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OFFICE OF THE  
CITY TREASURER

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March 25, 2003  
F064NWC.DOC

City Council  
Sacramento, California

Honorable Members in Session:

**SUBJECT: EMERGENCY ORDINANCE AND RESOLUTION TO IMPOSE AND SET A REFUNDABLE SUPPLEMENTAL NORTH NATOMAS DRAINAGE FEE AND REFUNDABLE BUY-IN FEE RELATED TO NORTH NATOMAS CFD 97-01**

**LOCATION AND COUNCIL DISTRICT:**

North Natomas Council District 1.

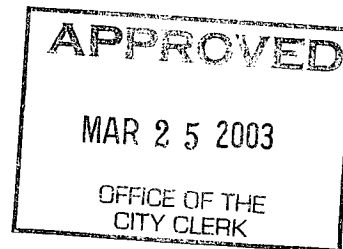
**RECOMMENDATION:**

This report recommends that the City Council adopt the attached:

- Ordinance to impose a Refundable Supplemental North Natomas Drainage Fee and a Refundable Buy-in Fee and declaring this Ordinance to be an Emergency Ordinance to become effective immediately upon its adoption; and
- Resolution setting the amount of the Refundable Supplemental Drainage Fee and the Refundable Buy-in Fee (as outlined in the Resolution) in connection with the issuance of the North Natomas Drainage Community Facilities District (CFD) 97-01, Subordinated Special Tax Bonds, Series C.

**CONTACT PERSON:** Thomas P. Friery, City Treasurer, 264-5168

**FOR COUNCIL MEETING OF:** March 25, 2003



**SUMMARY:**

Due to the advanced rate of residential construction in North Natomas, it was identified in January 2002 that the third phase of the CFD 97-01 Comprehensive Drainage System improvements needed to be constructed now (earlier than projected) to accommodate the faster build out. The special tax revenues from CFD 97-01, which will support the CFD 97-01 Series C bond issue to pay for the improvements, will not be sufficient to support the bond issue until 2006. With the improvements needed now due to the accelerated building schedule and the special tax revenues not sufficient to support the bond sale until 2006/07, it is not possible to publicly finance the improvements now. Failure to fund the needed improvements may result in a building moratorium in North Natomas. Therefore, it is imperative that an interim financing solution be developed.

In actions taken on December 17, 2002, and January 9, 2003, City Council approved the sale of \$6,040,000 North Natomas CFD 97-01, subordinate capital appreciation bonds, Series C (“Interim Bonds”) to fund the Phase III improvements. Additionally, City Council approved the concept of refundable fees being imposed in conjunction with the issuance of the bonds. These Interim Bonds will be sold as a private placement issue to four purchasers as described later in this report.

Further, City Council approved the concept of selling a permanent bond financing in 2006/07 to refund the Interim Bonds. Finally, Council also directed staff to develop a Refundable Buy-in Fee and Refundable Supplemental North Natomas Drainage Fee to be imposed during the time the Interim Bonds are outstanding. These refundable fees were implemented to ensure an equitable distribution of the interim financing obligation to all parties building in North Natomas during the period in which the Interim Bonds will be outstanding, rather than leaving the entire obligation with just the original four purchasers.

The Interim Bonds will be purchased by the City of Sacramento (Drainage Fund - \$1,540,000), Lennar Communities (\$2,300,000), Lewis Operating Corp. (\$1,700,000), and The Cambay Group (\$500,000). The investment rate on the Interim Bonds has been established at a tax-free rate of 6%.

Additionally, when the Interim Bonds were approved, City Council also directed staff to meet with the North Natomas Working Group to discuss the refundable fees. Staff presented information to the Working Group on February 12, 26, and March 12, 2003, regarding the refundable fees. Now, staff is requesting City Council adopt the attached ordinance and resolution to establish and set the refundable fees as described below.

