TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
(b) At the I-5 northbound ramps / Richards Boulevard intersection, under both Scenario A and Scenario B, the City shall install, or cause to be installed, one westbound right-turn lane to provide two right-turn lanes and two through lanes; and optimize signal timing. The City has included the cost of this improvement in its approved Richards Boulevard Area Plan and Facility Element and the project applicant shall provide "fair-share" funding for this improvement through payment of traffic impact fees. The applicant's fair share contribution shall be calculated pro rata, on a per unit and/or square foot basis, based upon the land uses identified in development applications submitted to the City. The fair share contribution shall be paid to the City prior to the issuance of building permits. The project applicant's fair share contribution shall be determined based on the	The applicant shall pay their fair share contribution for the planned I-5/ Richard Blvd interchange and provide a fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to issuance of building permits.	Development Services / Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Richards Boulevard Area Plan and Facility Element in place as building permits are issued for each building. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS E (57.4 seconds delay) in the a.m. peak hour and LOS D (40.4 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level; the level of service under Scenario B would be reduced to LOS F (104.1 seconds delay) in the a.m. peak hour and LOS D (43.2 seconds delay) in the p.m. peak hour, thus the impact is less than significant in the p.m. peak hour but remains significant and unavoidable in the a.m. peak hour. To fully mitigate the impact would require widening of the freeway ramp to provide an additional lane to the east. The freeway ramp is not under the jurisdiction of the City but is subject to Caltrans jurisdiction. To implement this mitigation measure, acquisition of an additional lane of right of way would be required and is not currently available. Because this mitigation is beyond the control of the project applicant, outside the jurisdiction of the City, and there is no established funding mechanism available for contribution, this mitigation measure is considered infeasible and the impact is considered, significant and unavoidable. These results are shown in Table 6.11-13.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
(c) At the Bercut Drive / Richards Boulevard intersection, under Scenario A, the City shall increase the cycle length to 120 seconds and modify signal phasing. The applicant shall pay a fair share toward the City of Sacramento traffic operations center for the re-timing and monitoring of the signal to improve vehicle progression along Richards Boulevard. Under Scenario B, the City shall install, or cause to be installed, one eastbound through lane to provide one left-turn lane, two through lanes and one combination through-right lane; and optimize signal timing. The City has included the cost of this improvement in its approved Richards Boulevard Area Plan and Facility Element and the project applicant shall provide "fair-share" funding for this improvement through payment of traffic impact fees.	The applicant shall pay a fair share contribution to modify the signal phasing and construct the roadway improvement stated in MM 6.11-1(c).	Project Applicant/City of Sacramento Department of Transportation.	Prior to issuance of building permits.	Development Services / Department of Transportation.	
The applicant's fair share contribution shall be					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
calculated pro rata, on a per unit and/or square foot basis, based upon the land uses identified in development applications submitted to the City. The fair share contribution shall be paid to the City prior to the issuance of building permits. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS C (24.1 seconds delay) in the a.m. peak hour and LOS B (18.2 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level; the level of service under Scenario B would be reduced to LOS A (8.1 seconds delay) in the a.m. peak hour and LOS C (20.4 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level. These results are shown in Table 6.11-13.					
