
File ID: 2024-01699

10/8/2024

Public Hearing Item 18.

Greenbriar (Northlake) Development Agreement Amendment (P24-017) [Noticed on 9/26/24; Passed for Publication on 9/24/2024, Published 9/26/2024]

File ID: 2024-01699

Location: APNs: See Exhibit B, South of Elkhorn Boulevard, West of State Highway 99, and North of Interstate 5, District 1, Represented by Councilmember Kaplan

Recommendation: Conduct a public hearing and upon conclusion: 1) adopt an **Ordinance** amending the Greenbriar Development Agreement between the City of Sacramento and The Greenbriar Project Owner, LLC and Greenbriar Phase 2, LLC (City Agreement No. 2017-0850); and 2) pass a **Motion:** a) approving the Funding Agreement for the Construction of the Shore Vista Overcrossing (Funding Agreement) with Greenbriar Phase 2, LLC (Developer); and b) authorizing the City Manager or the City Manager’s designee to execute this agreement on the City’s behalf.

Contact: Jose Quintanilla, Associate Planner, (916) 808-5879, jquintanilla@cityofsacramento.org; Garrett Norman, Senior Planner, (916) 808-7934, gnorman@cityofsacramento.org; Community Development Department

Presenter: Jose Quintanilla, Associate Planner, (916) 808-5879, jquintanilla@cityofsacramento.org Community Development Department

Applicant: Nick Avdis, Avdis & Cucchi, LLP, 1415 L Street, Suite 410, Sacramento, CA 95814

Property Owner: John Stanek, The Greenbriar Project Owner, LLC, 888 Clemente Drive, Suite 100, Newport Beach, CA 92660

Attachments:

1-Description/Analysis

2-Background

3-Ordinance: Adopting Development Agreement Amendment

4-Exhibit A: Development Agreement Amendment

5-Exhibit B: Assessor Parcel Numbers

6-Exhibit C: Shore Vista Overpass Project Schedule (Exhibit N of Development Agreement Amendment)

7-Funding Agreement

Description/Analysis

Issue Detail: The Greenbriar Development Agreement (DA) was adopted by City Council on May 30, 2017, along with numerous other entitlements to facilitate the development of the Greenbriar (now Northlake) project. The 577± acre development includes 2,956± residential units, three commercial sites, open space/habitat buffers, open space/freeway buffers, six park sites, a community center, a lake/detention basin, a future light rail station and park-and-ride facility, school site, and various landscape corridors and related facilities. The Greenbriar project includes the construction of an overcrossing over Highway 99 to connect the development to East Commerce Way. The City and the applicant would like to amend the Greenbriar Development Agreement to clarify the required timing of the obligation that the Landowner construct the Meister Way Overpass, now known as “Shore Vista” Overpass (SVO), and to allocate the contributions from the Greenbriar Development Agreement Transit Fee, the Greenbriar Development Agreement Community Center Fee, the Panhandle Development Agreement Transit Fee, and the North Natomas Public Facilities Fee contribution for this facility (collectively referred to as the “Fee Revenues”) to the construction of the SVO.

The amended DA between the City and Developer commits 100% of the Fee Revenues, less any amounts for borrowing and/or administrative expenses, currently estimated at \$6,112,239, to the completion of the SVO. This amount includes approximately \$4,314,180 million from the Greenbriar DA Fee Fund, \$975,000 from the Panhandle DA Fee Fund, and \$823,059 from the North Natomas Public Facilities Fee Fund to be used for the construction of the SVO as described in the Funding Agreement, included as Attachment 7 of this report. Approval from the City Council is required to authorize the City Manager or the City Manager’s designee to sign this Agreement on behalf of the City.

An estimated \$2,510,451 in Greenbriar DA Fees and an estimated \$975,000 in Panhandle DA Transit Fees have not been collected to date. To reimburse the Developer prior to these fees being collected, two inter-fund loan transfers will be required. Specifically, funds will need to be transferred from the North Natomas Transit Impact Fee Fund to the Greenbriar DA Fees Fund (approximately \$2,510,451) and the Panhandle DA Transit Fee Fund (roughly \$975,000). Loan transfers will be made at the time funds are requested and needed for Developer reimbursement in accordance with Section 3 of the Funding Agreement. Both loans will accrue interest at the Pool A rate and will be repaid as Greenbriar DA Fees and Panhandle DA Fees are collected, and when the City Manager determines that cash for that purpose is available in the respective DA Fee Programs.

Disbursements made pursuant to the Funding Agreement will be in arrears to reimburse the Developer for work already completed. Before the final reimbursement the City will perform "true-up calculations", as outlined in the Funding Agreement, based on final estimates of fees to be collected and less: 1) any amounts already expended for prior reimbursements, 2) borrowing costs for any loan transfers, and 3) the City’s actual administration costs of administering the Funding Agreement not to

exceed 3% of Fee Revenues.

The Development Agreement Amendment is discussed in more detail under the *Background* and *Entitlement Review* sections of this report. Development Agreement Amendments are adopted by ordinance and require approval by the City Council, for which the Planning and Design Commission forwards a recommendation.

Public/Neighborhood Outreach and Comments: As part of the application review process, the proposed project was routed to the North Natomas Community Association, Natomas Creek Community Watch Group, Natomas Community Association, North Natomas Community Coalition, Westlake Master Association, Natomas Chamber of Commerce, Preservation Sacramento, Civic Thread, Sacramento Area Bicycle Advocates, and Region Builders.

Staff received no comments.

Staff posted the site with an early notice at the time of planning application submittal. Pursuant to Sacramento City Code 17.812.030.B(3)b, if the number of owners to whom notice would be mailed is greater than 1,000, then in lieu of mailed notice, notice may be given by placing a display advertisement of at least one-eighth page in the official newspaper of the city or another newspaper of general circulation within the city reasonably calculated to provide effective notice to the public at least ten days prior to the hearing. Consistent with SCC 17.912.030.B(3)b, the project was noticed by placing an advertisement in the paper of record. At the time of writing this report, staff has not received any comments on the project in response to the hearing notice.

Policy Considerations:

General Plan

The Greenbriar Development project was originally approved by City Council on May 30, 2017, with a Development Agreement that vests the project under the 2035 General Plan, the plan in place at the time the Development Agreement was recorded. Subsequent project entitlements to implement the development plan are therefore evaluated for consistency with the 2035 General Plan and subject to the terms and conditions specified in the development regulations in place on the effective date of the Development Agreement. The Development Agreement, a document with a twenty-year term and two extension periods of five years each, states that the Development Plan, terms and conditions of the Project Entitlements, Special Conditions, and related documents may be amended or modified, as necessary to build the residential units or commercial development anticipated under the plan.

Staff has evaluated the proposed modification to the Development Agreement and determined that it is consistent with the provisions of the 2035 General Plan. The amendment provides the necessary detail and information to assure that the Shore Vista overcrossing will be constructed. The overcrossing is already an anticipated part of the Greenbriar project.

The 2035 General Plan, Land Use Policy 2.1.3 (Complete and Well-Structured Neighborhoods) supported the provision of complete and well-structured neighborhoods whose physical layout and land use mix promote walking to services, biking, and transit use; foster community pride; enhance neighborhood identity; ensure public safety; are family-friendly and address the needs of all ages and abilities. The Development Agreement Amendment will ensure that the Greenbriar development is an orderly and well-planned development that provides the necessary roadway, bicycle, and pedestrian connectivity to meet the needs of existing and future residents and businesses, ensures the effective and equitable provision of public services, and makes efficient use of land and infrastructure.

Economic Impacts: None.

Environmental Considerations: The EIR for the Greenbriar Development Project was certified in January 2008. The EIR included mitigation requiring construction of transportation infrastructure improvements. The revisions to the development agreement would result in the construction and operation of the required improvements and would substantially comply with the mitigation measures. No additional CEQA review is required.

