REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

CONSENT
August 28, 2007

Honorable Mayor and
Members of the City Council

Title: Addendum to Reimbursement/Credit Agreement #2007-0049: Airfield Park (LW48)

Location/Council District: Airport Road & Natomas Crossing Drive, Council District 1

Recommendation: Adopt a **Resolution** approving an Addendum to the Reimbursement/Credit Agreement for Airfield Park (LW48), City Agreement No. 2007-0049.

Contact: J.P. Tindell, Park Planning & Development Services, 808-1955

Presenters: Not applicable

Department: Parks and Recreation

Division: Park Planning & Development Services

Organization No: 4727

Description/Analysis:

Issue: Because of the cost to the developer to maintain a Letter of Credit required by the Agreement, the developer has requested that the City release the Letter of Credit, citing that state law binds the developer to complete the remediation, regardless of the City's action. In order to protect the City's interests, however, an Agreement Addendum has been prepared which will allow the City to release the Letter of Credit for $3,786,750 to Beazer Homes Holding Corporation. A summary of the background is included as Attachment 1 (page 4), a location map is included as Attachment 2 (page 6), and a map of the well sites as Attachment 3 (page 7).

Policy Considerations: Pursuant to Sacramento City Code Section 16.64.030,

park land may only be accepted for dedication when it is "buildable," which is further defined as having a slope of less than ten (10) percent and is not subject to flooding, public rights-of-way, easements or other restrictions which would preclude the development of buildings. The Letter of Credit was accepted as security for the park parcel until the site remediation could be completed to the satisfaction of the California Regional Water Quality Control Board's (RWQCB's) Central Valley Division, thus clearing the way for the City to accept the park parcel in accordance with its Code requirements.

Committee/Commission Actions: Not applicable.

Environmental Considerations: The Environmental Services Manager has reviewed this action for compliance with the requirements of the California Environmental Quality Act (CEQA). The release of the letter of credit is an action that was contemplated in the project approval, and carries out the project. The release is not a project as defined in the CEQA, and no environmental review is required. The Negative Declaration for the Natomas Field project was approved by City Council on July 26, 2005 in City Resolution 2005-567.

Rationale for Recommendation: The developer has complied with the requirement to clean the site to residential standards, but has not met the tentative map requirement for Airfield Park to clear all physical conditions, nor is the mandated remediation complete until the site is given clearance by the California RWQCB's Central Valley Division, the wells removed, and the site developed as parkland. The Addendum addresses the assurances the City requires (that the well sites would be removed and developed to match the surrounding park, once the park is constructed) and allows the City to release the Letter of Credit. The Addendum will protect the City's interests in Airfield Park by ensuring that Beazer Homes: 1) holds the City harmless for the remaining remediation efforts; 2) remains responsible for all remediation efforts; 3) removes all the vapor extraction and monitoring well improvements; and 4) compacts and develops the removed well sites to blend into the developed park to the satisfaction of the City.

Once the park construction (including one year maintenance period) is complete, the City would be in a position to record an Acceptance of the Irrevocable Offer of Dedication in Fee Title for the park parcels, in the event the monitoring wells would need to continue to operate on the park parcel.

Financial Considerations: Upon adoption of the Addendum to the Reimbursement / Credit Agreement, the City would release the Letter of Credit for $3,786,850 to Beazer Homes Holding Corporation. The City will not incur any additional expenses upon adoption of the Agreement Addendum.

Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of this report.

Respectfully Submitted by:

JAMES L. COMBS
Director, Parks and Recreation

Recommendation Approved:

for RAY KERRIDGE
City Manager

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Attachment 1

Background Information

On January 23, 2007, the City Council adopted the Reimbursement / Credit Agreement between the City and Beazer Homes Holding Corporation in City Agreement 2007-0049. This agreement identified the turn-key park improvements to be completed by Beazer Homes.