The project applicant's fair share contribution shall be determined based on the Richards Boulevard Area Plan and Facility Element in place as building permits are issued for each building. (d) At the N. 5th Street / Richards Boulevard intersection, under both Scenario A and Scenario B, prior to 1/3rd of the vehicle trip generation (Trip Generation, Table 6.11-10 of the Draft EIR) or 1/3rd of the development is constructed, the applicant shall dedicate right-of-way and construct an eastbound left-turn lane to provide two left-turn lanes, one through lane and one combination through-right lane; and optimize signal timing. The applicant shall also dedicate sufficient right-of-way and construct an expanded intersection at this location to the City of Sacramento Street Standards.	The applicant shall construct the roadway improvements set forth in MM 6.11-1(d).	Project Applicant.	Prior to 1/3rd of the vehicle trip generation (Trip Generation, Table 6.11-10 of the DEIR) or 1/3rd of the development is constructed.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS B (13.2 seconds delay) in the a.m. peak hour and LOS C (24.9 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level; the level of service under Scenario B would be reduced to LOS C (21 seconds delay) in the a.m. peak hour and LOS F (84.9 seconds delay) in the p.m. peak hour; thus the impact would remain significant and unavoidable. To fully mitigate the impact under Scenario B would require further widening of Richards Boulevard, which would create secondary impacts to adjacent properties through the acquisition of additional right of way for a new vehicle travel lane (typically 12 feet); this right of way is currently unavailable. These results are shown in Table 6.11-1.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(f) At the N. 7th Street / Richards Boulevard intersection, under both Scenario A and Scenario B, mitigating the project impact would require the applicant to install one southbound through lane to provide one left-turn lane, two through lanes, and one right-turn lane and install one northbound left-turn lane and one through lane to provide two left-turn lanes, two through lanes and one right-turn lane. With these improvements, the intersection would operate at LOS D (36 seconds delay) in the a.m. peak hour and LOS E (59.9 seconds delay) in the p.m. peak hour under Scenario A; Scenario B would produce LOS D (43 seconds delay) in the a.m. peak hour and LOS E (76.4 seconds delay) in the p.m. peak hour. However, a review of the intersection reveals that there is insufficient right-of-way for the northbound improvements. Implementation of these northbound lanes would require the acquisition of right of way from the adjacent properties which are not controlled by the applicant.	The project applicant shall dedicate sufficient ROW and construct the modifications to 7th Street.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Therefore, the applicant shall dedicate sufficient right-of-way for a future expanded intersection to the City of Sacramento Street Standards and shall construct modifications to 7th Street for the southbound approach at Richards Boulevard as required to accommodate the mitigation described above. These modifications to the southbound approach would include providing two additional southbound lanes to provide one left-turn lane one through lane and two right-turn lanes. With these improvements, the intersection would operate at LOS F (131 seconds delay) in the a.m. peak hour and LOS F (142 seconds delay) in the p.m. peak hour under Scenario A; Scenario B would produce LOS F (167 seconds delay) in the a.m. peak hour and LOS F (186 seconds delay) in the p.m. peak hour. These results are shown in Table 6.11-13. The project impact would remain significant and unavoidable.					
(f) At the Dos Rios Street / Richards Boulevard intersection, under both Scenario A and Scenario B, the City shall increase the cycle length to 75 seconds and optimize the signal timing in the p.m. peak hour. The applicant shall pay a fair share toward the City of Sacramento traffic operations center for the re-timing and monitoring of the signal to improve vehicle progression along Richards Boulevard.	The City shall monitor and retime the signal timing when required and the applicant shall pay their fair share. Verify the applicant has paid their faire share.	Project Applicant/City of Sacramento Department of Transportation.	Prior to project occupancy.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS B (15.2 seconds delay) and the level of service under Scenario B would be reduced LOS C (20.4 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level during both a.m. and p.m. peak hours. These results are shown in Table 6.11-13.					