200-Year Flood Protection: State Law (SB 5) and Planning and Development Code chapter 17.810 require that the City must make specific findings prior to approving certain entitlements for projects within a flood hazard zone. The purpose is to ensure that new development will have protection from a 200-year flood event or will achieve that protection by 2025. The project site is within a flood hazard zone and is an area covered by SAFCA's Improvements to the State Plan of Flood Control System, and specific findings related to the level of protection have been incorporated as part of this project. Even though the project site is within a flood hazard zone, the local flood management agency, SAFCA, has made adequate progress on the construction of a flood protection system that will ensure protection from a 200-year flood event or will achieve that protection by 2025. This is based on the SAFCA Urban level of flood protection plan, adequate progress baseline report, and adequate progress toward an urban level of flood protection engineer's report that were accepted by City Council Resolution No. 2016-0226 on June 21, 2016, and the SAFCA 2023 Adequate Progress Annual Report accepted by City Council Resolution No. 2023-0337 on October 24, 2023.

Sustainability: The Greenbriar PUD includes open space/habitat buffers, open space/freeway buffers, a future light rail station and park-and-ride facility. Ensuring the overcrossing is constructed will connect the new Northlake community to the rest of North Natomas and provide a way for pedestrians and cyclists to cross Highway 99, thereby promoting a walkable and bike friendly community.

Commission/Committee Action: On September 12, 2024, the Planning and Design Commission unanimously passed a motion to forward a recommendation of approval to the City Council.

Rationale for Recommendation: Staff recommends the City Council approve the requested entitlement based on the findings attached to this report. The Development Agreement Amendment provides the necessary detail and information to assure that the Shore Vista overcrossing, an important connection between the new Northlake neighborhood and the rest of North Natomas, will be constructed.

Financial Considerations: A Funding Agreement for the construction of the overcrossing is provided as Attachment 7 to this report. The Funding Agreement details the City's contribution toward the construction of the Shore Vista Overcrossing using Fee Revenues and the timing of the disbursement of such funds. The Developer alone is responsible for securing all funding needed to pay costs that relate to the design or construction of the SVO. City shall provide funding from the Fee Revenues as described above and as set forth in the Funding Agreement. Neither the City's general fund nor any of the City's other funds, accounts, or monies will be liable for performance of the City's obligation under this agreement or for payment of costs related to designing or constructing the SVO.

Local Business Enterprise (LBE): Not applicable.

Figure 1: Aerial of Project Site



Background

On November 1, 2005, the City adopted various resolutions to initiate an amendment to the City's Sphere of Influence (SOI) and the annexation of the Greenbriar Farms area. On September 19, 2007, LAFCo approved the SOI amendments for the Greenbriar Farms Development (LAFCo 10-05).

On January 29, 2008, the City Council approved entitlements for the annexation and future development of the master planned community, known as Greenbriar (M05-046/P05-069). On April 2, 2008, LAFCo approved the City of Sacramento Reorganization (Annexation and Related Detachment) of the Greenbriar territory (LAFCo 02-08).

On May 30, 2017, the Sacramento City Council approved the second-stage entitlements and refinements to the previous approval to allow for the future development of the Greenbriar Planned Unit Development (P11-093). The proposal included the necessary entitlements to facilitate the development of approximately 577± acres into 2,956±

residential units (2,428± single-unit dwellings and 528± multi-unit dwellings), three commercial sites, open space/habitat buffers, open space/freeway buffers, six park sites, a community center, a lake/detention basin, a light rail station and park-and-ride facility, school site, and various landscape corridors and related facilities.

The City and applicant are now requesting to amend the Greenbriar Development Agreement. No modifications to the other previous approvals are requested.

Figure 2: Illustrative Land Use Plan (As Approved by P11-093)



Entitlement Review

Development Agreement Amendment

The Greenbriar Development Agreement (DA) was adopted by City Council on May 30, 2017. The DA has a 20-year initial term with two optional five-year extensions. The DA vests the project under the General Plan and land use code in place at the time the agreement was adopted. It has been amended on two previous occasions by City Council to make adjustments to the overall development plan. Amendments to DA's are not uncommon, given the extended time horizon necessary to implement major development projects. The purpose of the extended term is to assure that in light of the significant investment in time and infrastructure by the landowner and the City, the landowner has the opportunity to realize the full built-out of the development through multiple market cycles and changing conditions. The proposed amendment to the 2017 Greenbriar Development Agreement will facilitate the following:

1. *Amend Exhibit L to modify the timing of the obligation that the Landowner construct the Meister Way overpass, now known as "Shore Vista" overpass.*

Meister Way, now known as "Shore Vista Way", extends from Metro Air Park (to the west), across State Highway 70/99, into North Natomas (to the east) as a four-lane roadway (two lanes in both directions) with on-street bike lanes, on-street parking on one side of the roadway, separated sidewalks, a median, 12.5' P.U.E.s, and 40' light rail corridor on one side. No changes to the cross-section of Shore Vista Way or the overpass are requested as a part of this application.

Exhibit L of the Development Agreement, Section II.J 1 (Meister Way Overpass and Meister Way / East Commerce Way Intersection Imps.) currently states the overpass and connection to East Commerce Way including improvements at the intersection of Meister Way and Commerce Way shall be constructed, with the overcrossing triggered at 65% of project buildout based on total vehicle trips as stated in the traffic analysis including in the approved Greenbriar EIR.

The proposed amendment to the DA modifies the language to refer to "Meister Way" as "Shore Vista Way overpass" and removes the 65% project buildout trigger to construct the overpass. The DA amendment requires the landowner to construct the Shore Vista Way Overpass and roadway connection to East Commerce Way (regardless of vehicle trips) consistent with the street cross sections shown on the approved Tentative Maps. The construction of the Shore Vista Way Overpass and connection to East Commerce Way includes roadway improvements at the intersection of Shore Vista Way and East Commerce Way and shall be constructed per the sections shown on the approved Tentative Maps.

Additionally, the DA modifies language regarding the submission of design and improvement plans for Shore Vista overcrossing. In lieu of submitting improvement plans to the City prior to reaching 50% of project buildout, the landowner is now required to submit a Caltrans-approved Project Report for the Shore Vista Overpass by March 15, 2025, and 95% improvement plans for the Shore Vista Way Overpass

and connection to East Commerce Way, within 12 months of the effective date of the amendment.

2. Allocate funds from the Greenbriar Development Agreement Transit Fee, the Greenbriar Development Agreement Community Center Fee, the Panhandle Development Agreement Transit Fee, and the North Natomas Public Facilities Fee as contribution to the overcrossing.

The Development Agreement Amendment commits the developer to build the overcrossing and the City to provide a contribution to the construction, subject to a schedule of disbursement of funds, as spelled out in a Funding Agreement. The City is committing to allocate up to \$6,112,239 to reimburse the developer for construction of the overcrossing as set forth in the funding agreement.

ORDINANCE NO. 2024 –

Adopted by the Sacramento City Council

October 8, 2024

APPROVING THE THIRD AMENDMENT TO DEVELOPMENT AGREEMENT FOR GREENBRIAR (APNs: See Exhibit B) (P24-017)

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

SECTION 1. Background.

The Development Agreement for Greenbriar #P11-093, which is designated as City Agreement No. 2017-0850 (the “Original Agreement”) and was recorded with the Sacramento County Clerk/Recorder on August 25, 2017, as Document No. 201708250771.

The First Amendment to Development Agreement for Greenbriar #P11-093, which is dated November 28, 2017; is designated as City Agreement Nos. 2017-0850-1 and 2017-0850-2; and were recorded with the Sacramento County Clerk/Recorder on January 11, 2018, as Document No. 201801110629 and re-recorded on May 22, 2018, as Document No. 201805220534.

The Second Amendment to Development Agreement for Greenbriar #P11-093, which is dated February 25, 2020; is designated as City Agreement No. 2017-0850-3 and was recorded with the Sacramento County Clerk/Recorder on April 6, 2020, as Document No. 202004061296.

The Original Agreement, the First Amendment, and the Second Amendment, collectively constitute the “Development Agreement.”

SECTION 2. Incorporation of Amendment.

This ordinance incorporates the *Third Amendment to Development Agreement for Greenbriar #P11-093*, a copy of which is attached to this ordinance as Exhibit A (the “Third Amendment”).

SECTION 3. Hearing before the Planning and Design Commission.

On September 12, 2024, in accordance with Government Code section 65867 and Sacramento City Code chapter 18.16, the Planning and Design Commission conducted a noticed public hearing on an application to amend the Development Agreement. During the hearing, the Planning and Design Commission received and considered evidence and testimony. After the hearing concluded, the Planning and Design Commission forwarded to the City Council a recommendation to approve the proposed Third Amendment.

SECTION 4. Hearing before the City Council; Findings.