- Refundable Buy-in Fee - imposed on landowners in North Natomas not presently participating in the interim financing and who desire to form a new special district or issue a subsequent series of bonds in an existing district. The Refundable Buy-in Fee amount is \$1,000,000.
- Refundable Supplemental Drainage Fee - applied to all remaining development within the CFD 97-01 boundaries and payable at the time building permits are issued. The proposed amounts are:

Single Family	\$851.00 per unit
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Multi-family	\$403.00 per unit
Non-residential	\$5,178.00 per net acre

It should be noted that the “refundable fees” are not “development impact fees” that are typically imposed. Instead the concept of the refundable fees is to distribute the financial responsibility of the interim financing among all benefiting parties building in North Natomas during the period the Interim Bonds are outstanding. The parties paying the refundable fees will be reimbursed, with interest, when the Interim Bonds are refunded by the permanent financing. It is anticipated that the Interim Bonds will be refunded in 2006/07. The methodology that will be employed by the City Treasurer’s Office to ensure the refundable fees are equitably distributed is demonstrated on **Exhibit A**.

The described purchasers are prepared to purchase the Interim Bonds upon City Council approval this afternoon of the refundable fees described herein. Without the Interim Bonds, the potential impacts to the City, developers, and homeowners are significant.

**COMMITTEE/COMMISSION ACTION:**

None.

**BACKGROUND INFORMATION:**

*Need for Improvements and Funding Mechanism*

North Natomas CFD 97-01, Comprehensive Drainage System, is the backbone drainage infrastructure for North Natomas; improvements include levee enhancements, channel improvements, pump station construction and expansion, and associated land acquisition. The individual detention basins associated with each of the neighborhoods are designed to discharge into the Comprehensive Drainage System. Construction of this entire system mitigates the impact of additional runoff caused by new development, thereby removing the North Natomas Community Plan area from the 100-year floodplain and allowing development to occur.

The 1994 North Natomas Financing Plan identified bond financing to construct the Comprehensive Drainage System improvements. CFD 97-01 was established in 1997 to serve as the bond financing structure. The Phase I and Phase II improvements have already been constructed utilizing the proceeds from the sale of CFD 97-01, Series A and B bonds, respectively. The current rate of development in North Natomas indicates the necessity for proceeding ahead now with the Phase III improvements, which complete of the Comprehensive Drainage System.

In early 2002 the Department of Utilities notified the City Treasurer’s Office that approximately \$6 million would be needed in early 2003 to begin construction of the Phase III improvements to complete the Comprehensive Drainage System. This timeline is four years earlier than the 2006 date originally projected in 1997 when the district was formed. Since the special tax revenues to pay for the debt service on the bonds that would have to be sold to pay for the construction of the Phase III improvements will not be sufficient to finance the bonds until 2006, it would not be possible to have a public bond sale until that time. Failure to complete the Phase III improvements at this time could result in:

- non-compliance with FEMA floodplain management requirements could result in FEMA removing the City from the program, thereby impacting the ability of property owners to acquire affordable flood insurance under the FEMA program and potentially cause a City-wide halt to development; and
- cause a moratorium on development in North Natomas as the drainage system could not adequately accommodate the drainage runoffs; and
- impairment of the City's ability to issue future land secured debt for infrastructure in North Natomas.

As a result of the seriousness of this matter, the City Treasurer halted further sales of any special tax bond financings for North Natomas in March 2002, pending a resolution of the financing problem. Further, the City Treasurer worked with the City Manager's Office and other City staff to confirm and verify the existence of the problem and to evaluate alternatives for resolving the situation. The following outlines the work that was undertaken and the recommendation that is being presented to the City Council.

#### Funding Solution

In early 2002, City staff began discussions to find an interim funding solution with North Natomas developers who, at the time, had the largest active amount of development occurring. During the course of those discussions, staff offered the concept that the City (subject to City Council approval) would consider being an investor and provide \$1.5 million of the interim financing. Coupled with a prior \$3 million advance the City had already made to CFD 97-01 at the time of the Series B bonds, that would equate to the City investing \$4.5 million and the development community also investing \$4.5 million in North Natomas drainage related debt.

