forth the number, unit mix, location, structure type, affordability and phasing of the Inclusionary units in the Residential Project. This document constitutes that Plan, and, as supplemented and amended from time to time, is intended to begin implementation of the Inclusionary Requirement. All future approvals for the Development Project, including tentative maps, subsequent tentative maps, planned development permits, special permits, site development plans, and plan review shall be consistent with this Inclusionary Housing Plan.

The Inclusionary Requirement for the Residential Project will be set forth in more detail in the Inclusionary Housing Agreement(s) executed by the Developer and the Sacramento Housing and Redevelopment Agency ("SHRA") and recorded against all the residential land in the Development Project. The Inclusionary Housing Agreement(s) will describe with particularity the site and building schematics and the phasing requirements linking the affordable and market rate units, pursuant to Section 17.90.110 C.

Number of Inclusionary Units

The Residential Project proposed by the Developer includes 78 single family homes sites. The Developer, or its successors and assignees, shall construct or cause to be constructed a number of dwelling units affordable to Low Income Households ("Low Income Units") equal to five percent (5%) and Very Low Income Households ("Very Low Income Units") equal to ten percent (10%), as defined in the Sacramento City Code section 17.190.020, of the total number of housing units approved for the Residential Project. Based upon current project proposals, the Inclusionary Requirement is eight (8) Very Low Income Units and four (4) Low Income Units. If the project approvals are amended to increase the number of residential units in the Residential Project, this Plan will be amended to reflect a number equal to five percent (5%) Low Income Units and ten percent (10%) Very Low Income Units of the increased total residential units in the amended entitlements. If the project approvals are amended to decrease the number of residential units in the Residential Project, this Plan will be amended to reflect a number equal to five percent (5%) of Low Income Units and ten percent (10%) Very Low Income Units of the decreased total residential units in the amended entitlement. However, after a building permit has been issued for a structure or Master Parcel which contains Inclusionary Units, those Units will be constructed and maintained as Inclusionary Units pursuant to the terms of Chapter 17.190 of the City Code, regardless of any subsequent reduction in the number of approved total residential units.

Tenure

The Inclusionary Housing Units shall consist of "for sale" units only.

Size and Bedroom Count

The Inclusionary Housing units shall include two and two bedroom plus loft units to accommodate diverse family sizes. The Inclusionary Housing Agreement(s) sets forth the precise bedroom mix and unit size as follows:

TABLE 1

Model (sq. ft.)	#of Bedrooms	Units Planned	Inclusionary Units	Type of Unit
816	2	21	4	Very Low Income
			2	Low Income
1194	2 + loft	21	4	Very Low Income
			2	Low Income
1360	3	21		
1473	3	15		
Total		78	12	

All units will be Elevation "A".

Location of Inclusionary Units

The Inclusionary Units shall be located throughout the Development Project consistent with the specific lot designations identified in Table 2 and shown in Attachment 1, and subject to revisions pursuant to Section 17.190.110 of the Mixed Income Ordinance.

TABLE 2

Model (sq. ft.)	Units Planned	Number of Inclusionary Units	Type of Unit	Lot Number
816	21	4	Very Low Income	36, 43, 58, 75
		2	Low Income	2, 31
1194	21	4	Very Low Income	11, 56, 61, 69
		2	Low Income	21, 38
1360	21	0	Very Low Income	
		0	Low Income	
1473	15	0	Very Low Income	
		0	Low Income	
TOTAL	78	12		

Marketing of Units

The Developer will use their typical newspaper, internet, toll free number and signage to market this community. Information will be available in the on-site sales office regarding the availability of Inclusionary Housing and this will also be incorporated into internet advertising for the project.

Affordability Requirements

The Inclusionary Units "For Sale" shall be restricted to occupancy by Low Income Households and Very Low Income Households. Low Income Households shall have gross incomes, at the time of initial occupancy, that do not exceed eighty percent (80%) of the Sacramento area median income, adjusted for family size. Very Low Income Households shall have gross incomes, at the time of initial occupancy, that do not exceed fifty percent (50%) of the Sacramento area median income adjusted for family size.

The Sacramento Housing and Redevelopment Agency will provide the Developer a schedule of maximum Affordable Housing Prices no sooner than six months prior to the sales lottery in which affordable units will be sold. With respect to each Inclusionary Unit, the affordability requirements of this Section shall continue for no less than thirty (30) years from the recordation of the Inclusionary Housing Agreement. For-sale Inclusionary Units will be subject to the Sacramento Housing and Redevelopment

Agency's resale and recapture provisions if sold before the end of the thirty (30) year regulatory period.

Phasing of Development of the Inclusionary Units

The Inclusionary Units shall be developed concurrently with the development of the Development Project. The nature of the concurrency is defined by a series of linkages between approvals of the market rate units and the development of the Inclusionary Units.