(g) At the 12th / 16th Streets / Richards Boulevard intersection, under both Scenario A and Scenario B, mitigating the project impact would require widening of the roadways which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it requires the acquisition of right-of-way from adjacent properties to provide additional vehicle travel lanes (typically 12 feet per lane) for increase vehicle capacity as well as the possible relocation of light rail along N. 12th Street. These improvements would create secondary impacts to adjacent properties and are beyond the capability of the project. Hence, the impact would remain significant and unavoidable.	N/A	N/A	N/A	N/A	N/A

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(h) At the 7th Street / North B Street intersection, under both Scenario A and Scenario B, the City shall install, or cause to be installed, a traffic signal, add a northbound left-turn lane to provide one left-turn lane and one combination through-right lane; and optimize signal timing. The City has included the cost of this improvement in its approved Richards Boulevard Area Plan and Facility Element and the project applicant shall provide "fair-share" funding for this improvement through payment of traffic impact fees. The applicant's fair share contribution shall be calculated pro rata, on a per unit and/or square foot basis, based upon the land uses identified in development applications submitted to the City. The fair share contribution shall be paid to the City prior to the issuance of building permits. The project applicant's fair share contribution shall be determined based on the Richards Boulevard Area Plan and Facility Element in place as building permits are issued for each building. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS B (16 seconds delay) in the a.m. peak hour and LOS C (26.2 seconds delay) in the p.m. peak hour; thus reducing the impact to a less-than-significant level; the level of service under Scenario B would be reduced to LOS B (19.1 seconds delay) in the a.m. peak hour and LOS C (31.2 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level. These results are shown in Table 6.11-13.	The applicant shall pay their fair share contribution to implement the future roadway improvement stated in MM 6.11-1(h). Verify the applicant has paid their fair share.	Project Applicant/City of Sacramento Department of Transportation.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(i) At the 12th Street / North B Street intersection, under both Scenario A and Scenario B, mitigating the project impact would require widening of the roadways to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, the right of way is unavailable and would require acquisition from adjacent properties as well as possible relocation of light rail along N. 12th Street. These improvements would create secondary impacts to adjacent properties and are beyond the capability of the project. Hence, the impact would remain significant and unavoidable.	N/A	N/A	N/A	N/A	N/A
(j) At the 7th Street / F Street intersection, under both Scenario A and Scenario B, the City install or cause to install a traffic signal, add a southbound left-turn lane to provide one left-turn lane and one combination through-right lane; and optimize signal timing. The City has included the cost of this improvement in its approved Richards Boulevard Area Plan and Facility Element and the project applicant shall provide "fair-share" funding for this improvement through payment of traffic impact fees. The applicant's fair share contribution shall be calculated pro rata, on a per unit and/or square foot basis, based upon the land uses identified in development applications submitted to the City. The fair share contribution shall be paid to the City prior to the issuance of building permits. The project applicant's fair share contribution shall be determined based on the Richards Boulevard Area Plan and Facility Element in place as building permits are issued for each building.	The applicant shall pay their fair share to the City of Sacramento for future implementation of the roadway improvements stated in MM 6.11-1(j). Verify the applicant has paid their fair share.	Project Applicant/City of Sacramento Department of Transportation.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The project applicant's fair share contribution shall be determined based on the Richards Boulevard Area Plan and Facility Element in place as building permits are issued for each building. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS B (10.7 seconds delay) in the a.m. peak hour and LOS B (13.1 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level; the level of service under Scenario B would be reduced to LOS A (6 seconds delay) in the a.m. peak hour and LOS B (15.1 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level. These results are shown in Table 6.11-13.					
(k) At the 7th Street / G Street intersection, under both Scenario A and Scenario B, the City shall install, or cause to be installed, a southbound through lane to provide two through lanes; and optimize signal timing. The City has included the cost of this improvement in its approved Richards Boulevard Area Plan and Facility Element and the project applicant shall provide "fair-share" funding for this improvement through payment of traffic impact fees. The applicant's fair share contribution shall be calculated pro rata, on a per unit and/or square foot basis, based upon the land uses identified in development applications submitted to the City. The fair share contribution shall be paid to the City prior to the issuance of building permits. The project applicant's fair share contribution shall be determined based on the Richards Boulevard Area Plan and Facility Element in place as building permits are issued for each building.	The applicant shall pay their fair share to the City of Sacramento for future implementation of the roadway improvements stated in MM 6.11-1(k) Verify the applicant has paid their fair share.	Project Applicant/City of Sacramento Department of Transportation.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS B (19.5 seconds delay) in the a.m. peak hour and LOS A (8.5 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level; the level of service under Scenario B would be reduced to LOS A (9.7 seconds delay) in the a.m. peak hour and LOS B (12.8 seconds delay) in the p.m. peak hour, thus reducing the impact to a less-than-significant level. These results are shown in Table 6.11-13.					