Conceptually the idea was well received, and senior representatives from each of the parties, including the City, began discussions in earnest to solidify the interim financing structure. In late 2002, the business points were agreed upon and the proposal was presented to City Council on December 17, 2002 for approval to proceed. At that time, City Council authorized staff to proceed with a subordinated bond financing and the development of refundable fees in conjunction with the bond issuance.

The primary motivation for finding an interim solution was to prevent severe economic impact on not only the participating developers, but the City of Sacramento, landowners, and residents of North Natomas as well. A moratorium in North Natomas could result in a loss of property value, deferment of public facilities and amenities for the residents, increased borrowing and carrying costs, declining property tax revenues, etc. Finding an interim solution would preserve the value of the investments made in the area and allow development to continue.

Although, both the benefits of an interim financing and the potential impacts if an interim financing solution was not identified are far-reaching, the participants resolving the matter are few. In a sense of fair-play and equity, the participants indicated they would like refundable fees established that would equalize the financial burden they had taken on to cure a North Natomas area wide problem. In this manner the refundable fees would serve to distribute the interim financing obligation to all benefiting

parties during the term of the Interim Bond. At the January 9, 2003 meeting, City Council approved the sale of the Interim Bond and directed staff to discuss the refundable fees with the North Natomas Working Group.

Outreach - North Natomas Working Group

City staff met with the North Natomas Working Group on February 12, 26 and March 12, 2003, to provide an overview of the interim financing solution, including the recommended fees. Staff consulted with special tax consultant Goodwin Consulting Group for development of the Refundable Supplemental North Natomas Drainage Fee and presented the fee analysis, as well as a demonstration worksheet of how the allocation of fees would flow. Working Group members expressed concern regarding two primary issues.

- Nexus of Development Fees. Questions were raised regarding the nexus related to development fees. Although staff contracted with Goodwin Consulting Group to develop a fee based on the undeveloped property, land use, and estimated absorption, it was reiterated to the Working Group that the proposed refundable fees are not impact fees traditionally associated with development. They are instead, a method by which the interim financial obligation can be allocated equitably to all parties benefiting from the participating developers' original investment and will be repaid with interest upon the sale of permanent bonds, which is anticipated to occur sometime in 2006/07.
- The amount of the Buy-in Fee. Concern was expressed that the Buy-in Fee is set at \$1,000,000, yet one of the initial participants is only committed to a \$500,000 investment. The arrangement worked out between the three private developers on the amount of financial obligation was between themselves and not the basis for the Refundable Buy-in Fee. The participating developers have indicated that if a lower Refundable Buy-in Fee other than the proposed \$1 million is permitted, then based on the amount of their investments, they would request that the City have everyone, including them, come in at the lower levels.

Based on discussions to date and the urgency in needing the \$6 million funding, staff is not confident that it would be possible to identify 12 developers who would put up \$500,000 each to provide the needed \$6 million. In an effort to keep the interim financing solution intact, staff is recommending that the Refundable Buy-in Fee remain at \$1,000,000.

The adoption of these fees is critical at this time to avoid a moratorium on development in North Natomas. Without the fees, the participating developers are not willing to contribute the funds necessary to successfully close the Interim Bonds that will fund the Phase III improvements. Without completion of the improvements, North Natomas would be threatened with a moratorium on development.

**FINANCIAL CONSIDERATIONS:**

The interim financing will be structured as subordinate 10-year capital appreciation bonds, in the amount of \$6,040,000, maturing in September 2012. The bonds will be purchased by the City Drainage Fund (\$1,540,000), Lennar Communities (\$2,300,000), Lewis Investment (\$1,700,000), and

City Council  
North Natomas CFD 97-01, Series C – Fee Ordinance/Resolution  
March 25, 2003

The Cambay Group (\$500,000). Although the Interim Bonds have been structured as a 10-year obligation, financial modeling indicates that the Interim Bonds should be able to be refunded (taken out) in 2006/07, at which time all investors will receive payment for their proportionate share with interest. The interest rate that has been established on the Interim Bonds is 6% tax-free.

