REPORT TO COUNCIL
City of Sacramento

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CONSENT
September 2, 2008

Honorable Mayor and
Members of the City Council

Title: Amendment to North Natomas Land Acquisition Reimbursement/Credit Agreement

Location/Council District: North Natomas/District 1

Recommendation: Adopt a resolution authorizing the City Manager to enter into an agreement with K. Hovnanian Forecast Homes Northern that amends City Agreement No. 2008-0579, titled "Reimbursement Credit Agreement / North Natomas Land Acquisition Program," to allow an advance of North Natomas land-acquisition-fee credits in exchange for an irrevocable letter of credit securing performance under the agreement.

Contact: Mark Griffin, Fiscal Manager, (916) 808-8788

Presenters: Not Applicable

Department: Planning

Division: Public Improvement Financing

Organization No: 22001411

Description/Analysis

Issue: Under the North Natomas Financing Plan, developers that are required to dedicate lands beyond standard dedications are entitled to credits for use against land-acquisition fees when building permits are issued. The standard City agreement provides that fee credits will be issued when developers convey title to the City. These credits cannot be used retroactively.

Sometimes, however, a developer desires to pull building permits and pay the associated fees before it completes its dedication of land and receives its fee credits. If the developer has no other projects on which it can use the fee credits, then the value of the developer's credits is greatly diminished. The developer of Natomas Central, K. Hovnanian Forecast Homes Northern, now finds itself in this position. To assist K. Hovnanian, staff recommends that Council amend City Agreement 2008-0579 to authorize an advance of credits in exchange for an irrevocable letter of credit securing completion of the dedication.

Policy Considerations: Adoption of the resolution is consistent with the intention of the North Natomas Financing Plan to promote fairness and equity. Adoption is also consistent with the City's Strategic Plan goals to achieve sustainability and enhance livability.

Environmental Considerations: Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review

Sustainability Considerations: There are no sustainability considerations applicable to administrative activities.

Commission/Committee Action: None

Rationale for Recommendation: K. Hovnanian intends to pull permits on 413 lots in advance of the close of escrow on dedicated lands. Approval will allow the early issuance of credits with no risk for the City, as the irrevocable letter of credit will secure completion of the dedication.

Financial Considerations: There is no involvement of the General Fund. The land-acquisition program of the North Natomas Financing Plan supports the reimbursement of developer dedications beyond standard dedications. Securing the advance of credits with an irrevocable letter of credit protects the City from unforeseen events. A demand on the letter of credit will occur if the title transfer does not occur for any reason.

Emerging Small Business Development (ESBD): Not Applicable

Respectfully Submitted by: _____
Mark Griffin
Fiscal Manager, Planning Department

Approved by: _____
Carol Shealy
Director, Planning Department

Recommendation Approved:

_____
Ray Kerridge
City Manager

Table of Contents:

	Report	pg. 1
Attachments		
1	Background	pg. 3
2	Resolution	pg. 4

BACKGROUND

In the normal course of a development in North Natomas, the developer of Natomas Central, K. Hovnanian Forecast Homes Northern, Inc., entered into a "standard form" agreement (City Agreement 2008-0579) that provides for the issuance of North Natomas land-acquisition-fee credits for extraordinary dedications. The City issues the credits when it accepts the dedicated lands. The developer can then use its credits to offset 92% of its land-acquisition fees.

K. Hovnanian intends to pull permits on 413 parcels *before* the City accepts title on dedicated lands and issues fee credits. The land-acquisition fees that K. Hovnanian must pay when it pulls these permits total up to $3.0 million. An advance of credits will enable K. Hovnanian to use its credits on the permits. Without the advance, the value of the credits to K. Hovnanian will be greatly diminished. This is so because the City does not allow retroactive application of credits and because K. Hovnanain has no other projects on which it can use the fee credits.

To ensure that it subsequently completes the dedication, K. Hovnanian will provide the City with an irrevocable letter of credit equal to the value of the credits advanced. The City may draw on the letter of credit if the title transfer does not occur for any reason.

The total amount of credits that K. Hovnanian will eventually receive under the agreement, about $15.7 million, will far exceed the $3.0 million in credits to be advanced on the strength of the letter of credit.

RESOLUTION NO.

Adopted by the Sacramento City Council

APPROVING AMENDMENT TO CITY AGREEMENT NO. 2008-0579 WITH K. HOVNANIAN FORECAST HOMES NORTHERN (NORTH NATOMAS LAND ACQUISITION REIMBURSEMENT-CREDIT AGREEMENT)

BACKGROUND

A. Under City Agreement No. 2008-0579, K. Hovnanian Forecast Homes Northern, Inc. is entitled to land-acquisition credits in return for dedicating land. The city will issue the credits, totaling about $15.7 million, when it accepts the dedication.

B. K. Hovnanian intends to pull building permits on 413 parcels before the city accepts title to the dedicated lands. Thus, K. Hovnanian will not yet have its fee credits when it must pay the land-acquisition fees associated with the permits, a total of up to $3.0 million.

C. K. Hovnanian desires to obtain a portion of its fee credits in advance of the dedication, so that it can apply the credits against the fees owed for the permits.

D. The city is willing to advance $3.0 million in credits to K. Hovnanian on the following condition: K. Hovnanian and the city must amend City Agreement No. 2008-0579 so that it (1) authorizes the city to issues credits in advance if K. Hovnanian provides the city with an irrevocable letter of credit in the amount of the advanced credits, and (2) authorizes the city to draw on the letter of credit if K. Hovnanian does not transfer title to the dedicated lands as required.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council finds and determines that the background statements A through D are true.

Section 2. The City Manager is authorized to sign, on the city's behalf, an amendment to City Agreement No. 2008-0579 allowing a $3 million advance of Land Acquisition Credits of $3 million secured by an irrevocable letter of credit.