MARKET RATE HOUSING / INCLUSIONARY HOUSING LINKAGES

Market Rate Activity	Inclusionary Approval Linkage
Approval of legislative entitlements and project-level applications submitted with Legislative entitlements.	Approval of Inclusionary Housing Plan
Recordation of final map(s) for single family Residential Project.	Execution/recordation of Inclusionary Housing Agreement by Beazer Homes and SHRA
Issuance of building permits in excess of 65% of single family Residential Project.	Issuance of building permits for 100% of Inclusionary Housing Unit requirement.

Amendment and Administration of this Housing Plan

This Inclusionary Housing Plan shall be administered by the Planning Director with the advice of the Executive Director of SHRA. The Planning Director may make minor administrative amendments to the text of this Plan as provided in Sacramento City Code section 17.190.030.



LOW INCOME
VERY LOW INCOME

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

VI. NORTH NATOMAS LAND ACQUISITION FEES

This section of the report presents the information necessary to update the Public Facilities Land Acquisition Fee (PFLAF) and the Regional Park Land Acquisition Fee (RPLAF), each of which are part of the North Natomas Land Acquisition Program (NNLAP). The Nexus Study 2002 Update marks the first time the NNLAP fees have been included in the Nexus Study Report. Previously the NNLAP fees were part of the North Natomas Financing Plan 1999 Update; however, as the North Natomas Financing Plan is not currently being updated, the NNLAP fees have been included in this report. For a complete description of the NNLAP, see Chapter V of the North Natomas Financing Plan 1999 Update. (Exhibit E-1)

METHODOLOGY

FACILITIES BENEFIT AREA

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. These facilities benefit all land uses within the Finance Plan Area regardless of location. Consequently, the Facilities Benefit Area equals the Finance Plan Area. Since the NNLAP facilities benefit the entire Finance Plan Area, the total costs are allocated to all land uses within the Finance Plan Area.

COST ALLOCATION

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.

LAND USE ASSUMPTIONS

The PFLAF and the RPLAF will be levied on a per unit basis for residential development and on a per net acre basis for non-residential development to each land use within the Finance Plan Area. The NNLAP will retain the methodology of allocating total NNLAP costs to all participating land uses.

Retaining the existing methodology will preserve the overall Finance Plan Area ratio of public land to be dedicated to developed land. If the methodology were to be changed to remaining public land and remaining development, the average ratio of public land to developed land may be significantly different than established when the program

began. Figure III-4 of Chapter III details the North Natomas Finance Plan Area land use assumptions.

FACILITY COST ESTIMATES

Figure VI-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 VI-2. The acquisition cost per acre is based on the 2001 update of the North Natomas Valuation Study completed by the Clark-Wolcott Company, Inc.

PUBLIC FACILITIES LAND ACQUISITION FEE

The cost of land acquired by the PFLAF equals the acquisition cost per acre 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 Finance Plan Area. As shown in Figure VI-3, the total estimated acquisition cost for public land is approximately \$39.1 million including administration and contingency. The following paragraphs describe the public land included in the PFLAF.

Freeway and Agricultural Buffers

Open space and land buffers are required throughout the area along the I-5 freeway, 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. The acreage estimates for freeway and agricultural buffers are shown in Appendix E, Figure E-1.