(I) At the 7th / Signature Street intersection, the applicant shall install a traffic signal under Scenario A and Scenario B and shall add one lane each from the north, east and west approaches to provide one northbound left-turn lane, one through lane and one right-turn lane; one southbound combination left-through-right lane; one eastbound right-turn lane and one combination left-through-right lane; and one westbound left-turn lane and one combination left-through-right lane. The applicant shall be required to dedicate right-of-way and construct the traffic signal at this intersection subject to future reimbursement if found appropriate in the updated finance plan.	The project applicant shall dedicate sufficient ROW and construct the roadway modifications and the traffic signal set forth in MM 6.11-1(I).	Project Applicant.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS B (15.6 seconds delay) in the a.m. peak hour and LOS D (40.1 seconds delay) in the p.m. peak hour, thus the impact would remain significant and unavoidable; the level of service under Scenario B would be reduced to LOS C (20.4 seconds delay) in the a.m. peak hour and LOS D (46.7 seconds delay) in the p.m. peak hour, thus the impact would remain significant and unavoidable. These results are shown in Table 6.11-13 of the DEIR. To fully mitigate the project impact would require further widening of 7th Street north of Signature Street, which would be inconsistent with the goals and objectives of the project to create a pedestrian-friendly street that features a linear park and interpretive walkway down the median of 7th Street, with landscaping and amenities to encourage street life.					
6.11-2 (A & B) (a) Widening of 7th Street to provide two travel lanes per direction between Richards Boulevard and Signature Street would reduce the project impact of Scenario A to less than significant; while the project impact of Scenario B would be lessened but remain significant and unavoidable. After implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS C (v/c of 0.74) and the level of service under Scenario B would be reduced to LOS D (v/c of 0.88). These results are shown in Appendix N. To fully mitigate the project impact under Scenario B, it would required to further widening of 7th Street for additional vehicle travel lanes to increase the capacity of the intersection	Verify that the roadway widening has been completed.	Project Applicant.	Prior to the approval of the Final Map.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(typically 12 feet per lane), which would be inconsistent with the goals and objectives of the project to create a pedestrian-friendly street that features a linear park and interpretive walkway down the median of 7th Street, with landscaping and amenities to encourage street life.					
b, c) No feasible mitigation measures were identified that would reduce the impact of the proposed project on the Richards Boulevard roadway segments. Mitigation would require increasing the number of travel lanes for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane), which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it would require the acquisition of right-of-way for the additional lanes from properties not owned by the project. The impacts of proposed project on roadway segments would remain significant and unavoidable.	N/A	N/A	N/A	N/A	N/A
6.11-3 (A & B) The Traffic Study found that the impacted freeway mainline segments currently operate at LOS "F" in the Baseline Condition during the PM Peak Hour without the Project, and would continue to operate at LOS "F" in both the "Near Term Cumulative Condition (2013)" and "Long Term Cumulative Condition (2030)" both without and with the Project. Freeway mainline improvements are within the exclusive jurisdiction of Caltrans which can and should propose and adopt appropriate improvement plans that would reduce freeway mainline impacts pursuant to Public Resources Code Section 21081 and CEQA Guideline Section 15091.	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City consulted with Caltrans prior to the preparation of this Draft EIR concerning possible mitigation measures to address impacts to the identified freeway mainline segments. The discussion focused on (1) identifying any Caltrans approved or adopted capital improvement projects that would improve access to and from Sacramento's downtown and improve the existing LOS F on the freeway mainline segments to LOS "E" or better in the Near Term (2013) and Long Term (2030), and (2) proportional share mitigation impact funding contributions to those projects as a means of addressing impacts to the highways from the Project and various other pending developments in the area. Caltrans indicated that they have developed general cost estimates for the following projects. Though these projects are designed to address regional transportation needs that extend far beyond the downtown area, Caltrans believes they would serve to mitigate impacts from pending downtown developments and are viable:					
• I 5 American River Bridge widening - two structures. Add one standard lane and re-establish standard shoulders to each structure: $134 million. • I 5 HOV lanes - Garden Highway to I-80 HOV lanes with direct connectors: $300 million. • I 5 HOV lanes - U.S. 50 Interchange to Elk Grove Blvd: $200 million.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