On October 8, 2024, in accordance with Government Code section 65867 and Sacramento City Code chapter 18.16, the City Council conducted a noticed public hearing on the application to amend the Development Agreement. During the hearing, the City Council received and considered evidence and testimony concerning the proposed Third Amendment. Based on the information in the application and the evidence and testimony received at the hearing, the City Council hereby finds as follows:

- (a) The Third Amendment is consistent with the City's General Plan and North Natomas Community Plan, and the project should be encouraged in order to meet important economic, social, environmental or planning goals of any applicable specific or community plan.
- (b) Without the Third Amendment, the Landowners would be unlikely to proceed with development of the property subject to the Third Amendment in the manner proposed.
- (c) The Landowners will incur substantial costs to provide public improvements, facilities, or services from which the general public will benefit.
- (d) The Landowners will participate in all programs established or required under the general plan and all of its approving resolutions (including any mitigation-monitoring plan) and has agreed to the financial participation required under the applicable financing plan and its implementation measures, all of which will accrue to the benefit of the public.
- (e) The Landowners have made commitments to a high standard of quality and have agreed to all applicable land-use and development regulations.
- (f) The property subject to the proposed Third Amendment is within an area for which the local flood-management agency has made adequate progress (as defined in California Government Code section 65007) on the construction of a flood-protection system that, for the area intended to be protected by the system, will result in flood protection equal to or greater than the urban level of flood protection in urban areas for property located within a flood-hazard zone, as demonstrated by the SAFCA Urban Level of Flood Protection Plan and Adequate Progress Baseline Report and the SAFCA Adequate Progress Toward an Urban Level of Flood Protection Engineer's Report, each accepted by the City Council on June 21, 2016 (Resolution No. 2016-0226), and the SAFCA 2023 Adequate Progress Annual Report accepted by the City Council on October 24, 2023 (Resolution No. 2023-0337).

SECTION 5. Approval and Authorization.

The City Council hereby approves the Third Amendment and authorizes the Mayor to sign it on the City's behalf on or after the effective date of this ordinance.

Table of Contents:

Exhibit A: Development Agreement Amendment

Exhibit B: Assessor Parcel Numbers

Exhibit C: Shore Vista Overpass Project Schedule (Exhibit N of Development Agreement Amendment)

Adopted by the City of Sacramento City Council on October 8, 2024, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

No fee required, as recording benefits the City of Sacramento, a government entity (Gov. Code, §§ 6103 & 27383).

Recording requested by, and when recorded return to—

City Clerk
City of Sacramento
915 "I" Street, Fifth Floor
Sacramento, CA 95814

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**Third Amendment to Development Agreement for Greenbriar [P11-093]
(City Agreement No. 2017-0850)**

This Third Amendment to Development Agreement for Greenbriar [P11-093] (this "Amendment"), dated _____, for purposes of identification, is between the CITY OF SACRAMENTO, a California municipal corporation and charter city (the "City"), on the one hand, and The Greenbriar Project Owner, LLC, a Delaware limited-liability company and Greenbriar Phase 2, LLC, a Delaware limited liability company, on the other (collectively the "Landowner"). The CITY and LANDOWNER hereinafter may be referred to collectively as the "Parties" or in the singular as "Party," as the context requires.

Background

The City and the Landowner are parties to the following agreements (collectively, the "Agreement"):

- The Development Agreement for Greenbriar [P11-093] dated May 30, 2017, which is designated as City Agreement No. 2017-0850 and was recorded on August 25, 2017, with the Sacramento County Clerk/Recorder as Document No. 201708250771.
- The First Amendment to Development Agreement for Greenbriar [P11-093] dated November 28, 2017, which is designated as City Agreement Nos. 2017-0850-1 and 2017-0850-2, recorded with the Sacramento County Clerk/Recorder on January 11, 2018, as Document No. 201801110629 and re-recorded on May 22, 2018, as Document No. 201805220534.
- The Second Amendment to Development Agreement for Greenbriar [P11-093] dated February 25, 2020, which is designated as City Agreement No. 2017-0850-3 and was recorded with the Sacramento County Clerk/Recorder on April 6, 2020, as Document No. 202004061296.

Exhibit L to the Agreement sets forth "special conditions," one of which requires that the Landowner construct the Meister Way overpass, now known as "Shore Vista" Overpass ("SVO"). The City and the Landowner desire to amend Exhibit L to modify the timing of the obligation, and to allocate the Greenbriar Development Agreement Transit Fee, the Greenbriar Development Agreement Community Center Fee, the Panhandle Development Agreement Transit Fee, and the North Natomas Public Facilities Fee contribution to the overcrossing.

With these background facts in mind, the City and the Landowners agree as follows:

1. Amendment to Exhibit L of the Agreement. Section II.D (Transportation Development Impact Fees) is hereby amended to read in its entirety as follows:

D. Transportation Development Impact Fees. The Transportation Development Impact Fees (“TDIF”) apply to new development within the City of Sacramento, including the Project, and are used to support funding for transportation improvements benefitting new development in the City.

The Shore Vista Overpass (including the connection to East Commerce Way) (“SVO”) is identified in the City’s TDIF program.

Pursuant to Section II.J. 1 of this Agreement, the Project will be constructing the SVO and related improvements. When the Project has completed the construction of the SVO in accordance with Section II.J. 1 below and the approved Phase 1 and Phase 2 Tentative Subdivision Maps, the City will consider that the Project has satisfied its TDIF obligation in-kind.

2. Amendment to Exhibit L of the Agreement. Section II.J 1 (Meister Way Overpass and Meister Way / East Commerce Way Intersection Imps.) is hereby amended to read in its entirety as follows:

1. Shore Vista Way Overpass and Shore Vista Way / East Commerce Way Intersection Improvements.

a. LANDOWNER shall construct the Shore Vista Way Overpass and roadway connection to East Commerce Way including roadway improvements at the intersection of Shore Vista Way and East Commerce Way consistent with the street cross sections shown on the approved Tentative Subdivision Maps for the Project, to the satisfaction of Public Works.

b. LANDOWNER shall construct Shore Vista Way as a 4-lane arterial roadway per the sections shown on the approved Tentative Subdivision Maps for the Project. Shore Vista Way has several cross sections transitioning from a two-lane bridge overcrossing to a 4-lane roadway as shown on the approved Tentative Subdivision Maps.

c. LANDOWNER has previously commenced designing the SVO and will continue to diligently pursue approval of the design from all necessary agencies (e.g., the City and CalTrans) (referred to herein as “Approving Agencies”) of improvement plans necessary to allow commencement of construction as set forth in the schedule described in Exhibit N of the Agreement. LANDOWNER and City will meet and confer on the schedule described in Exhibit N on a monthly basis and update as needed.

- i. LANDOWNER shall submit to the City a Caltrans-approved Project Report for the SVO on or before March 14, 2025. If LANDOWNER fails to submit a Caltrans-approved Project Report on or before March 14, 2025, LANDOWNER shall submit financial security in the form of a bond, an escrow account, letter of credit, or other security acceptable to the City. The security shall cover the full cost of design, permitting, construction, and construction management of SVO to the City's satisfaction in an amount to be determined in accordance with a stamped and signed engineer's estimate to be approved by the City and in a form reasonably determined by the City. If LANDOWNER fails to timely submit a Caltrans-approved Project Report or fails to timely submit adequate financial security, City shall withhold any further final maps until the Caltrans-approved Project Report is submitted unless : (A.) LANDOWNER notifies the City by March 1, 2025, that it will not meet the deadline; (B.) LANDOWNER demonstrates adequate progress toward obtaining a Caltrans-approved Project Report; and (C.) the Parties meet and confer and agree that a modification of the date is in the best interest of the Project and all Parties. If LANDOWNER fails to submit a Caltrans-approved Project Report, submit an acceptable financial security, and fails to come to an agreement with the City pursuant to the preceding sentence, City shall withhold further maps until the Caltrans-approved Project Report is submitted to the City and City may draw on the financial security after City (A.) reasonably determines that adequate progress on SVO has not been made and (B.) provides LANDOWNER with notice and opportunity to cure ten days in advance of calling on the security.
- ii. LANDOWNER shall submit 95% improvement plans to the City within 12 months of the Effective Date of this Amendment. If LANDOWNER has not already provided full security pursuant to paragraph 1.c.i above, upon the earlier of (A.) submission to the City of 95% improvement plans or (B.) the date that is 12 months after the Effective Date, LANDOWNER shall submit a financial security for the construction of the SVO in an amount and form reasonably determined by the City. If LANDOWNER fails to timely submit 95% improvement plans or fails to timely submit adequate financial security, City shall withhold any further final maps unless: (A.) LANDOWNER notifies the City at least 15 days prior to the deadline that it will not meet the deadline; (B.) LANDOWNER demonstrates adequate progress toward completing the improvement plans and submitting the security; and (C.) the Parties meet and confer and agree that a modification of the date is in the best interest of the Project and all Parties. IF LANDOWNER fails to submit 95% improvement plans within 12 months of the Effective Date of this Agreement, fails to provide adequate financial security, and fails to come to an agreement with the City pursuant to the preceding sentence, the City shall withhold further maps

until LANDOWNER submits 95% improvement plans and provides security for the construction of SVO.