The Letter of Credit was provided by Beazer Homes as security for one of the two parcels which comprise Airfield Park. At the time the final map was recorded, the easternmost park parcel was undergoing soil remediation under the authority and direction of the California Regional Water Quality Control Board's Central Valley Division (RWQCB). Soil remediation was required to remove soil and groundwater contaminants resulting from a leaking underground fuel storage tank and airplane washout pad. The tank and pad were on lands adjacent to the park parcel and the area accumulated the contaminants when the site operated as Natomas Air Park, the City's first airport. One of the conditions of approval for the Natomas Field subdivision required that a Letter of Credit be provided for the value of the park parcel. The Letter of Credit would be held by the City until the park parcel could be deemed "*clear of all physical conditions and defects that would interfere with its use as a public park and until all mandated remediation was complete and the site cleaned to residential standards*." In addition, the City recorded an Irrevocable Offer of Dedication for the two park parcels.

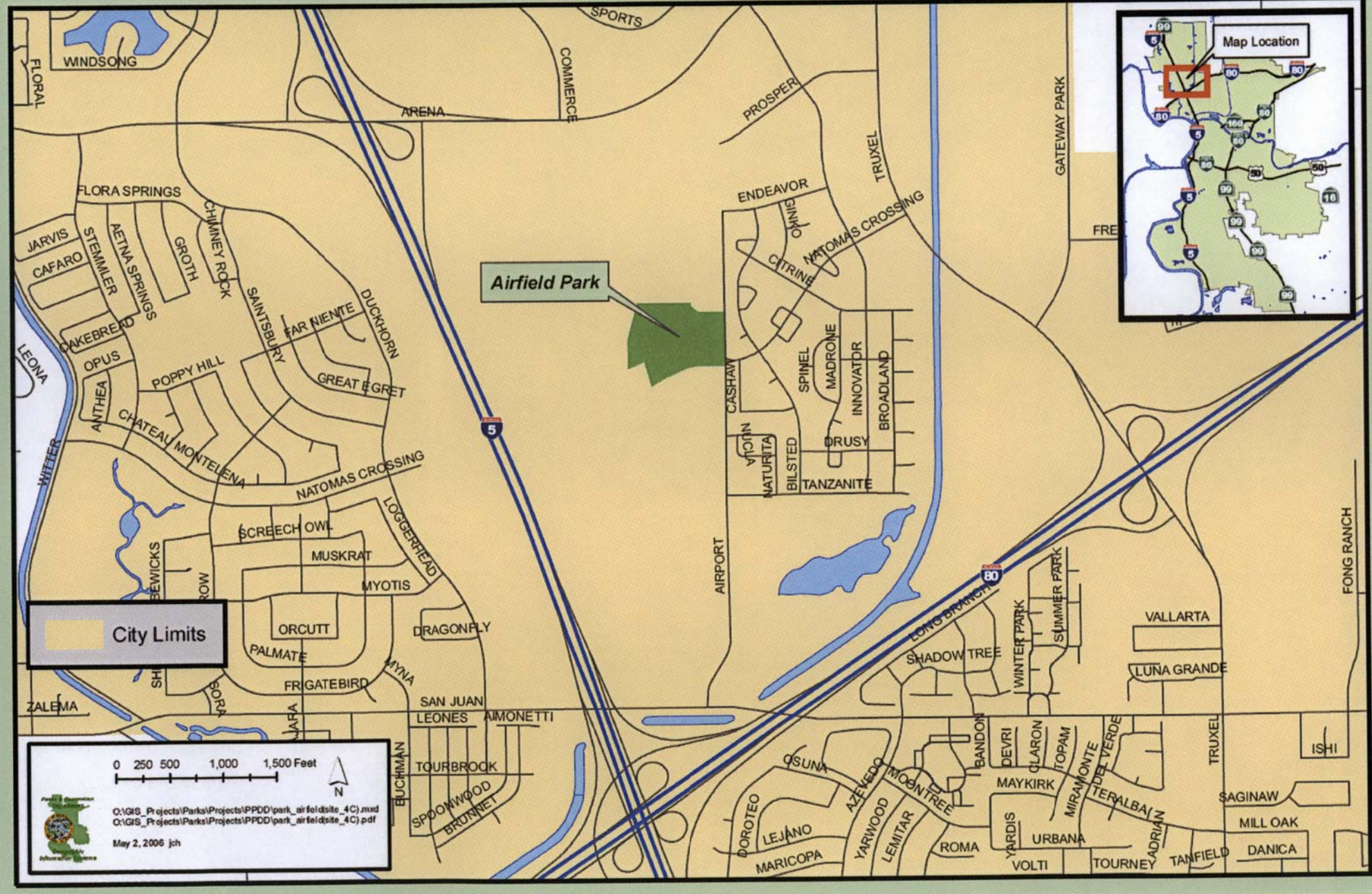
The contaminated soil has been excavated and removed from the parcel and backfilling and grading is currently underway to ready the site for the park improvements. According to the RWQCB, the site has been cleaned to residential standards. In light of this and due to the financial burden of maintaining the Letter of Credit, Beazer Homes has requested that it be released. However, residual pollutants remain at a depth of ten feet below ground level, requiring the placement of vapor extraction wells and groundwater monitoring wells to monitor their removal.