In order to minimize the financial obligation of each original participating investor and spread the responsibility to all benefiting parties, the two refundable fees previously described have been proposed. The funds received from the fees would be used to purchase shares of the Interim Bonds from each investor in a manner that provides for equalized distribution of the investment obligation among the parties.

While the Planning Department will remain the City's one point of contact for payment of fees, the City Treasurer's Office will administer the tracking and allocation of the refundable fees to all contributing parties, as well as coordination with the bond Trustee who serves as the official Registrar. Due to timing and structural issues, the program will be administered by the City Treasurer's Office without imposing an additional administrative cost to the parties paying the refundable fees.

#### **ENVIRONMENTAL CONSIDERATIONS:**

This project is an element of the Comprehensive Drainage Project. When that project was approved on May 20, 1997, the City Council ratified the "North Natomas Comprehensive Drainage Plan Environmental Impact Report." All environmental effects associated with the entire comprehensive drainage project, including this third phase, were identified and analyzed in that EIR, and no significant changes in the project as designed have occurred. There is no need for any further environmental review.

#### **POLICY CONSIDERATIONS:**

Failure to proceed forward with the interim financing to fund the Phase III improvements of the Comprehensive Drainage System could result in a moratorium on development in North Natomas and impact future financings in the area --both public and private. Additionally, failure to complete the flood protection program as approved by FEMA could threaten the City's participation in FEMA program.

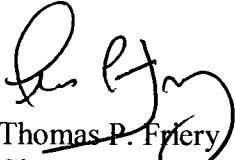
The adoption of the Refundable Buy-in Fee and Refundable Supplemental North Natomas Drainage Fee is critical to maintaining the integrity of the interim financing solution. An emergency ordinance is being requested as there is an immediate need to construct the Phase III improvements and the City and developers are advancing the funds because special tax revenues presently are not sufficient to support the amount of bond funding needed at this time to complete the Phase III improvement.

The refundable fees are a mechanism to ensure development in North Natomas during the period the Interim Bonds are outstanding is equitably shared by all those developing in this time period and not just those advancing the funds necessary to complete the Comprehensive Drainage System.

**ESBD CONSIDERATIONS:**

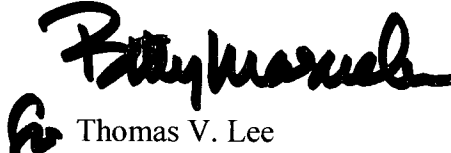
None at this time, as no goods or services are being procured with this action.

Respectfully Submitted,



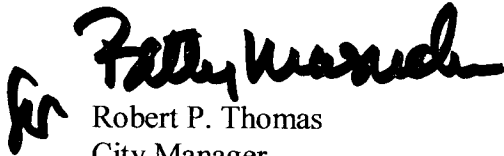
Thomas P. Friery  
City Treasurer

Respectfully Submitted,



Thomas V. Lee  
Deputy City Manager

**RECOMMENDATION APPROVED:**



Robert P. Thomas  
City Manager

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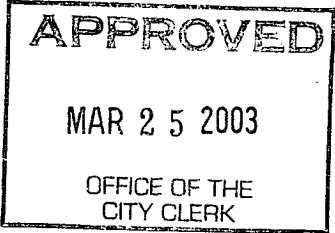
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**NORTH NATOMAS CFD 97-01  
REFUNDABLE FEES  
SAMPLE SCHEDULE OF ALLOCATION**