- iii. Within 6 months of the approval of the improvement plans by the Approving Agencies, LANDOWNER shall commence construction of the SVO (defined as the LANDOWNER giving a “Notice to Proceed” for the construction of the SVO to LANDOWNER’s contractor) and diligently pursue construction until completion.

d. Upon completion of SVO, the City shall commit 100% (less Pool A interest and administrative fees described below) of the fees collected for the Greenbriar Community Center Fee, Greenbriar Transit Fee and the Panhandle Transit Fee towards the SVO, as well as a contribution from that portion of the North Natomas Facilities Fee Fund that is designated for the SVO (formerly referred to as the Meister Overcrossing) (collectively, the “City’s Contribution”), currently estimated to be \$6,112,239, to reimburse LANDOWNER in the manner more fully set forth in a mutually agreed upon Funding Agreement. Reimbursements shall occur in accordance with the terms set forth in the Funding Agreement and in no case shall the City make payments to LANDOWNER in excess of the funds collected by the City. The Funding Agreement shall provide for periodic reimbursement payments tied to expenditures incurred by LANDOWNER. The final payment shall provide for a reconciliation (“True-up”) based upon the collected and estimated fees to be contributed by the City pursuant to this Amendment. Upon payment of the True-up amount, no further adjustments or reimbursements will be due or made to LANDOWNER pursuant to this Amendment. City’s Contribution shall exclude City’s actual reasonable administrative cost, not to exceed 3% of City Contribution and the amount needed to pay Pool A interest on the interfund loan described in the Funding Agreement. City shall provide LANDOWNER with accounting of administrative costs within 30 days of LANDOWNER request.

Any cost increases incurred by the developer will not require any additional City contributions, unless LANDOWNER requests such funding in writing with justification therefor, which City shall consider in good faith, but City is not obligated to increase the City Contribution.

- e. The City and LANDOWNER shall periodically meet to facilitate the design and construction of the SVO. Either party may request such a meeting (email being sufficient) upon 5 business days’ notice, indicating it is to occur in person at City Hall or virtually. City and LANDOWNER shall meet and confer in good faith to facilitate the timely construction of the SVO.

Section II.J 2 through 9 are unchanged.

2. Exhibit N of the Agreement. Exhibit N setting forth the schedule for construction of SVO is hereby added to the Agreement.

3. All Other Terms Remain in Force. Except as amended by section 1 above, all terms and conditions of the Agreement (including those portions of Exhibit L not hereby amended) remain in full force.

4. Effective Date. This Amendment takes effect on the effective date of the ordinance that approves it (Gov. Code, § 65868; Sacramento City Code, §§ 18.16.120 & 18.16.130 (the “Effective Date”).

5. Recording. Any party may record this Amendment with the Sacramento County Clerk/Recorder.

6. Counterparts. The parties may execute this Amendment in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.

Delivery of a signed counterpart may be accomplished by email transmission of a PDF file as follows:

(a) for delivery to the City, to Mary Jean Rodriguez, Public Improvement Finance, MRodriguez@cityofsacramento.org

(b) for delivery to Landowner, to John Stanek, Jstanek@integralcommunities.com and Drew Kusnick, Dkusnick@integralcommunities.com.

7. Entire Agreement. This Agreement sets forth the parties’ entire understanding regarding the matters set forth above. It supersedes all prior or contemporaneous agreements, representations, and negotiations regarding those matters—whether written, oral, express, or implied—and may be modified only by another written agreement signed by all parties. This Amendment will control if any conflict arises between it and the Agreement (including all exhibits). Defined Terms shall have the same meaning in this Amendment as in the Agreement unless otherwise defined herein.

(Signature Pages Follow)

City of Sacramento

By: _____

Darrell Steinberg
Mayor

Date: _____, 2024

Approved as to Form
Sacramento City Attorney

Attest
Sacramento City Clerk

By: _____

By: _____

Signature

The Greenbriar Project Owner, LLC
a Delaware limited liability company

By: _____

Authorized Representative

Date: _____, 2024

Greenbriar Phase 2, LLC
a Delaware limited liability company

By: _____

Authorized Representative

Date: _____, 2024

[Attach Certificates of Acknowledgment – Civil Code § 1189]

Assessor Parcel Numbers

201-0300-078-0000	201-1340-029-0000	201-1340-071-0000
201-0300-086-0000	201-1340-030-0000	201-1340-072-0000
201-0300-177-0000	201-1340-031-0000	201-1340-073-0000
201-0300-179-0000	201-1340-032-0000	201-1340-074-0000
201-0300-180-0000	201-1340-033-0000	201-1340-075-0000
201-0300-181-0000	201-1340-034-0000	201-1340-076-0000
201-0300-182-0000	201-1340-035-0000	201-1340-077-0000
201-0300-183-0000	201-1340-036-0000	201-1340-078-0000
201-0300-184-0000	201-1340-037-0000	201-1340-079-0000
201-0300-185-0000	201-1340-038-0000	201-1340-080-0000
201-0300-186-0000	201-1340-039-0000	201-1340-081-0000
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**SHORE VISTA WAY OC
Preliminary Project Schedule 09-03-24**

ID	Task Name	Duration	Start	Finish	Qtr 4, 2024			Qtr 1, 2025			Qtr 2, 2025			Qtr 3, 2025			Qtr 4, 2025			Qtr 1, 2026			Qtr 2, 2026			Qtr 3, 2026	
					Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul
1	Shore Vista Way OC Previous Effort	557 days	Thu 6/16/22	Sat 8/3/24																							
2	Caltrans Kickoff Meeting	1 day	Thu 6/16/22	Thu 6/16/22																							
3	City Design Focus Meeting	1 day	Mon 6/27/22	Mon 6/27/22																							
4	65% Plans and Estimate to Integral	1 day	Mon 9/19/22	Mon 9/19/22																							
5	65% P&E Submittal to City	1 day	Fri 12/23/22	Fri 12/23/22																							
6	Caltrans Cooperative Agreement	1 day	Sat 12/31/22	Sat 12/31/22																							
7	City 65% P&E Comments	1 day	Fri 1/27/23	Fri 1/27/23																							
8	PR and APS Submittal to Caltrans	1 day	Mon 3/20/23	Mon 3/20/23																							
9	Caltrans PR Comments	1 day	Wed 5/3/23	Wed 5/3/23																							
10	Revised APS	1 day	Tue 1/9/24	Tue 1/9/24																							
11	SMUD Vertical Clearance Coordination	1 day	Wed 5/29/24	Wed 5/29/24																							
12	SacRT Coordination	29 days	Wed 6/26/24	Sat 8/3/24																							
13	Shore Vista Way OC	364 days	Mon 9/23/24	Thu 2/12/26																							
14	Bridge Studies	125 days	Mon 9/23/24	Fri 3/14/25																							
15	Advanced Planning Study	45 days	Mon 9/23/24	Fri 11/22/24																							
16	SacRT Coordination	5 days	Mon 9/23/24	Fri 9/27/24																							
17	Finalize and Submit APS	4 wks	Mon 9/30/24	Fri 10/25/24																							
18	Caltrans DES Review	4 wks	Mon 10/28/24	Fri 11/22/24																							
19	Type Selection	80 days	Mon 11/25/24	Fri 3/14/25																							
20	Prepare Type Selection	4 wks	Mon 11/25/24	Fri 12/20/24																							
21	Caltrans DES Review	5 wks	Mon 12/23/24	Fri 1/24/25																							
22	Finalize and Submit Type Selection	3 wks	Mon 1/27/25	Fri 2/14/25																							
23	Caltrans DES Review	4 wks	Mon 2/17/25	Fri 3/14/25																							
24	Roadway	80 days	Mon 11/25/24	Fri 3/14/25																							
25	Project Report	80 days	Mon 11/25/24	Fri 3/14/25																							
26	Submit PR	2 wks	Mon 11/25/24	Fri 12/6/24																							
27	Caltrans Review	8 wks	Mon 12/9/24	Fri 1/31/25																							
28	Finalize PR	2 wks	Mon 2/3/25	Fri 2/14/25																							
29	Caltrans PR Approval	4 wks	Mon 2/17/25	Fri 3/14/25																							
30	Geotechnical Services	215 days	Mon 11/25/24	Fri 9/19/25																							
31	Field Investigation	35 days	Mon 11/25/24	Fri 1/10/25																							
32	Schedule Mobilize Driller	2 wks	Mon 11/25/24	Fri 12/6/24																							
33	Encroachment Permit/USA Markings	1 wk	Mon 12/9/24	Fri 12/13/24																							
34	Investigation and Testing	4 wks	Mon 12/16/24	Fri 1/10/25																							
35	Revise Preliminary Geotechnical Memo	2 wks	Mon 1/13/25	Fri 1/24/25																							
36	Draft Geotechnical Report	3 wks	Mon 5/19/25	Fri 6/6/25																							
37	Final Geotechnical Report	3 wks	Mon 9/1/25	Fri 9/19/25																							