Civic Lands

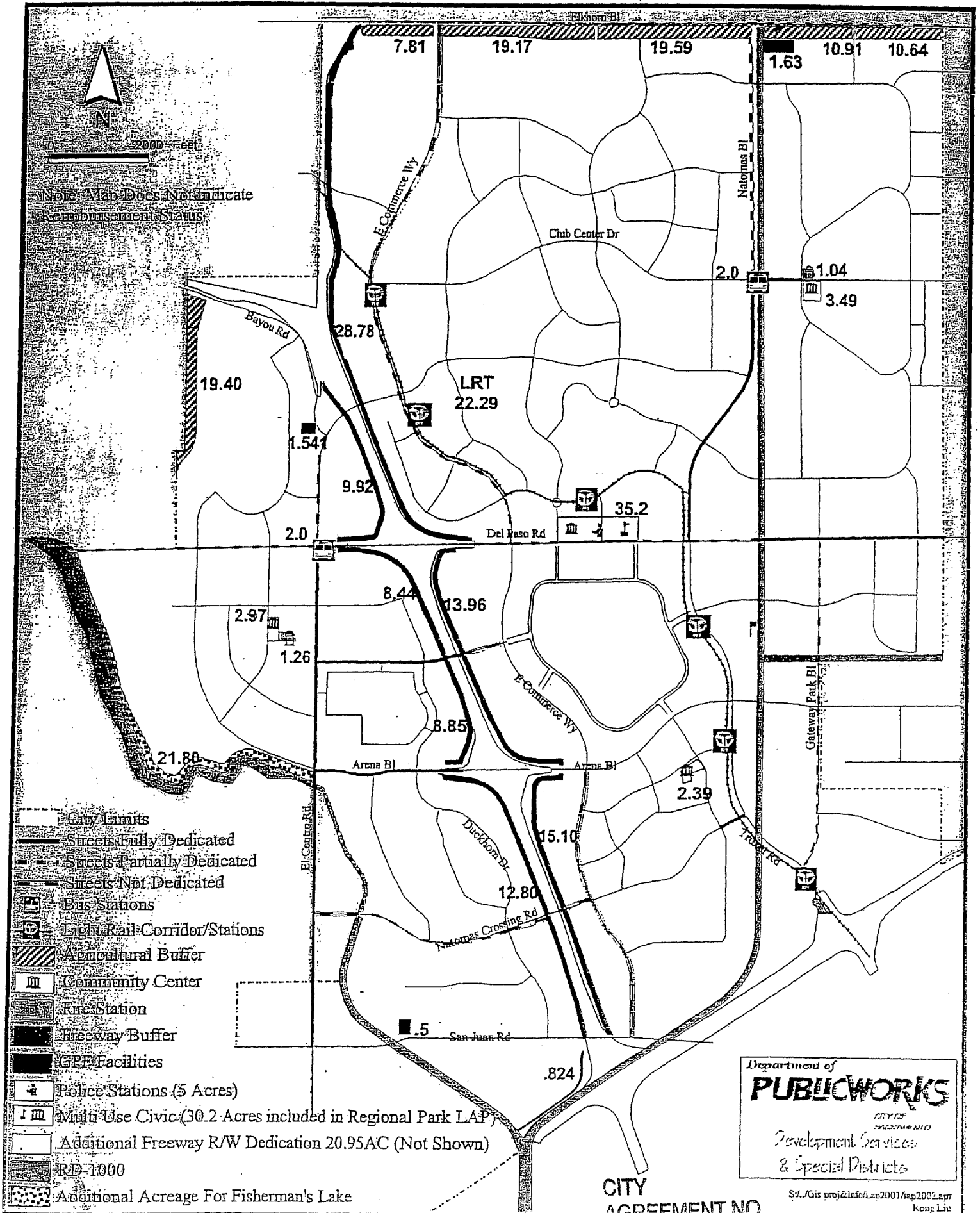
Civic lands include two fire stations, a library, a police substation, three community centers, and other cultural and entertainment uses. Civic lands also include civic utilities such as water facility sites, but do not include private utilities such as SMUD, PG&E, or AT&T Cable which will be purchased by the private user via a negotiated purchase price. The acreage estimates for civic lands are shown in Figures E-1 and E-2.

Light Rail Right-of-Way and Offstreet Bikeways

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. This total of 19.4 acres to be acquired through the PFLAF excludes approximately 2.9 acres of light rail right-of-way that is within the regional park. Light rail right-of-way acreage within the regional park will be acquired through the RPLAF. In addition to right-of-way for the light rail line, approximately 2.9 acres are required for LRT stations.

LAP Reimbursement Areas

Revised: August 2002



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Figure VI-2
North Natomas Nexus Study Update 2002
Estimated Public Land Acquisition Cost

Public Facilities Land Acquisition Category	Acreage Calculations	Acreage	Acquisition Cost / Acre	Total Acquisition Cost
			[1]	[2]
Public Lands	Appendices B and E		\$86,914	
Freeway Interchange and Overcrossings	Figure B-4	39.4	\$86,914	\$3,426,237
Freeway Buffer	Figure E-1	100.3	\$86,914	\$8,714,348
Agricultural Buffer	Figure E-1	109.3	\$86,914	\$9,501,438
Open Space	Figure E-1	1.6	\$86,914	\$137,324
Community Centers [3]	Figure E-1	8.9	\$86,914	\$773,535
Police Substation	Figure E-1	5.0	\$86,914	\$434,570
Fire Stations	Figure E-1	2.3	\$86,914	\$199,902
General Public Facilities - Utilities	Figure E-1	5.8	\$86,914	\$500,712
Bus Transit Centers	Figure E-2	4.0	\$86,914	\$347,656
LRT Right-of-Way	Figure E-2	22.8	\$86,914	\$1,937,536
Off-Street Bikeways	Figure E-2	2.9	\$86,914	\$251,423
RD-1000 Easement [4]	Figure E-3	35.9	\$86,914	\$3,118,191
Overwidth Street Right-of-Way	Figure E-4	78.1	\$86,914	\$6,789,328
Subtotal Public Lands		415.7		\$36,132,200
TOTAL Finance Plan Area Developable Acres	Figure VI-3	4,227.9		

"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 updated 2001 appraisal by The Clark-Wolcott Company, Inc., and does not necessarily reflect each individual's fair market value.
- [2] Acquisition cost does not include contingency or administration costs.
- [3] Does not include the community center in the Regional Park.
- [4] North Natomas Comprehensive Drainage property dedications calculated in February 1999 and updated in June 2002.