	Lennar	Lewis	Cambay	City	Buy-in 1 <sup>(1)</sup>	Fees Annual <sup>(2)</sup>	Buy-in 2	Buy-in 3	Total
Initial Invest.	2,300,000.00	1,700,000.00	500,000.00	1,540,000.00					6,040,000.00
Buy-in 1	<u>(800,000.00)</u>	<u>(200,000.00)</u>	<u>-</u>	<u>-</u>	<u>1,000,000.00</u>				
Subtotal	1,500,000.00	1,500,000.00	500,000.00	1,540,000.00	1,000,000.00				6,040,000.00
Cum. Fees	<u>(490,000.00)</u>	<u>(490,000.00)</u>	<u>-</u>	<u>(530,000.00)</u>	<u>-</u>	<u>1,510,000.00</u>			
Subtotal	1,010,000.00	1,010,000.00	500,000.00	1,010,000.00	1,000,000.00	1,510,000.00			6,040,000.00
Buy-in 2	<u>(204,000.00)</u>	<u>(204,000.00)</u>	<u>-</u>	<u>(204,000.00)</u>	<u>(194,000.00)</u>	<u>-</u>	<u>806,000.00</u>		
Subtotal	806,000.00	806,000.00	500,000.00	806,000.00	806,000.00	1,510,000.00	<b>806,000.00</b>		6,040,000.00
Buy-in 3	<u>(134,333.33)</u>	<u>(134,333.33)</u>	<u>-</u>	<u>(134,333.33)</u>	<u>(134,333.33)</u>	<u>-</u>	<u>(134,333.33)</u>	<u>671,666.67</u>	
Subtotal	<u>671,666.67</u>	<u>671,666.67</u>	<u>500,000.00</u>	<u>671,666.67</u>	<u>671,666.67</u>	<u>1,510,000.00</u>	<b>671,666.67</b>	<b>671,666.67</b>	6,040,000.00

<sup>1</sup> The intent of the "fees" is to spread the original obligation to benefitting parties. As such it is envisioned that the Refundable Supplemental Drainage Fee should absorb the majority of the obligation over time. As fees are paid, the holding amounts may equalize to a level that it would not be necessary to collect the full amount of the Buy-in fee, which is set at \$1,000,000.

<sup>2</sup> For demonstration purposes this figure assumes annual total of fees collected from multiple parties based on Goodwin analysis and that no one party would exceed highest held equity. To the extent the cumulative amount of fees was equal or higher than the control point, that party would also factor into the equalized payments.



**ORDINANCE NO. 2003-006**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_  
**AN ORDINANCE AMENDING TITLE 18 OF THE SACRAMENTO CITY CODE RELATING TO DEVELOPMENT FEES IN NORTH NATOMAS, TO ADD CHAPTER 18.52, IMPOSING A REFUNDABLE SUPPLEMENTAL NORTH NATOMAS DRAINAGE FEE AND A REFUNDABLE BUY-IN FEE PAYABLE AS A PRECONDITION TO FORMATION OF A BOND FINANCING DISTRICT IN NORTH NATOMAS OR ISSUANCE OF SERIES BONDS IN AN EXISTING DISTRICT, AND DECLARING THIS ORDINANCE TO BE AN EMERGENCY ORDINANCE TO BECOME EFFECTIVE IMMEDIATELY UPON ITS ADOPTION**

**WHEREAS:**

- A. North Natomas Comprehensive Drainage Community Facilities District No. 97-01 ("CFD 97-01") was established by City in 1997 to fund drainage improvements required by the North Natomas Comprehensive Drainage Plan, with a bond authorization of \$35,000,000.00.
- B. The improvements were to be constructed in three phases, with each phase to be funded with a series bond issue. Accordingly, the Series A bonds in the sum of \$20,175,000.00 were sold in 1997, and the Series B bonds in the sum of \$5,400,000.00 were sold in 2000.
- C. The stated size of the Series B bond issuance was the maximum allowed by the required value to lien ratio (3:1). Because more funding was necessary in order to construct the second phase of the improvements, City agreed to and did loan the sum of \$3,355,000.00 to the project ("City Loan"). This principal amount, together with interest, is being paid from tax proceeds of CFD 97-01, with full amortization scheduled in 2006.
- D. It is necessary, due to the advanced rate of residential construction in North Natomas, to construct the third phase of the improvements during 2003-2004 at an estimated cost of \$6,040,000,00.
- E. The special tax revenue from CFD 97-01 is presently insufficient to support the issuance of the planned Series C bonds.
- F. Because development in North Natomas cannot continue without construction of the third phase of the improvements, the city and certain private North Natomas landowners have agreed upon an interim financing