**SHORE VISTA WAY OC
Preliminary Project Schedule 09-03-24**

ID	Task Name	Duration	Start	Finish	Qtr 4, 2024			Qtr 1, 2025			Qtr 2, 2025			Qtr 3, 2025			Qtr 4, 2025			Qtr 1, 2026			Qtr 2, 2026			Qtr 3, 2026	
					Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul
38	Hydraulic Analysis	20 days	Mon 2/17/25	Fri 3/14/25																							
39	Drainage Analysis and Technical Memo	4 wks	Mon 2/17/25	Fri 3/14/25																							
40	Final Design	326 days	Mon 3/17/25	Mon 6/15/26																							
41	65% Plans and Estimate	86 days	Mon 3/17/25	Mon 7/14/25																							
42	Revisions to 65% P&E	12 wks	Mon 3/17/25	Fri 6/6/25																							
43	City Review	4 wks	Mon 6/9/25	Fri 7/4/25																							
44	Response to Comment Log	1 wk	Mon 7/7/25	Fri 7/11/25																							
46	95% Plans, Specifications and Estimate	76 days	Mon 7/14/25	Mon 10/27/25																							
47	Prepare 95% PS&E	10 wks	Mon 7/14/25	Fri 9/19/25																							
48	City Review	4 wks	Mon 9/22/25	Fri 10/17/25																							
49	Response to Comment Log	1 wk	Mon 10/20/25	Fri 10/24/25																							
51	100% Plans, Specifications and Estimate	46 days	Mon 10/27/25	Mon 12/29/25																							
52	Prepare Final PS&E	4 wks	Mon 10/27/25	Fri 11/21/25																							
53	City Review	4 wks	Mon 11/24/25	Fri 12/19/25																							
54	Response to Comment Log	1 wk	Mon 12/22/25	Fri 12/26/25																							
56	Final Plans, Specifications and Estimate	50 days	Tue 4/7/26	Mon 6/15/26																							
57	Prepare Final PS&E	4 wks	Tue 4/7/26	Mon 5/4/26																							
58	City Review	2 wks	Tue 5/5/26	Mon 5/18/26																							
59	Caltrans Review	6 wks	Tue 5/5/26	Mon 6/15/26																							
60	Encroachment Permit	121 days	Tue 12/30/25	Tue 6/16/26																							
61	Prepare Encroachment Permit Application	2 wks	Tue 12/30/25	Mon 1/12/26																							
62	Caltrans Process (QMAP)	4 wks	Tue 1/13/26	Mon 2/9/26																							
63	QMAP Documentation (as needed)	20 days	Tue 2/10/26	Mon 3/9/26																							
64	Traffic Management Plan (Caltrans Prepare)	2 wks	Tue 2/10/26	Mon 2/23/26																							
65	Landscape Maintenance Agreement	4 wks	Tue 2/10/26	Mon 3/9/26																							
66	Construction Quality Management Plan	1 wk	Tue 2/10/26	Mon 2/16/26																							
67	R/W Certification	4 wks	Tue 2/10/26	Mon 3/9/26																							
68	SIQMP	1 wk	Tue 2/10/26	Mon 2/16/26																							
69	Functional Unit Review	4 wks	Tue 2/10/26	Mon 3/9/26																							
70	Response to Comment Log	2 wks	Tue 3/10/26	Mon 3/23/26																							
71	Comment Resolution with City/Caltrans	2 wks	Tue 3/24/26	Mon 4/6/26																							

Funding Agreement for Construction of the Shore Vista Overcrossing

This Funding Agreement for Construction of the Shore Vista Overcrossing (the “Agreement”), dated October 8, 2024, for purposes of identification, is by and among the **City of Sacramento**, a California municipal corporation (the “City”); and The Greenbriar Project Owner, LLC, a Delaware limited liability company and **Greenbriar Phase 2, LLC**, a Delaware limited liability company (collectively, the “Developer”).

Background

- A. The Greenbriar Project [P11-093] (“Project”) obligates the Developer to construct Meister Way Overcrossing (now referred to as “Shore Vista Overcrossing” or “SVO”) over SR 70/99. This overpass is generally located near the center of the Project site and will connect the Project site to the North Natomas Community East of the Project site. SVO consists of two lanes (one lane in each direction), bike lanes, and pedestrian sidewalks on either side of the roadway. The overpass will extend from East Commerce Way East of the Project site to its first intersection within the Project site.
- B. The City and Developer amended the Project Development Agreement (“DA”) pursuant to a Third Amendment to Development Agreement for Greenbriar (P11-093) (the “Third Amendment”) to clarify the Developer’s obligation to build the SVO, including funding.
- C. Section 18.24.05 of the Sacramento City Code establishes a development-impact fee to fund public facilities that serve the City’s North Natomas area (the “PFF”). These public facilities are described in the North Natomas Community Plan and the North Natomas Financing Plan and include freeway overcrossings at the following locations: Snowy Egret Way, Natomas Crossing Boulevard, El Centro, and Meister Way (now Shore Vista Way).
- D. The 2008 Nexus Study Update modified the North Natomas Financing Plan to remove the extension of Natomas Crossing Drive towards the West of the overcrossing, remove funding for the Snowy Egret Overcrossing, and reduce funding for the SVO.
- E. In the 2017 Nexus Study Update, the Panhandle project and Greenbriar project are identified as potential sources to share the cost of public facilities planned or constructed in the North Natomas Finance Plan area, which will benefit the residents of those areas.
- F. As of July 1, 2024, the PFF funding for Meister Way Overcrossing is \$823,059.
- G. In 2024, the Developer requested additional funding to complete construction of the SVO. The City will commit funds collected for the Greenbriar Community Center, Greenbriar Transit, Panhandle Transit Fees, and portion of the PFF funding committed to Meister Way in the North Natomas Finance Plan, towards the SVO. These funds are referred to herein as the Fee Revenues. The City has committed 100% of the Fee Revenues, less any amounts described herein for borrowing and/or administrative expenses towards the SVO. Prior to

the final payment as described in Section 3, below, “true-up calculations” shall be prepared by the City to provide a final estimate of the total fees collected to date plus estimated future fees. The City and Developer have amended the DA to commit the Fee Revenues which are currently estimated at \$6,112,239 to the completion of the SVO as follows:

Item and Description	Fee Revenues Collected	Estimated Future Fees	Other Sources	Total Funding
<u>Greenbriar DA Fees</u>				
North Natomas Community Center Fee	\$831,783	\$1,051,942	N/A	\$1,883,725
North Natomas Transit Fee	<u>\$971,946</u>	<u>\$1,458,508</u>	N/A	<u>\$2,430,454</u>
Greenbriar DA Fees Total	<u>\$1,803,729</u>	<u>*\$2,510,451</u>	N/A	<u>\$4,314,180</u>
<u>Other Funding Sources</u>				
North Natomas Public Facilities Fee	N/A	N/A	\$823,059	\$823,059
Panhandle DA Transit Fee	N/A	N/A	<u>*\$975,000</u>	<u>\$975,000</u>
Other Funding Sources Total	N/A	N/A	<u>\$1,798,059</u>	<u>\$1,798,059</u>
Grand Total	<u>\$1,803,729</u>	<u>\$2,510,451</u>	<u>\$1,798,059</u>	<u>\$6,112,239</u>

* Requires interfund loan

H. The City has not yet collected an estimated \$2,510,451 in Greenbriar DA Fees and has also not yet collected the Panhandle DA Transit Fee (currently estimated at \$975,000). This Agreement therefore requires interfund loan transfers, loaning fees from the North Natomas Transit Impact Fee Fund to the Greenbriar DA Fees Fund (approximately \$2,510,451), and the Panhandle DA Transit Fee Fund (approximately \$975,000). Loan transfers will be made at the time funds are requested and needed for Developer reimbursement in accordance with Section 3 below. Both loans will accrue interest at the Pool A rate. They will be repaid as Greenbriar DA Fees and Panhandle DA Fees are collected, and when the City Manager determines that cash for that purpose is available in the respective DA Fee Programs.

With these background facts in mind, the City and the Developer agree as follows:

- Funding.** The City shall disburse to the Developer approximately \$4,314,180 from the Greenbriar DA Fee Fund, approximately \$975,000 from the Panhandle DA Fee Fund, and a minimum of approximately \$823,059 from the PFF Fee Fund to pay for the design, permitting, and construction of the SVO completed in accordance with the Third Amendment to the Development Agreement, as well as City of Sacramento Departments

of Utilities and Public Works Guidelines for Special District Acquisition Projects attached to this Agreement as **Exhibit A**. These amounts are available as approved by the Third Amendment approved by the Sacramento City Council by Ordinance No. [REDACTED] on [REDACTED]. Disbursements will be in arrears to reimburse the Developer for work already completed.

- (a) Each request for disbursement must include supporting documentation (e.g., copies of contracts, invoices, payment confirmations) the City determines, in its sole discretion, to be adequate to show that the work for which the Developer requests disbursement complies with Exhibit A and the reimbursement from Fee Revenues is otherwise lawful or appropriate. The City shall notify the Developer promptly when the City has determined —
 - (1) that the work complies with Exhibit A and that the reimbursement from the Fee Revenues is lawful and appropriate; or
 - (2) that the City needs additional supporting documentation; or
 - (3) that the work does not comply with Exhibit A or that the reimbursement from Fee Revenues is not lawful or appropriate.
- (b) The City shall disburse the requested amount within 30 days after the City notifies the Developer under section 1(a)(1) and subject to the timing of reimbursement outlined in section 3 below.
- (c) Reimbursement will not be unreasonably withheld, however, the City's determinations under section 1(a) will be final.

2. Responsibility for Construction and Funding.

- (a) The Developer alone is responsible for designing and constructing the SVO.
- (b) The Developer alone is responsible for securing all funding needed to pay costs that relate to the design or construction of the SVO. The City shall provide funding from the Fee Revenues as set forth in Recital G. Neither the City's general fund nor any of the City's other funds, accounts, or monies will be liable for the performance of the City's obligation under this agreement or for payment of costs related to designing or constructing the SVO.

3. Timing of Reimbursement.

- (a) The Developer may submit for reimbursement to the City based on the following schedule:

1st Draw \$1,250,000 reimbursement request at \$6,000,000 paid toward design, permitting, and construction of the SVO.

2nd Draw \$1,250,000 reimbursement request at \$12,000,000 paid toward design, permitting, and construction of the SVO.

3rd Draw \$1,250,000 reimbursement request at \$18,000,000 paid toward design, permitting, and construction of the SVO.

Final Draw Remaining reimbursement request within 30 days of City issuance of Notice of Completion and acceptance. Currently it is estimated at \$2,362,239.

- (b) Prior to the Final Draw as described in this Section 3, “true-up calculations” shall be prepared by the City to provide a final amount based on:

- (1) The North Natomas PFF contribution as described in the then current North Natomas Financing Plan, with the minimum as specified in Section F, unless such contribution has been expended in a prior reimbursement draw.
- (2) A final estimate of the total Greenbriar and Panhandle Fees collected to date, plus estimated Greenbriar and Panhandle Fees not yet collected based on the current fee amounts, and less all of the following:
 - (A.) Any Greenbriar and Panhandle Fees already expended in a prior reimbursement draw.
 - (B.) Interest paid to date to the North Natomas Transit Fee for the transfer of funds to Greenbriar and Panhandle Fee Sources as presented in Section 1 above.
 - (C.) City’s actual administration costs of administering this Agreement and any related loans not to exceed 3% of Fee Revenues.

The Final Draw will then be adjusted accordingly. No further adjustments shall be made after the Final Draw has been completed. In no event shall the total amount the City borrows against the North Natomas Transit Fee exceed the projected total

amount of Greenbriar and Panhandle fees at the time of the “true up calculation”.

4. **Project Modification.** The North Natomas PFF contribution is based on the current published amount. Estimated Future Greenbriar and Panhandle Fees in Section G of the Recitals is based on current approved project development plans for each project. The Final Draw will be adjusted accordingly to account for any changes up or down from the current estimated amount(s) included herein if: a.) either Greenbriar or Panhandle project is modified to reduce or increase the number or type of residential units, commercial square feet, or any other such modification that reduces or increases the amount of Greenbriar and Panhandle Fees to be collected, or b.) the North Natomas PFF contribution and the Greenbriar and Panhandle Fees are decreased or increased in accordance with their respective annual escalators or otherwise.
5. **No Delay in Construction.** The Developer shall not allow its use of any disbursement of Fee Revenues under this Agreement to delay or jeopardize the timely construction of the SVO.
6. **Notices.** Any notice or other communication under this Agreement must be in writing and will be considered properly given and effective only when mailed or delivered to the following persons in the manner provided in this section:

If to the City:

City of Sacramento
Infrastructure Finance
New City Hall
915 I Street, Fifth Floor
Sacramento, California 95814
Attention: Special Districts Manager

If to the Developer:

John Stanek
Greenbriar Phase 2, LLC
888 San Clemente Drive, Suite 100
Newport Beach, CA 92660

Drew Kusnick
Greenbriar Phase 2, LLC
2603 Camino Ramon, Suite 480
San Ramon, CA 94583

With Copies to:

Avdis & Cucchi, LLP
Attn: Nick Avdis
1415 L Street, Suite 410
Sacramento, CA 95814

A mailed notice or other communication will be effective or will be considered to have been properly given on the third day after it is deposited in the United States Mail

(certified mail and return receipt requested), addressed as set forth above, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when delivered. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this Section 6.

7. Effective Date. This Agreement becomes effective on the date as of which both the City and the Developer have signed it, as indicated by the dates in the signature blocks below.

8. Counterparts. The parties may execute this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.

9. Entire Agreement. This Agreement sets forth the parties' entire understanding regarding the matters set forth above. It supersedes all prior or contemporaneous agreements, representations, and negotiations regarding those matters (whether written, oral, express, or implied) and may be modified only by another written agreement signed by all parties.

[Signature Page Follows]

City of Sacramento

[]

By: _____
Leyne Milstein, Assistant City Manager
for Howard Chan, City Manager
Date: _____, 2024

By: _____
[Name]
[Title]
Date: _____, 2024

Approved as to Form
Office of the City Attorney

Approved as to Form
Office of the Chief Legal Counsel

By: _____
Senior Deputy City Attorney

By: _____
[Name]
[Title]

The Greenbriar Project Owner, LLC
a Delaware limited liability company

By: John Stanek

John Stanek

Authorized Representative
Date: _____, 2024

Greenbriar Phase 2, LLC
a Delaware limited liability company

By: John Stanek

John Stanek

Authorized Representative
Date: _____, 2024

Exhibit A

Sacramento Department of Utilities and Public Works Guidelines for Special District Acquisition Projects

**City of Sacramento
Departments of Utilities and Public Works
Guidelines for Special District Acquisition Projects**

Introduction

The City of Sacramento Policies and Procedures Manual for Special Assessment and Community Facilities Districts provides for the use of acquisition districts. Listed in this exhibit are guidelines that must be followed to qualify improvement project costs for reimbursement by the City through the contemplated community facilities district (the “**District**”). Reimbursement is dependent upon the City’s actual receipt of special-tax proceeds or proceeds from special-tax bonds (the “**Bonds**”) if the Bonds are issued and upon the legality of reimbursement for individual expense items under applicable law.