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.

Only approximately 2.9 acres of offstreet bikeway right-of-way is not included within existing rights-of-way such as roadway, park, or RD-1000 easements. Consequently, the PFLAF includes the approximately 2.9 acres of offstreet bikeway right-of-way in the program. Acreage estimates for light rail and off-street bikeways are shown in Figure E-3.

RD-1000 Easement

The City of Sacramento estimates approximately 35.9 acres of drainage property dedications should be included within the PFLAF. This amount excludes approximately 9.1 acres of drainage property that was acquired through CFD No. 97-01. Drainage property dedications are shown in Figure E-4.

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 as 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 VI-4 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 E-4.

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 acquisition cost 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

The Calculation of AD 88-03 reimbursements in 1993 dollars is shown in Figures C-1 and C-2.

Figure VI-3
North Natomas Nexus Study Update 2002
Estimated Land Acquisition Fees

Land Acquisition	Estimated Acquisition Cost	Plus Administration 3.0%	Plus Land Value Contingency 5.0%	Total Cost Basis for Fee	Land Acquisition Fees per net acre
Public Facilities Land Acquisition [1]	\$36,132,200	\$1,178,224	\$1,963,707	\$39,274,131	\$9,289
Regional Park Acquisition [2]	\$16,083,001	\$524,446	\$874,076	\$17,481,523	\$4,135

"NNLAF_units"

- [1] Public Facilities Land acquisition fee per net acre prior to credits.
[2] Estimated acquisition cost is 185.05 acres of regional park multiplied by the public land acquisition cost \$86,914

Assumptions for Figures V-5 and V-6:	Estimated Net Dev. Acres
Total Developable Acres Remaining	
Single Family Acres (Low Density)	1,349.1
Single Family Acres (Medium Density)	781.1
Multi-Family Acres (High Density)	325.6
Age-Restricted Single Family	168.7
Age-Restricted Apartments	20.0
Age-Restricted Congregate Care/Assisted Living	10.0
Total Residential	2,654.6
Non-Residential Developable Acres Remaining (commercial, office, & lt. industrial)	1,573.3
Total Developable Acres Remaining	4,227.9

Figure VI-4
North Natomas Nexus Study Update 2002
Right-of-Ways and Overwidths

Roadway Section	Street Type	Full Section R-O-W	Half Section				Full Section Overwidth
			Total R-O-W Including Selback	Less Selback	North Natomas FOC [2] to center of R-O-W [1]	City's FOC Dedication of R-O-W [3]	Overwidth
		a	$b=a/2$	c	$d=b-c$	e	$f=d-e$ $g=f \times 2$
A	4 Lane Divided	100	50	13	37	25	12
B	6 Lane Divided	136	68	14	54	25	29
C	8 Lane Divided	158	79	14	65	25	40
D	Modified 4 Lane West Side East Side	92	50 42	16 8	34 34	25 25	9 9
E	Modified 6 Lane West Side East Side	114	61 53	16 8	45 45	25 25	20 20
							Total Overwidth [4] 43
							Total Overwidth [4] 65

"ROW"

- [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 I.
 Selback 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 LAND ACQUISITION FEE

The cost of acquiring the regional park has not been determined at this time. Negotiations between the City and the property owners will ultimately determine the regional park acquisition cost.

For purposes of the Nexus Study 2002 Update, the cost of land funded by the RPLAF equals the acquisition cost per acre multiplied by all of the regional park land subject to acquisition by the RPLAF (excluding land acquired through other sources such as the Natomas Unified School District, drainage fees or CFD No. 4, Quimby dedications, or the PFLAF) divided by the total net acres within the Finance Plan Area.

As shown in Figure VI-3, the total estimated acquisition cost for regional park land is approximately \$17.4 million including administration and contingency. The following describes the regional park land included in the RPLAF.

Regional Park Land

As shown in Figure VI-5, the total regional park area identified in North Natomas includes approximately 224.5 acres. The RPLAF will fund acquisition for a portion of this total not dedicated to the City or funded via other funding sources.

The total regional park area is approximately 224.5 acres. The RPLAF will acquire 185.1 acres, which equals the total 224.5 acres adjusted by the following:

- Less 32.8 acres for a portion of a high school site that will be acquired by the Natomas Unified School District;
- Less 6.7 acres of detention basin acquired through CFD No. 4;
- Less 9.4 acres of land dedicated by Lennar Communities;
- Plus an estimated 9.4 acres for the portion of the east-west drainage channel within the regional park. The estimated acreage is for the drainage channel portion that is beyond land required for channel to serve the 10 year storm event, but within channel land required to serve the 100 year event.