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solution that will produce the required sum of \$6,040,000.00. Under the interim solution, the city will issue capital appreciation bonds that will be purchased by the city and by the private landowners. It is contemplated that in 2006 or 2007 the city will be able to issue bonds in CFD 97-01 to pay off the capital appreciation bonds. In the interim, it is necessary to establish and impose a refundable supplemental drainage fee ("Fee") to be paid at the time of issuance of a building permit. It is also essential, for the same reasons, that a buy-in fee ("Buy-in Fee") be established, to be paid by non-participating landowners who desire the city to establish a bond financing district in North Natomas or to cause the city to issue series bonds in an existing district. Funds generated by the Fee and the Buy-in Fee are to be used to reduce the equity position of the initial participants in the capital appreciation bonds. The investment of the initial participants, and of the payors of the Fee and the Buy-in Fee, shall be reimbursed when bonds are issued in CFD 97-01.

**NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:**

**SECTION 1.**

Title 18 of the Sacramento City Code is amended to add Chapter 18.52, to read as follows:

**18.52.010. Supplemental Refundable North Natomas Drainage Fee.** Each landowner within the North Natomas Community Plan area who, on or after March 1, 2003, applies for a building permit for lands within that area, shall pay a supplemental refundable North Natomas Drainage Fee ("Fee") as a condition of issuance of the building permit, in an amount established by the City Council by resolution. The payor of the Fee, or the assignees of the payor, shall be reimbursed, with interest at a rate set by the City Council in the resolution establishing the amount of the Fee, at the time of issuance of further series bonds in North Natomas Drainage Community Facilities District No. 97-01. The proceeds of the Fee shall be utilized in accordance with the terms and provisions of the resolution establishing the amount of the Fee.

**18.52.010. Refundable North Natomas Buy-in Fee.** Each landowner within the North Natomas Community Plan area who is not an initial purchaser of the 2003 City of Sacramento North Natomas Comprehensive Drainage Community Facilities District No. 97-01 Subordinated Special Tax Bonds, Series C, shall pay a refundable North Natomas buy-in fee ("Buy-in Fee") as a condition of the establishment, at the request of the landowner, of a bond financing district, or the issuance, at the request of the landowner, of series bonds in an existing bond financing district, in an amount established by the City Council by resolution. The payor of the Buy-in Fee shall be reimbursed, with interest at a rate set by the City Council in the resolution establishing the amount of the Fee, at the time of issuance of further series bonds in North Natomas

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DATE ADOPTED: \_\_\_\_\_

Drainage Community Facilities District No. 97-01. The proceeds of the Buy-in Fee shall be utilized in accordance with the terms and provisions of the resolution establishing the amount of the Buy-in Fee.