1.0 Definitions

- 1.1 **Acquisition Agreement.** An agreement between the Developer and the City allowing the District to acquire certain public facilities from the Developer.
- 1.2 **Acquisition Facility or Acquisition Facilities.** Those public-facility improvements described in Acquisition Agreements or a Hearing Report, as applicable, filed in the proceedings undertaken in connection with the formation of the District.
- 1.3 **Acquisition Price.** The amount the District is to pay for the Acquisition Facilities in accordance with the Acquisition Agreement.
- 1.4 **Advertisement.** A published public notice that solicits bids for a project in accordance with these guidelines and applicable law.
- 1.5 **Bid Documents.** Plans, Specifications, and proposal documents that are prepared by, or under the supervision of, the Design Engineer; conform with policies, rules, regulations, and laws applicable to the City; and are suitable for the solicitation and submittal of bids by contractors for construction of an Acquisition Facility.
- 1.6 **City Engineer.** The Engineering Division Manager of the City’s Department of Public Works or his or her designee.
- 1.7 **Construction Manager.** Individual responsible for project oversight and management of Facility construction. Developer will be responsible for a Construction Manager onsite during all construction operations.

- 1.8 **Construction Security.** Performance bonds and labor-and-material payment bonds or other security, provided by the Developer or by the Contractor to the Developer in a form assignable to the City, which guarantee that the Contractor will meet all contractual obligations.
- 1.9 **Contractor.** A person or entity that is under contract to construct the Acquisition Facility and who possesses the appropriate California contractor's license or licenses for the Facility work.
- 1.10 **Design Engineer.** A California-licensed professional civil engineer the Developer has retained for the purpose of designing and supervising construction of the Acquisition Facilities. Supervision of the construction of the Acquisition Facilities shall be by the Design Engineer or specified Developer representative.
- 1.11 **The Developer.** The person or entity identified as the "Developer" in the Acquisition Agreement to which these guidelines are attached as an exhibit.
- 1.12 **District Administrator.** The Public Improvement Financing Unit of the City's Department of Finance, or its successor.
- 1.13 **Engineer's Estimate.** A cost estimate for the Acquisition Facilities prepared by the Design Engineer and approved by the City Engineer.
- 1.14 **Facility.** An element or increment of an entire Acquisition Facility. A Facility is eligible for acquisition when it is complete and available for public benefit (i.e., when it is a functional, usable unit of infrastructure capable of being incorporated into the City's infrastructure system).
- 1.15 **Hearing Report.** The report required by the Mello-Roos Act of 1982 that identifies the boundaries of the District, the specific improvements to be financed by the District and the maximum special tax rate each property owner will be responsible for paying in any given tax year.
- 1.16 **Owner/Builder.** The person or entity acting as Developer who is responsible for the completion of the Facility improvements.
- 1.17 **Plans.** Final bid drawings prepared by the Design Engineer and its consultants and approved by the City for construction of the Acquisition Facilities.
- 1.18 **Specifications.** Documents prepared by the Design Engineer or its consultants that describe in detail for construction-contract purposes the material and workmanship required to complete an Acquisition Facility.

2.0 Pre-Advertisement Procedures

- 2.1 The Developer shall submit project schedules to the City Engineer.
- 2.2 As and if required, the City shall endeavor to obtain necessary interests in real property, but only if the Developer has provided full and complete funding and has signed a funding agreement for this purpose in a form acceptable to the City Attorney. The Developer shall negotiate all utility relocations.
- 2.3 The Design Engineer shall prepare and submit Plans and Specifications to the City Engineer for review and approval. The Plans must indicate those portions of the Improvements that are Acquisition Facilities qualified for reimbursement from the District. These indications are not to be construed as the City's approval or disapproval of eligibility for cost reimbursement. The City Engineer and the District Administrator will jointly determine, independently of the Plans and the City Engineer's approval of the Plans, whether an Acquisition Facility qualifies for reimbursement through the District.
- 2.4 The Developer shall pay City plan-check fees and inspection fees (normal and specific) in accordance with normal City procedures.
- 2.5 Construction Security shall be provided in the same manner as is provided for normal City public-works projects.
- 2.6 The Design Engineer shall prepare the Bid Documents for the Acquisition Facilities and shall submit the documents to the City Engineer for review, and the City Engineer shall, in writing, either approve or disapprove the Bid Documents. The Bid Documents must be in conformance with all ordinances, laws, policies, rules, and regulations applicable to the City, including but not limited to the following:
 - (a) Compliance with all applicable City and State of California requirements for public-works contracts, including but not limited to Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices).
 - (b) The invitation to bidders must be publicly advertised.
 - (c) The Bid Documents must include a non-collusion affidavit in a form acceptable to the City, to be signed by an authorized representative of the bidder.
 - (d) The Bid Documents must comply with all other applicable City requirements.
 - (e) The Developer must sign a certificate affirming compliance with all of the requirements set forth in this section 2.6.

- 2.7 The City Engineer shall review the Bid Documents to determine whether they meet the following requirements:
- (a) The Engineer's Estimate is reasonable and has been approved by the City Engineer.
 - (b) The bidding procedures are consistent with advertising and bid-opening procedures for public contracts, and the bid forms clearly describe each bid item and are in a format that is substantially similar to the format of the cost breakdown in the Acquisition Agreements or Hearing Report, as applicable.
 - (c) The construction contract requires the Contractor and its subcontractors to comply with Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices).
 - (d) The Bid Documents include a non-collusion affidavit in a form acceptable to the City to be signed by an authorized representative of the bidder.
 - (e) The number of allotted working days specified in the contract documents is reasonable for the proposed work.
 - (f) Any liquidated-damage clauses are consistent with City policy.
 - (g) A detailed schedule of work tasks per contract outlining trade licensing required to perform Facility work identified.
- 2.8 The Developer may be excused from complying with some or all of this section 2.0, other than sections 2.6(a) and 2.7(c), if the City Council determines, by a two-thirds vote, that excusing compliance is in the best interests of the City.

3.0 Advertisement and Bid-Opening Procedures

- 3.1 The Developer shall provide the City Engineer with complete copy of all final Bid Documents, including any addenda, and may advertise the project only after the City has approved the Plans and the City Engineer has approved the final Bid Documents.
- 3.2 The Developer must advertise the project in a newspaper of general circulation published within the County of Sacramento, as follows: for a daily newspaper, the Advertisement must be published at least 10 consecutive times; and for a weekly newspaper, the Advertisement must be published at least two consecutive times. The Developer may use other advertising procedures in addition to the procedures specified in this section 3.2.
- 3.3 The Developer shall conduct a bid opening at a location open to the public. The bids must be sealed, must be submitted on or before the specified date and time, and must be

publicly opened with each bidder's name and total bid announced at the opening in the presence of all interested parties.

- 3.4 The Developer shall notify the City Engineer at least 10 days before the bid-opening date and location and shall provide the City Engineer with a copy of the Advertisement or Advertisements.
- 3.5 The City Engineer or the City Engineer's representative shall attend each pre-bid meeting (if any) and the public bid opening. The Developer shall have a sign-in sheet for attendees if a pre-bid meeting is held and shall provide a copy of the sheet to the City.
- 3.6 If the Developer requests, the City may, in the City Engineer's sole discretion, advertise the project on the Developer's behalf using the City's procedures for advertising contracts for public projects.
- 3.7 The Developer may be excused from complying with this section 3.0, in whole or part, if the City Council determines, by a two-thirds vote, that excusing compliance is in the best interests of the City.

4.0 Construction Contract Award

- 4.1 The Developer shall provide the City Engineer with a summary of all bids and a copy of the lowest bid proposal submitted, together with a written evaluation of the bids and a recommendation for award. The Developer shall provide the following information with the evaluation and recommendation, in the form of a certificate stating the following:
 - (a) That there are no pending disputes over the bidding procedures.
 - (b) That all bidders received the same set of Bid Documents and all of the addenda issued.
 - (c) That all applicable City approvals required for the work have been obtained.
 - (d) That the bid proposal has not been conditioned in any way.