No preliminary improvement plans have been prepared for these proposed freeway improvements, and it is unclear what the cost estimates are based on or include. These proposed freeway improvement projects are included in Sacramento Area Council of Governments (SACOG) existing Metropolitan Transportation Plan (MTP) for preliminary engineering and environmental only. The MTP is a long-range plan which is based on growth and travel demand projections coupled with financial projections. The MTP lists hundreds of locally and regionally important projects. It is updated every three years, at which time projects can be added or deleted. SACOG uses the plan to help prioritize projects and guide regional transportation project funding decisions. The projects included in the MTP have not gone through the environmental review process and are not guaranteed for funding or construction.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Given the status of the improvement projects identified by Caltrans and the information available at this time, the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the Project's impacts on the identified freeway mainline segments. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, the City cannot determine either the cost of the proposed freeway improvement projects or the Project's fair share proportional contribution to the improvement projects with sufficient certainty to enable the City to develop a fee-based mitigation measure that would satisfy the legal requirements for fee-based mitigation under both CEQA (see CEQA Guidelines 15126.4) state planning and zoning laws (see Government Code Section 66000 et seq.) and constitutional principles that call for a nexus and rough proportionality between a project's impacts and the fee-based mitigation measure. Finally, the prospects of the proposed freeway improvements ever being constructed remains uncertain due to funding priorities and on-going policy developments that may favor other approaches to addressing freeway congestion.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Widening the freeway mainline right of way would create adverse impacts by potentially requiring modifications to the flood wall/levee that protects Downtown Sacramento; and would create further physical barriers between people living and working in Downtown Sacramento and the Sacramento River and the Old Sacramento District. Such new impacts from widening the freeway would not be capable of mitigation to a less than significant level and would violate City policies concerning: the preservation of the Old Sacramento District; promoting ease of pedestrian access between Downtown Sacramento and the Sacramento River; promoting ease of pedestrian access between Downtown Sacramento and the Old Sacramento District; and protecting the integrity of Sacramento's flood control system. Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the Project on the freeway mainline segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed project on the three I 5 freeway segments would remain significant and unavoidable.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
6.11-4 (A & B) No feasible mitigation measures were identified that would reduce the impact of the project on I 5 freeway ramps. Widening the freeway may reduce the impact but would require acquisition of right-of-way which is not under the control of the applicant. The freeway interchanges are not under the jurisdiction of the City but are subject to Caltrans' jurisdiction. Finally, no improvement is included in any of Caltrans' funding mechanisms. Because mitigation is beyond the control of the project applicant, outside the jurisdiction of the City, and there is not an established funding mechanism available for contribution, this mitigation measure is considered infeasible and the impact is considered significant and unavoidable. Therefore, the impacts of the proposed project on freeway ramps would remain significant and unavoidable.	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
6.11-5 (A & B) No feasible mitigation measures were identified that would reduce the impact of the freeway ramp queues. The freeway ramp is not under the jurisdiction of the City but is subject to Caltrans' jurisdiction. In addition, to implement this mitigation measure would require acquisition of additional right of way for a new lane (typically 12 feet per lane). Finally, this improvement is not included in any of Caltrans' funding mechanisms. Because mitigation is beyond the control of the project applicant, outside the jurisdiction of the City, and there is not an established funding mechanism available for contribution, mitigation is considered infeasible and the impact is considered significant and unavoidable. The impacts of the project on freeway ramp queues would remain significant and unavoidable.	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
6.11-6 (A & B) The City shall coordinate with RT to modify its bus routes and/or frequencies to better serve the needs of the proposed project. In particular, RT may increase the frequency of Route 33, which is a neighborhood shuttle service that operates between the Richards Boulevard district and the downtown area.	Verify RT has been consulted with to provide adequate bus service to the site.	Project Applicant/City of Sacramento Department of Transportation.	Prior to project occupancy.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
6.11-7 (A & B) The project applicant shall include on-site bikeway facilities to achieve the intent of the Bikeway Master Plan subject to review and approval of Development Service, Development Engineering Division. All bikeways shall meet the City's design standards and ensure that all roadway designs would not result in unsafe conditions for bicyclists.	The project applicant shall include on-site bikeway facilities to achieve the intent of the Bikeway Master Plan subject to review and approval of Development Services, Development Engineering Division.	Project Applicant.	Prior to the approval of the site plans.	Development Services/ Development Engineering Division.	