**Section 2. Emergency Ordinance**

This ordinance is declared to be an emergency ordinance, to become effective immediately upon its adoption. The facts constituting the emergency are as follows: as specified in the recitals to this ordinance, there is an immediate need to construct Phase III of the Comprehensive Drainage Plan improvements for North Natomas. The city and certain private parties are advance funding all of the cost for completion of those improvements, because special tax bonds cannot be issued at present. Because all undeveloped lands in the North Natomas Community Plan area will benefit from the investment being made by the city and the participating landowners, all non-participating benefiting landowners must be required to fund their fair share of the cost of the improvements. The method selected for accomplishing that goal is the imposition of a refundable drainage fee and a buy-in fee as specified in Section 1 of this ordinance. It is essential that this ordinance take effect immediately in order to prevent any developing landowner from escaping the obligation to pay its fair share of the cost of the improvement.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
FOR CITY CLERK USE ONLY

ORDINANCE NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_



**RESOLUTION NO. 2003-145**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**A RESOLUTION SETTING THE AMOUNT OF THE REFUNDABLE SUPPLEMENTAL DRAINAGE FEE AND THE BUY-IN FEE IN CONNECTION WITH ISSUANCE OF THE NORTH NATOMAS DRAINAGE COMMUNITY FACILITIES DISTRICT 97-01 SUBORDINATED SPECIAL TAX BONDS, SERIES C**

**WHEREAS:**

- A. The City Council has heretofore adopted an ordinance ("Ordinance") establishing the Refundable Supplemental Drainage Fee ("Drainage Fee") and the Buy-in Fee in connection with the issuance of the North Natomas Comprehensive Drainage Community Facilities District 97-01 ("CFD 97-01") Subordinated Special Tax Bonds, Series C.
- B. The Ordinance was adopted as an emergency ordinance, to take effect immediately.
- C. The Ordinance authorized the City Council to set by resolution the amount of the Drainage Fee and the Buy-in Fee.
- D. A study to determine the proper amount of the fee to be paid by various developing land use categories has been conducted, and has been presented to the City Council with the staff reports supporting this resolution.
- E. The City Council has approved agreements entitled "Investment Agreement" with three landowners who, along with the city, have agreed to purchase the subordinated bonds in order to provide funding to complete the essential third phase of the drainage improvements to be constructed through CFD 97-01 funding. Unless that third phase of improvements is completed, further development in North Natomas cannot proceed.
- F. The Investment Agreements provide that as a precondition to the obligation of the landowners to purchase the subordinated bonds, the city will enact a refundable supplemental drainage fee and a buy-in fee. Those agreements

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DATE ADOPTED: \_\_\_\_\_

specify that the subordinated bonds will be refunded in 2006 through refunding bonds issued in CFD 97-01; that interest will be paid on the landowners' investment until refunding; and that the Drainage Fee and Buy-in Fee funds will be used by the city to purchase subordinated bonds from the participating landowners and transfer those bonds to the fee payors, thereby spreading the burden of the interim financing solution across those lands benefiting from the completion of the third phase of CFD 97-01 improvements.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO, AS FOLLOWS:**

**SECTION 1.** The recitals and findings contained in Ordinance No. \_\_\_\_\_, adopted by the City Council on \_\_\_\_\_, 2003, are incorporated in full in this resolution as if fully set forth herein.

**SECTION 2.** The Drainage Fee amounts, payable at the time of issuance of a building permit, are established as follows:

Single family residential unit.....	\$851.00
Multifamily residential unit.....	\$403.00
Commercial/office/industrial.....	\$5,178.00 per net acre

**SECTION 3.** The Buy-in Fee amount, payable as specified in the Investment Agreements, is established at \$1,000,000.00.

**SECTION 4.** The proceeds of the Drainage Fee and the Buy-in Fee shall be applied by the city in accordance with the provisions of the Investment Agreements. The City Treasurer and the City Manager shall develop and implement fair and equitable standards, consistent with the Investment Agreements, for administration of the provisions of the Investment Agreements relative to use and application of those proceeds, and for refunds to the fee payors, which standards shall be reviewed and approved by the City Attorney. Each payor of the Drainage Fee and Buy-in Fee shall, within sixty (60) days following payment of the fee, execute an Investment Agreement in a form approved by the City Attorney, together with such other documents as may be required by the City Treasurer. In the event that the payor fails to execute the Investment Agreement and other required documents within the sixty (60) day period, the payor's right to refund shall be waived without the need for further notice from the City Treasurer or other city official.