Figure VI-6 details the estimated acreage requirements for various components of the 201.2 acre regional park, including conjunctive uses. The regional 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 VI-5
North Natomas Nexus Study Update 2002
Estimated Regional Park Acres

Item	Regional Park Acreage Funded
Regional Park Land Owned by:	
Lewis Investment Company	
Parcel A-1	9.48
Parcel A-2	3.77
Parcel A-3	2.93
Subtotal	16.19
Lennar Winncrest, LLC	
Parcel B-1	95.02
Parcel B-2	1.00
Parcel B-3	3.29
Subtotal	99.31
Alleghany Properties, Inc.	
Parcel C-1	102.37
Parcel C-2	6.66
Subtotal	109.02
Total Regional Park Land	224.52
<i>Less High School Site (Portion of Parcel C-1)</i>	see note [1] (32.82)
<i>Less Portion in Detention Basin (Parcel C-2)</i>	(6.66)
<i>Less Community Park Acres (Dedicated by Lennar)</i>	(9.40)
Net Regional Park Acres	175.65
<i>Plus East-West Drainage Channel Acreage [2]</i>	9.40
Total Acres Funded by the RPLAF	185.05

"reg park acres"

[1] The total regional park acreage funded by the RPLAF includes the total regional park site adjusted as follows:

- a) less 32.8 acres for the high school which will be funded by the Natomas USD.
- b) less 6.7 acres for a portion of the detention basin funded through CFD No. 4
- c) less 9.4 acres for land dedicated as Community Park acreage by Lennar Communities
- d) plus 9.4 acres (estimated) for a portion of the east-west drainage channel not funded through another funding source. See Footnote [2]

[2] Amount estimated based on acreage in drainage channel that is outside of the 10 year storm event flood protection. This amount will need to be acquired through the RPLAF.

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Figure VI-6
North Natomas Regional Park Acquisition Analysis
Detailed Regional Park Acreage Estimates

Item	Acreage
Regional Park Acreage in>NNLAP [1]	
Regional Park	151.9
Regional Civic	25.0
Light Rail	2.9
Library	2.1
Community Center	3.1
Total Regional Park Acreage in>NNLAP	185.0
Conjunctive Use Acreage	
High School Joint Use	10.0
Detention Basin 1 Joint Use	7.1
Total Conjunctive Use Acreage	17.1
Total Regional Park Acres - Including Conjunctive Use	202.1

"reg_prk_dtl"

Source: City of Sacramento and EPS.

[1] Acreages estimated based on City of Sacramento GIS map dated January 2002.

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NEXUS FINDINGS

As discussed previously, the>NNLAP was originally contained in the North Natomas Financing Plan 1999 Update. The developers in North Natomas have agreed, through a development agreement, that they will adhere to policies included in the Financing Plan. Therefore, the developers have agreed to the>NNLAP and both fees included in the program. As a result, this report does not include nexus findings for the PFLAF and the RPLAF.

FEE CALCULATION

The PFLAF and the RPLAF are based on the average cost per acre to acquire land for public facilities and the regional park. As shown in Figure VI-3, the average cost per acre to acquire public facilities land is \$9,289 per acre and the average cost per acre to acquire regional park land is \$4,135. Figure VI-7 shows the PFLAF and the RPLAF for each land uses type. The resulting fees are shown per unit for all residential land uses and per net acre for all non-residential land uses.

Figure VI-7
North Natomas Nexus Study Update 2002
Land Acquisition Fees [1] [2]

Land Use	2002 Public Facilities Land Acquisition Fee	2002 Regional Park Land Acquisition Fee
RESIDENTIAL	<i>Fee per Unit</i>	
<i>Single-Family Attached / Detached</i>		
Rural Estates	\$0	\$0
Lot Size > 5,000 sq. ft.	\$1,378	\$614
Lot Size 3,250 - 5,000 sq.ft.	\$1,128	\$502
Lot Size < 3,250 sq. ft.	\$877	\$390
Age-Restricted Single Family	\$1,647	\$733
<i>Multi-Family (>2 attached units)</i>		
8-12 units per net acre	\$877	\$390
> 12-18 units per net acre	\$647	\$288
> 18 units per net acre	\$417	\$186
Age-Restricted Apartments	\$411	\$183
Age-Restricted Congregate Care	\$215	\$96
NON-RESIDENTIAL	<i>Fee per Net Acre</i>	
Convenience Commercial	\$9,289	\$4,135
Community Commercial	\$9,289	\$4,135
Village Commercial	\$9,289	\$4,135
Transit Commercial	\$9,289	\$4,135
Highway Commercial	\$9,289	\$4,135
Regional Commercial	\$9,289	\$4,135
EC Commercial	\$9,289	\$4,135
EC 30 - Office	\$9,289	\$4,135
EC 40 - Office	\$9,289	\$4,135
EC 50 - Office/Hospital	\$9,289	\$4,135
EC 65 - Office	\$9,289	\$4,135
EC 80 - Office	\$9,289	\$4,135
Light Industrial with <20% Office	\$9,289	\$4,135
Light Industrial with 20%-50% Office	\$9,289	\$4,135
Arena	\$9,289	\$4,135
Stadium	\$9,289	\$4,135

"land_fees"

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

[2] Based on final November 2001, North Natomas Valuation Study prepared by Clark-Wolcott, Inc.