6.11-8 (A & B) Pedestrian walkways shall be designed in compliance with the City's design standards and shall comply with the guidelines contained in Roundabouts: An Informational Guide (FHWA 2000) and/or be designed to the satisfaction of the city traffic engineer. Walkways shall be designed around the outside of the roundabouts rather than through the center unless otherwise accepted by the city traffic engineer after the applicant has technically demonstrated the safety and disability accessibility. Additionally, by installing a traffic signal at 7th Street and Signature Street to replace the proposed roundabout at this intersection, all new pedestrian cross walks will be designed to City of Sacramento Street Standards.	Design pedestrian facilities to meet city standards and/or be designed to the satisfaction of the city traffic engineer.	Project Applicant.	Prior to the approval of the site plans.	Development Services/ Department of Transportation.	
6.11-9 (A & B) (a) The gateway roundabout on 7th Street at New Street "A" shall be designed in compliance with the guidelines contained in Roundabouts: An Informational Guide (FHWA 2000) or the applicant shall provide sufficient technical data to the city	Design roundabouts according to the standards set forth in MM 6.11-9(a) and (b).	Project Applicant.	Prior to the approval of the Final Map.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
traffic engineer in order to demonstrate the safety and disability accessibility. This intersection will carry a significant volume of automobile traffic (from an estimated low of 995 vehicles during the a.m. peak hour under Baseline with Scenario A conditions to an estimated high of 1450 vehicles during the p.m. peak hour under Long Term Year 2030 with Scenario B conditions) and shall be designed according to standard design practice for high-volume roadways and/or to the satisfaction of the City Traffic Engineer. (b) The intersections on New Street "C" where roundabouts are identified in the Township 9 Design Guidelines shall be designed in compliance with City's requirements for traffic circles or to the satisfaction of the city traffic engineer. The automobile traffic volumes at these intersections are expected to be low and should be well-served by traffic circles.					
6.11-10 (A & B) The project applicant shall provide sufficient on-site bicycle parking spaces to comply with the City's Zoning Code requirement.	Provide sufficient on-site bicycle parking spaces to comply with the City's Zoning Code requirement.	Project Applicant.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
6.11-12 (A & B) (a) At the I-5 southbound ramps/Richards Boulevard intersection, under both Scenario A and Scenario B, mitigating the project impact would require widening of the freeway ramp to add an additional lane (typically 12 feet) to the west and acquisition of right-of-way, which is beyond the capability of the project. However, the applicant shall pay a fair share toward the City of Sacramento traffic operations center for the re-timing and monitoring of the signal to improve vehicle progression along Richards Boulevard. The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.	The applicant shall pay their fair share towards this improvement and fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	
(b) At the I-5 northbound ramps / Richards Boulevard intersection, optimizing signal timing would lessen the project impact; however, to fully mitigate the project impact would require widening of the freeway on-ramp and acquisition of right-of-way, which is beyond the capability of the project.	The applicant shall pay their fair share towards this improvement and fair share contribution to	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Therefore, the project impact would remain significant and unavoidable under Scenario B. The applicant shall pay a fair share toward the City of Sacramento traffic operations center for the re-timing and monitoring of the signal to improve vehicle progression along Richards Boulevard.	help fund the local share of the DNA project costs.				
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
(c) At the Bercut Drive / Richards Boulevard intersection, under both Scenario A and Scenario B, mitigating the project impact would require further widening of Richards Boulevard which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additional lanes (typically 12 feet per lane) would increase the capacity of the intersection but would require the acquisition of right-of-way from adjacent properties. This is beyond the capability of the project because the property is not controlled by the	N/A	N/A	N/A	N/A	N/A

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
applicant and the right of way is not available; hence the impact would remain significant and unavoidable.					