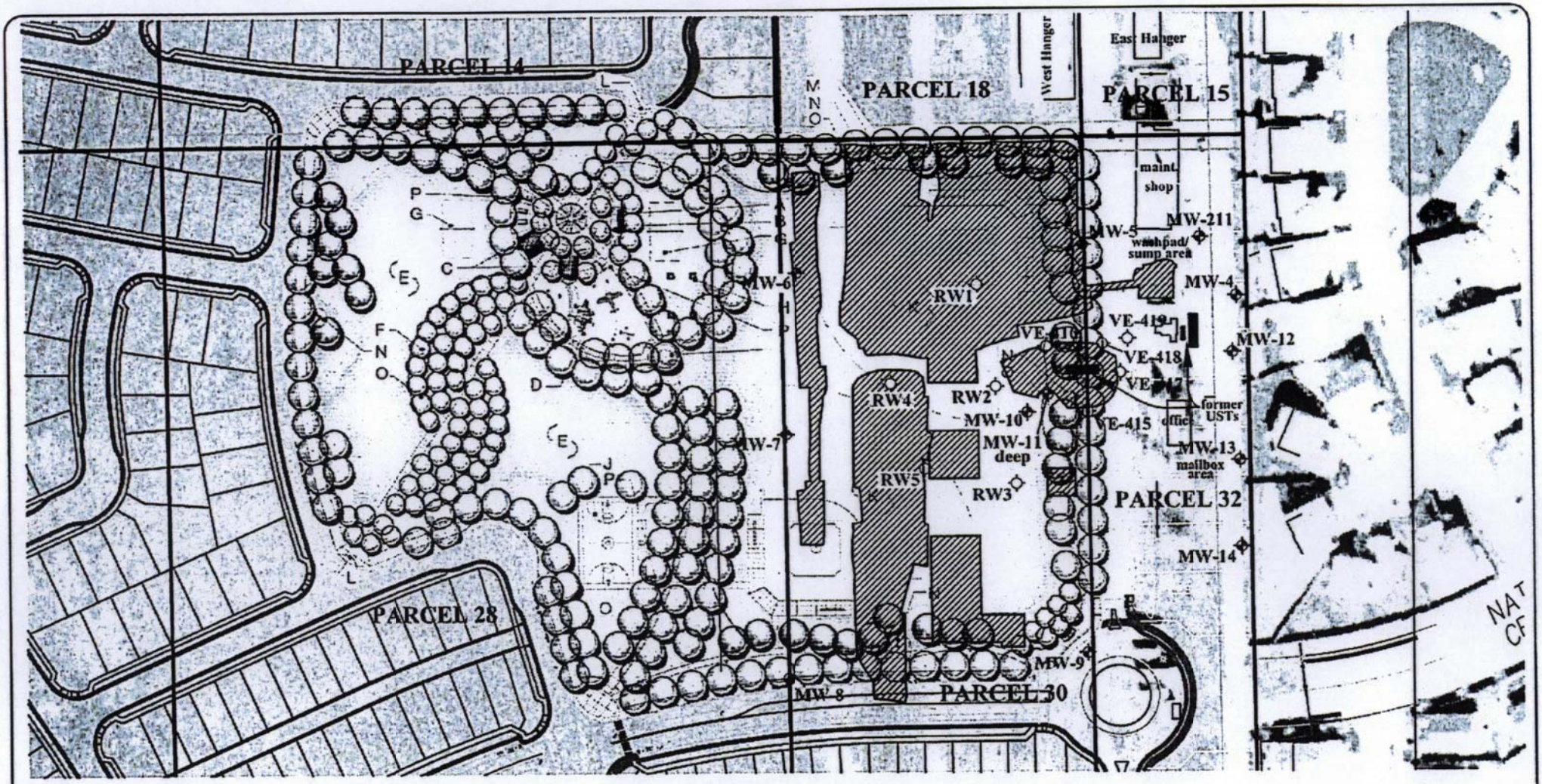
City staff agrees that retention of the Letter of Credit until the wells are removed and the well sites graded and developed to blend with the surrounding park amenities would not be necessary if the developer would indemnify the City and ensure that the remaining remediation would not impede future use of the park, should the park improvements be completed before the remediation was complete. Ongoing remediation will continue for an undetermined period of time in the form of vapor extraction wells, piping, and groundwater monitoring wells until the RWQCB issues a "No Further Action" letter. The wells may be relocated so that they will not impact the development of the park or its use by the public. Beazer Homes representatives indicate that moving the wells may also speed up the clean-up process and that they may be located in inconspicuous places within the park, in the event the remediation continues beyond the park