The Developer shall retain the original of all bids received for a minimum of four years after the date of the acceptance of the Acquisition Facility by the City.

- 4.2 Within five working days after receipt of the bid material specified in section 4.1, the City Engineer shall review the bid summary and a copy of the lowest bid and shall determine whether (a) to concur in the Developer's recommendation or (b) to notify the Developer that additional review time will be required, specifying the date by which review will be complete.

- 4.3 The City Engineer shall give the Developer written notification of the determination under section 4.2 within the time stated in that section.
- 4.4 If the lowest bidder is not recommended, if the City Engineer does not concur with the Developer's recommendation, or if the City Engineer is aware of any irregularities or possible disputes over the bidding procedure, then the Developer or the City Engineer shall notify the City Manager. This notice must be in writing and must be submitted to the City within five working days after the determination required by section 4.2 has been made. Within ten days after receiving the notice, the City Manager shall review the Bid Documents and procedures and advise the Developer of the City's decision regarding the award of the contract.
- 4.5 The Developer may reject all bids received and re-advertise for bids in accordance with these guidelines or, with the City Engineer's concurrence, may dispense with further competitive bidding. The Developer may not reject individual bids without the City Engineer's concurrence.
- 4.6 The Developer must obtain the City Engineer's formal written concurrence before awarding the construction contract.
- 4.7 The Developer shall award the contract, with the City Engineer's concurrence in the form of a letter or memorandum on City letterhead, within 60 days after the bid opening and shall authorize the Contractor to proceed with the work within 60 days after award.
- 4.8 The Developer shall provide the following items to the City Engineer within 30 days after the Developer has authorized the Contractor to proceed:
 - (a) A copy of the signed contract with the Contractor, specifying the award date.
 - (b) A written statement (1) that the contract award amount is within the Engineer's Estimate and does not exceed the overall funds available from the District; or (2) that the contract award amount exceeds the Engineer's Estimate or the overall funds available from the District, and the Developer will pay all amounts by which the contract exceeds the estimate and funds available.
- 4.9 The Developer may be excused from complying with this section 4.0, in whole or part, if the City Council determines, by a two-thirds vote, that excusing compliance is in the best interests of the City.

5.0 Construction

- 5.1 Either the Developer or the Design Engineer shall schedule and conduct a pre-construction meeting before work on the Acquisition Facilities begins. The pre-construction meeting must be attended by the Developer and or Construction Manager, the Design Engineer,

the City Engineer, the Contractor, representatives of each agency issuing permits, representatives of affected utilities, and other interested parties. The City Engineer and the City must receive written notice of the pre-construction meeting at least five days before the meeting, and the meeting date must be scheduled for a time, place, and date acceptable to the City Engineer and the City.

- 5.2 The Developer and/or the Contractor shall coordinate all inspections of Acquisition Facilities in accordance with City policy and the improvement agreement applicable to the Acquisition Facilities.
- 5.3 The Developer shall hire a labor-compliance consultant to certify to the City that all requirements of Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices) have been satisfied. The consultant's certification must be submitted to the City Engineer when the Developer submits a request for reimbursement in accordance with section 7.0.
- 5.4 If the Developer desires to be reimbursed for any contract change-order work, then before allowing the Contractor to undertake the work the Developer must obtain from the City Representative overseeing the work (as designated in the drainage or other improvement agreement) the representative's written acknowledgment of the need to perform the change-order work in order to complete the project satisfactorily. The City Engineer shall subsequently determine if any adjustments are to be made to the Acquisition Price as a result of the change order.
- 5.5 The Developer shall hire a Construction Manager to be responsible for the project schedules, change orders, contract administration, overlap of contractor trades and general project oversight.
- 5.6 The City Engineer must review and approve in advance any revisions to the Plans, and each change order must be submitted to, and approved by, the City Engineer as a condition for reimbursement of costs associated with the change order.
- 5.7 For the purposes of these guidelines, the construction will be considered complete when the Acquisition Facility is fully completed and available for public benefit, when the City has accepted the Acquisition Facility in accordance with the applicable drainage or other improvement agreement, and when the Developer has obtained the following, as applicable:
 - (a) Approval of the City if a grading permit is required.
 - (b) Approval of all facilities shown on the Plans or included in the Acquisition Facilities by the affected utility companies or other affected departments of the City or the County of Sacramento.

- (c) Approval of the City of all erosion-control improvements required by the Plans or the grading permit.
- (d) Approval by the City's Licensed Land Surveyor of all monumentation.
- (e) Approval of the City of all street improvements (e.g., storm drains, street lighting, traffic signals) shown on the Plans through issuance of an inspection-completion report.

6.0 Prevailing Wages and Apprentices

- 6.1 The Contractor and all subcontractors shall comply with Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices) for all work performed on the Acquisition Facilities. The Developer shall certify to the City Engineer, in writing, that the Contractor and all subcontractors have complied with the requirements of Sacramento City Code sections 3.60.180 and 3.60.190. Upon request, the Developer shall provide copies of certified payrolls to the City Engineer.
- 6.2 Consistent with California Labor Code section 1720, subdivision (c)(2), work performed on the Acquisition Facilities will be eligible for reimbursement from the District's special-tax proceeds or the District's Bond proceeds only if it has been performed in compliance with Sacramento City Code sections 3.60.180 and 3.60.190.

7.0 Reimbursement

- 7.1 The Developer shall submit to the City Engineer a finalized copy of Plans and Specifications that incorporates all approved changes, and a copy of any recorded tract map or maps. In addition, after completion of a Facility, the Developer shall submit a request for reimbursement to the District Administrator that follows the format provided in Schedule A to this exhibit (titled "Developer Reimbursement Request Format") and includes the following:
 - (a) Final quantities and final costs on each contract item, certified by the Design Engineer, and the total of all construction costs for the particular Facility accompanied by any other supporting documentation necessary to justify reimbursement.
 - (b) Approved contract change orders with final quantities and final costs.
 - (c) Certification that all the contractors and all subcontractors have complied on the project with all applicable City and State of California public-works provisions, including Sacramento City Code sections 3.60.180 (concerning prevailing wages, hours of work, etc.) and 3.60.190 (concerning apprentices).

- (d) Itemized breakdown of other reimbursable costs as delineated in the applicable Acquisition Agreement.
- (e) Copies of invoices, vouchers, canceled checks, and other available materials to support all of the Developer's expenditures claimed for reimbursement.
- (f) Copies of all recorded notices of completion.
- (g) Certification or proof of Advertisement as required by these guidelines.
- (h) Copies of final mechanics-lien releases for the Facility. If the Facility is an increment of a larger Acquisition Facility, the lien releases may be unconditional lien releases upon receipt of the progress payments applicable to the Facility.
- (i) Documentation that all required easements have been transferred to the City or that other arrangements for such transfer, as required by the City, have been made.
- (j) Documentation that all fee interests required for the Acquisition Facilities have been transferred to City or that other arrangements for such transfer, as required by the City, have been made.
- (k) Submission of written certifications from other agencies or utilities involved in the reimbursement request, confirming that the Facility was inspected and completed according to approved Plans and Specifications and that any utilities or agency cost reimbursements are disclosed in the District reimbursement requests.
- (l) Where applicable, all equipment manuals for the Acquisition Facilities.
- (m) All warranties relating to the Acquisition Facilities.

In addition, the Developer shall submit to the City Engineer a finalized copy of Plans and Specifications that incorporates all approved changes, and copies of all recorded tract maps.

- 7.2 The District Administrator shall have the request for reimbursement and all supporting data reviewed by a professional engineer licensed in California, who may rely on the authenticity of all supporting data, documents, representations, and certifications provided by the Developer and each Design Engineer. The Developer shall sign a certification on all submitted data. If additional information is required during the review process to comply with section 7.1, then the District Administrator may request in writing that the Developer supply the supplemental data, and the Developer shall promptly comply with such a request.

- 7.3 Upon review of the submitted information, if complete, the District Administrator shall determine whether and to what extent the costs and expenses claimed are reimbursable, and shall provide a written recommendation to the City Manager, who shall make a final determination of reimbursement eligibility.