(d) At the N. 5th Street / Richards Boulevard intersection, under both Scenario A and Scenario B, optimize signal timing would lessen the project impact to less-than-significant level under Scenario A, but the impact under Scenario B would remain significant and unavoidable. To fully mitigate the impact would require widening of Richards Boulevard which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. The applicant shall pay a fair share toward the City of Sacramento traffic operations center for the re-timing and monitoring of the signal to improve vehicle progression along Richards Boulevard and dedicate sufficient right-of-way for a future expanded intersection to City of Sacramento Standards.	The applicant shall pay their fair share towards this improvement.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(e) At the N. 7th Street / Richards Boulevard intersection, under both Scenario A and Scenario B, mitigation of the impact would require adding one northbound left-turn and one through lanes to provide two left-turn lanes, two through lanes and one right-turn lane; add one southbound through lane to provide one left-turn lane, two through lane and one right-turn lane; add one eastbound left-turn and one through lanes to provide two left-turn lanes, two through lanes and one right-turn lane; add one westbound left-turn lane to provide two left-turn lanes, one through lane, and one combination through-right lane; and optimize signal timing. The applicant shall dedicate right-of-way along his property for the intersection modifications described above and dedicate sufficient right-of-way for an expanded intersection to the City of Sacramento Standards. The applicant shall pay a fair share contribution to fund acquisition of right-of-way by the City from other properties as required for the construction of the improvements described above, and in the event right-of-way is not made available, provide funding for future modifications to the intersection. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS E (57.3 seconds delay) in the a.m. peak hour and LOS E (63.8 seconds delay) in the p.m. peak hour, thus reducing the impact to less than significant during both a.m. and p.m. peak hours; and the level of service under Scenario B would be reduced to LOS F (106.9 seconds delay) in the a.m. peak hour and LOS F (87.4 seconds delay) in the p.m. peak hour, thus the impact would be less than significant during the p.m. peak hour but would remain significant and unavoidable during the a.m. peak hour. These results are shown in	The applicant shall pay their fair share towards this improvement and dedicated the appropriate ROW.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Table 6.11-20. To fully mitigate the impact would require widening of Richards Boulevard and 7th Street which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity, which is not controlled by the applicant of this project.					
(f) At the 12th / 16th Streets / Richards Boulevard intersection, under both Scenario A and Scenario B, mitigating the project impact would entail widening of 12th Street, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity and/or relocation of light rail. These improvements are beyond the control of the project applicant.	N/A	N/A	N/A	N/A	N/A
(g) At the 7th Street / North B Street intersection, under both Scenario A and Scenario B, mitigating the project impact would require widening of the roadways, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity and/or relocation of light rail. These improvements are beyond the capability of the project and not controlled by the project applicant.	N/A	N/A	N/A	N/A	N/A
(h) At the 12th Street / North B Street intersection, under both Scenario A and Scenario B, mitigating	N/A	N/A	N/A	N/A	N/A

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Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
the project impact would require widening of 12th Street which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity and/or relocation of light rail. These improvements are beyond the capability of the project and beyond the control of the project applicant.					
(i) At the 7th Street / Big Four Boulevard intersection, under both Scenario A and Scenario B, mitigating the project impact would entail widening of 7th Street, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity and/or relocation of light rail. These improvements are beyond the capability of the project and not controlled by the project applicant.	N/A	N/A	N/A	N/A	N/A
(j) At the 7th Street / F Street intersection, under both Scenario A and Scenario B, mitigating project impact would entail widening the roadways beyond the typical road width found in downtown and necessitate acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(k) At the 6th Street / G Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the typical road width found in downtown	N/A	N/A	N/A	N/A	N/A

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
and necessitate acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.					