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.

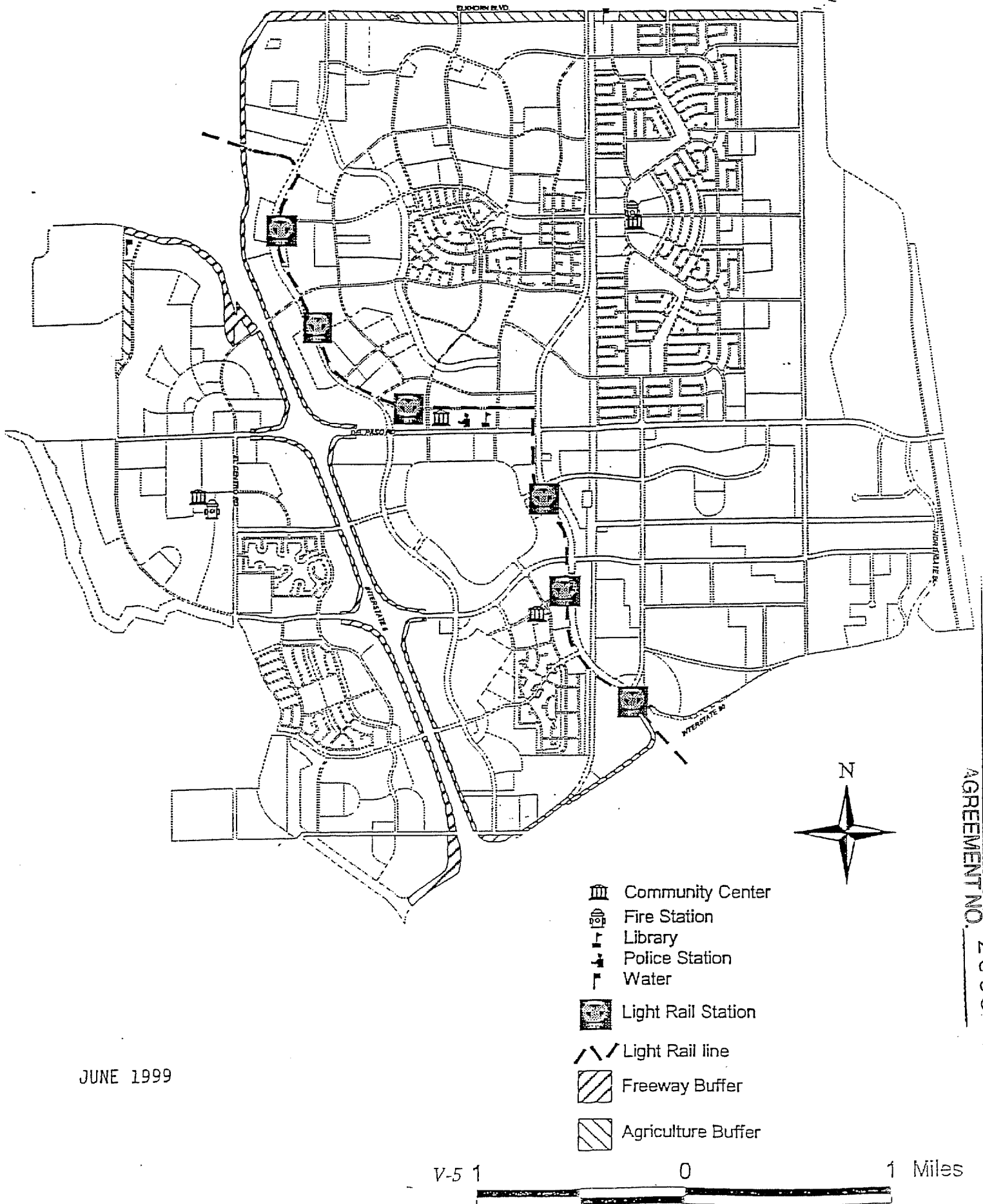
Light Rail Right-of-Way

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



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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
			(1)	
Public Lands	Appendices B and F		\$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.

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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)	Overwidth
A	4 Lane Divided	100	50	13	37	25	12
B	6 Lane Divided	136	68	14	54	25	29
C	8 Lane Divided	158	79	14	65	25	40
D	Modified 4 Lane West Side East Side	92	50 42	16 8	34 34	25 25	9 9
E	Modified 6 Lane West Side East Side	114	61 53	16 8	45 45	25 25	20 20
							Total Overwidth (4)
							43
							Total Overwidth (4)
							65

"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 I.
- 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.

CITY 2005-0018
AGREEMENT NO. _____

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.

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.