development and one year maintenance period.

The Addendum will protect the City's interests in Airfield Park by ensuring that Beazer Homes: 1) holds the City harmless for the remaining remediation efforts; 2) remains responsible for all remediation efforts; 3) removes all the vapor extraction and monitoring well improvements; and 4) compacts and develops the removed well sites to blend into the developed park to the satisfaction of the City.

City of Sacramento
Department of Parks and Recreation
Airfield Park (Site 4-C)





Note:

Adapted from a Natomas Field CAD drawing provided by MRO Engineers, Inc., dated 11/28/05, and adaped from a drawing provided by The HLA Group Landscape Architects & Planners, Inc., dated March 31, 2006.

Legend:

- Vapor Extraction Well
- Monitoring Well
- USTs — Underground Storage Tanks
- Planned Natomas Field development
- Limits of excavation

N

0 75 150

SCALE IN FEET

WallaceKuhl & Associates Inc

NATOMAS FIELD PARK LOCATION MAP

NATOMAS AIRFIELD PARK

Sacramento, California

FIGURE 12B

DRAWN BY	TLH
CHECKED BY	JCP
PROJECT MGR	JCP
DATE	6/07

WKA NO. 3848.22

RESOLUTION NO. 2007-

Adopted by the Sacramento City Council

August 28, 2007

APPROVING AN ADDENDUM TO REIMBURSEMENT/CREDIT AGREEMENT #2007-0049: AIRFIELD PARK (LW48)

BACKGROUND:

A. On January 23, 2007, Council adopted Resolution 2007-034, City Agreement 2007-0049, to establish the Airfield Park Improvement Program and the related Reimbursement / Credit Agreement with Beazer Homes Holding Corporation.

B. On January 26, 2007, Beazer Homes Holding Corporation provided a Letter of Credit for $3,786,750 to satisfy condition C100 (a) (iii) for the Natomas Field Tentative Subdivision Map.

C. On June 6, 2007, Beazer Homes Holding Corporation received a letter from the California Regional Water Quality Control Board's (RWQCB's) Central Valley Division that outlined the remediation work completed to date and stating that the site was suitable for residential development. In light of this and due to the financial burden of maintaining the Letter of Credit, Beazer Homes has requested that it be released.

D. Since ongoing remediation will continue for an undetermined period of time, until the RWQCB issues a "No Further Action" letter, and in order to protect the City's interests, an Addendum has been developed.

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

Section 1. The Addendum to the Reimbursement / Credit Agreement for Airfield Park (LW48), City Agreement No. 2007-0049, is approved.