**SECTION 5.** The City Council finds and determines that the Drainage Fee and the Buy-in Fee are necessary in order to preserve the public health, safety and welfare,

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DATE ADOPTED: \_\_\_\_\_

in that it is essential to implement the requirements of the North Natomas Comprehensive Drainage Plan immediately so that planned North Natomas development can proceed, thereby avoiding significant economic detriment both to the landowners with remaining undeveloped land in the North Natomas Community Plan Area and to the city itself. The remaining improvements are necessary to prevent flooding in that area, and to preserve the current FEMA floodplain designation for lands within that area. That designation was obtained from FEMA on the basis of timely completion of the phased improvements specified in the Comprehensive Drainage Plan. For the reasons specified in the Ordinance, it is necessary that the Drainage Fee and the Buy-in Fee become effective immediately upon enactment of this resolution.

**SECTION 6.** While this resolution is adopted based upon the general police powers of the City of Sacramento, and is not based upon the provisions of Government Code Sections 66000, et seq., the City Council nevertheless makes the following findings:

- (a) The City Council hereby finds as follows:
  - (i) The recitals set forth above and in the Ordinance are true and correct and are incorporated herein by reference as findings.
  - (ii) The City Council approved the report attached to the staff report for this resolution, following a public hearing on the matter, and the contents of said report are incorporated herein.
- (b) As to the Drainage Fee and the Buy-in Fee (collectively, "Fees"), the City Council makes the following additional findings:
  - (i) The purpose of the Fees is to meet the flood control needs of people living and employed in the North Natomas Finance Plan ("NNFP") Area now and in the future, and to reduce the impacts on drainage infrastructure caused by development in that area.
  - (ii) The Fees shall be used only for the purposes specified in the Investment Agreements, and shall be administered and refunded in accordance with the standards adopted as required by this resolution. Because the Fee payors will be repaid in full, with interest, the Fees are fair, equitable, and just, and constitute a reasonable exaction for the right to develop in the North Natomas Community Plan Area (NNCP).
  - (iii) The various types of development in the NNFP Area generate a need for the drainage facilities to be constructed, that are required for consistency with the City's General Plan and the

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NNCP, and to protect the public's health, safety and general welfare.

- (iv) The record, including all of the material and testimony submitted in support of this resolution, together with all other reports, documents, and oral testimony regarding the Comprehensive Drainage Plan and its implementation and financing, establishes a reasonable relationship between the need for the drainage improvements to be constructed, and the impacts of the various types of development contemplated in the NNFP Area.
- (v) There is a reasonable relationship between the specified use of the Fees and the type of development (including the impacts caused thereby) for which the fee is charged, as described in the record, including, without limitation, the staff report and materials.
- (vi) The cost estimates are reasonable cost estimates for construction of the drainage improvements, and the Fees imposed on new development will not exceed the total of these estimated costs.
- (vii) The Fees are consistent with the City's General Plan and the North Natomas Community Plan, and the City Council has considered the effects of the Fees with respect to the City's housing needs and the regional housing needs.

**SECTION 7. Construction of Resolution**

The provisions of this resolution are subject and subordinate to the provisions of the Sacramento City Charter and the Constitutions of the United States and California, as they relate to the police powers of the City of Sacramento.

**SECTION 8. Judicial Action to Challenge This Resolution.**

Any judicial action or proceeding to attack, review, set aside or annul this resolution shall be brought within 120 days of its adoption.

**SECTION 9. Effective Date.**

This resolution shall be effective immediately upon its adoption.

**SECTION 10. Severability.**

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If any section, phrase, sentence, or other portion of this resolution for any reason is held or found to be invalid, void, unenforceable, or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this resolution.

\_\_\_\_\_  
MAYOR

ATTEST

\_\_\_\_\_  
CITY CLERK

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RESOLUTION NO.: \_\_\_\_\_

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