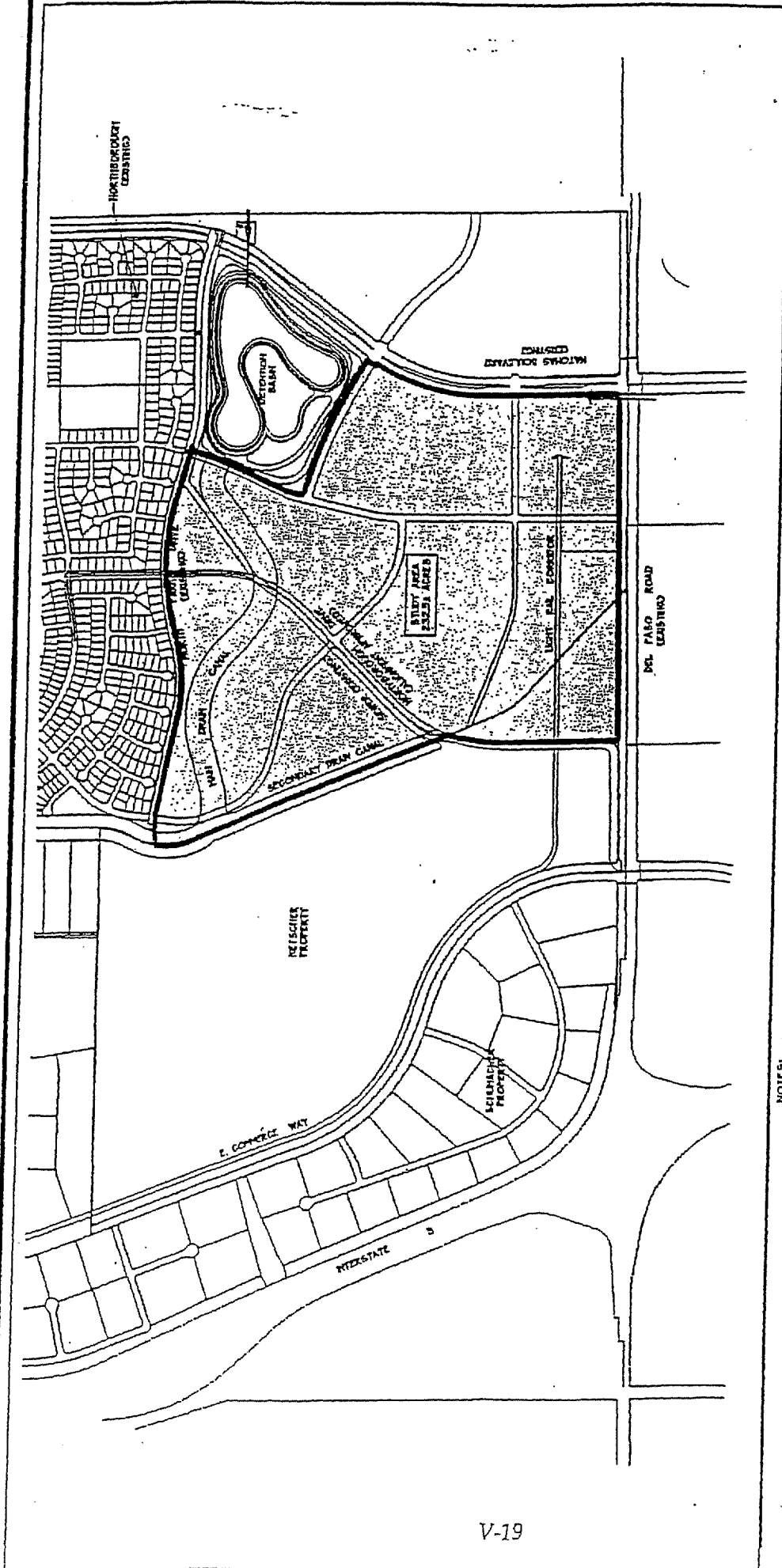
REGIONAL PARK LAND ACQUISITION COST

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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V-19

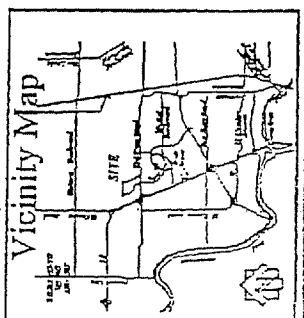


Figure V-7

Preliminary Regional Park Exhibit North Natomas Community Plan City of Sacramento, California May 24, 1999



WOOD-RODGERS, INC.

- NOTES:**
1. ALL DATA ARE APPROXIMATE.
 2. AREA CALCULATIONS ARE BASED ON VALUES PROVIDED BY THE CITY OF SACRAMENTO.
 3. PLANNING INFORMATION, VALUES UTILIZED FOR COLLECTIVE DATA SETS MAY VARY.
 4. INFORMATION UTILIZED IN THE EXHIBIT IS BELIEVED TO BE CURRENT AS OF MAY 24, 1999.
 5. THE EXHIBIT WAS PREPARED FOR THE CITY OF SACRAMENTO AND IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE CITY OF SACRAMENTO.
 6. THE CITY OF SACRAMENTO IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE EXHIBIT.
- REGIONAL PARK AREA CALCULATIONS**
- | Category | Area (Acres) |
|---------------------------------|--------------|
| STUDY AREA | 2,325 |
| DETENTION BASIN | 100 |
| SECONDARY DEBRIS CANAL | 100 |
| DEBRIS CANAL | 100 |
| NATOMAS POLYMER EXHAUSTION | 100 |
| DEL FARGO ROAD EXISTING | 100 |
| REISCHER PROPERTY | 100 |
| E. COMMERCE WAY | 100 |
| INTERSTATE 5 | 100 |
| TOTAL REGIONAL PARK AREA | 3,025 |
- REGIONAL PARK AREA CALCULATIONS**
- | Category | Area (Acres) |
|---------------------------------|--------------|
| STUDY AREA | 2,325 |
| DETENTION BASIN | 100 |
| SECONDARY DEBRIS CANAL | 100 |
| DEBRIS CANAL | 100 |
| NATOMAS POLYMER EXHAUSTION | 100 |
| DEL FARGO ROAD EXISTING | 100 |
| REISCHER PROPERTY | 100 |
| E. COMMERCE WAY | 100 |
| INTERSTATE 5 | 100 |
| TOTAL REGIONAL PARK AREA | 3,025 |
- REGIONAL PARK AREA CALCULATIONS**
- | Category | Area (Acres) |
|---------------------------------|--------------|
| STUDY AREA | 2,325 |
| DETENTION BASIN | 100 |
| SECONDARY DEBRIS CANAL | 100 |
| DEBRIS CANAL | 100 |
| NATOMAS POLYMER EXHAUSTION | 100 |
| DEL FARGO ROAD EXISTING | 100 |
| REISCHER PROPERTY | 100 |
| E. COMMERCE WAY | 100 |
| INTERSTATE 5 | 100 |
| TOTAL REGIONAL PARK AREA | 3,025 |

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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 NNLAP) 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
(Fee Exempt Under Gov. Code, § 6103)

WHEN RECORDED RETURN TO:

DEVELOPMENT SERVICES DEPARTMENT
ATTN: JERRY LOVATO
1231 "I" STREET, RM. 200
SACRAMENTO CA 95814

IRREVOCABLE OFFER TO DEDICATE

The undersigned hereby certifies that we are the legal owners of, or are parties having an interest in, the hereinafter-described real property; and the undersigned, for themselves and their heirs, successors, and assigns, do hereby irrevocably offer to dedicate to the City of Sacramento, a municipal corporation, [in fee title] [an easement for public road and public utilities on, under, over, and across] the hereinafter-described real property located in the City of Sacramento, County of Sacramento, State of California, described as follows:

SEE EXHIBIT "A," LEGAL DESCRIPTION, AND EXHIBIT "B," PLAT, ATTACHED HERETO AND MADE A PART HEREOF.

Reserving, however, unto the undersigned and their heirs, successors, and assigns any and all present lawful uses of the above-described real property until such time as the City Engineer of the City of Sacramento gives written notice that the above-described real property will be improved for public purposes; and it is also hereby understood and agreed by the undersigned and their heirs, successors, and assigns that any improvements hereinafter placed by them in or upon the above-described real property shall be removed without cost or expense to the City of Sacramento. Until such notice is given by the City Engineer, the undersigned and their heirs, successors, and assigns agree to assume full responsibility or liability for any injury or damage to any person or property on the above-described real property or arising out of its use or occupancy by them. It is also hereby understood that all work to be done in or upon the above-described real property shall be done under permit and done in accordance with plans to be furnished by the principal and approved by the City Engineer of the City of Sacramento, and in accordance with the specifications of the City Engineer of the City of Sacramento.

The dedication offered hereunder shall be complete upon its acceptance by the City Engineer of the City of Sacramento.

Witness _____ hand this _____ day of _____, 200__

By: _____

By: _____

(ATTACH NOTARY ACKNOWLEDGMENT)

CITY
AGREEMENT NO. 2005-0018

EXHIBIT H

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

SEE ATTACHED

CATEGORICAL LISTING OF LAND AND INFRASTRUCTURE

Certain land and infrastructure within the Machado Estates project area shall be dedicated to the City of Sacramento. As depicted on the attached Exhibit H-1, the subject land and infrastructure includes, but is not limited to:

Streets depicted on the attached Tentative Subdivision Map- Dedicated Easements:

1. Tanzanite Way
2. Street 'A'
3. Street 'B'

12.5 foot Public Utility Easement along all public rights-of-way.

[illegible]