(l) At the 7th Street / G Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the typical road width found in downtown and necessitate acquisition of right-of-way (typically 12 feet per lane). Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(m) At the 6th Street / H Street intersection, under both Scenario A and Scenario B, mitigating project impact would entail widening the roadways beyond the typical road width found in downtown and necessitate acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(n) At the 7th Street / H Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the typical road width found in downtown and necessitate acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(o) At the 6th Street / I Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the typical road width found in downtown and necessitate acquisition of right-of-way (typically 12 feet per lane) to allow more vehicle capacity. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(p) At the 6th Street / J Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadway beyond the road width found in downtown and necessitate acquisition of right-of-way (typically 12 feet per lane) to allow more vehicle capacity. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(q) At the 7th / Signature Street intersection, under both Scenario A and Scenario B, with implementation of Mitigation Measure 6.11-1(l), the level of service under Scenario A would be reduced to LOS B (13.5 seconds delay) in the a.m. peak hour and LOS C (31.2 seconds delay) in the p.m. peak hour thus reducing the impact to less-than-significant; and the level of service under Scenario B would be reduced to LOS B (16.6 seconds delay) in the a.m. peak hour and LOS D (39.3 seconds delay) in the p.m. peak hour thus remaining significant and unavoidable.	N/A	N/A	N/A	N/A	N/A
6.11-13 (A & B) (a) Implementation of Mitigation Measure 6.11-2(a) would reduce the project impact of Scenario A to less-than-significant; while the project impact of Scenario B would be lessened but remain significant and unavoidable. Further	See MM 6.11-2(a).	See MM 6.11-2(a).	See MM 6.11-2(a).	See MM 6.11-2(a).	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
widening 7th Street in order to fully mitigate the impact of Scenario B is infeasible because it would create an unfriendly pedestrian environment which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. After implementation of this mitigation measure, Scenario A would produce LOS C (v/c of 0.75) and Scenario B would produce LOS D (v/c of 0.88). These results are shown in Appendix N.					
(b,c) No feasible mitigation measures were identified that would reduce the impact of the proposed project on the Richards Boulevard roadway segments. Mitigation would require increasing the number of travel lanes, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it would require acquisition of right-of-way to add vehicle lanes (typically 12 feet per lane) to increase vehicle capacity from properties not owned by the applicant. Therefore, the impacts of proposed project on roadway segments would remain significant and unavoidable.	NA	NA	NA	NA	NA

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
6.11-14 (A & B) The Traffic Study found that the impacted freeway mainline segments currently operate at LOS "F" in the Baseline Condition during the PM Peak Hour without the Project, and would continue to operate at LOS "F" in both the "Near Term Cumulative Condition (2013)" and "Long Term Cumulative Condition (2030)" both without and with the Project. Freeway mainline improvements are within the exclusive jurisdiction of Caltrans which can and should propose and adopt appropriate improvement plans that would reduce freeway mainline impacts pursuant to Public Resources Code Section 21081 and CEQA Guideline Section 15091. The City consulted with Caltrans prior to the preparation of this Draft EIR concerning possible mitigation measures to address impacts to the identified freeway mainline segments. The discussion focused on (1) identifying any Caltrans approved or adopted capital improvement projects that would improve access to and from Sacramento's downtown and improve the existing LOS F on the freeway mainline segments to LOS "E" or better in the Near Term (2013) and Long Term (2030), and (2) proportional share mitigation impact funding contributions to those projects as a means of addressing impacts to the highways from the Project and various other pending developments in the area. Caltrans indicated that they have developed general cost estimates for the following projects. Though these projects are designed to address regional transportation needs that extend far beyond the downtown area, Caltrans believes they would serve to mitigate impacts from pending downtown developments and are viable:	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
• I 5 American River Bridge widening - two structures. Add one standard lane and re-establish standard shoulders to each structure: $134 million.					
• I 5 HOV lanes - Garden Highway to I-80 HOV lanes with direct connectors: $300 million. • I 5 HOV lanes - U.S. 50 Interchange to Elk Grove Blvd: $200 million. No preliminary improvement plans have been prepared for these proposed freeway improvements, and it is unclear what the cost estimates are based on or include. These proposed freeway improvement projects are included in Sacramento Area Council of Governments (SACOG) existing Metropolitan Transportation Plan (MTP) for preliminary engineering and environmental only. The MTP is a long-range plan which is based on growth and travel demand projections coupled with financial projections. The MTP lists hundreds of locally and regionally important projects. It is updated every three years, at which time projects can be added or deleted. SACOG uses the plan to help prioritize projects and guide regional transportation project funding decisions. The projects included in the MTP have not gone through the environmental review process and are not guaranteed for funding or construction. Given the status of the improvement projects identified by Caltrans and the information available at this time, the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the Project's impacts on the identified freeway mainline segments. The proposed freeway improvement projects are not currently approved and funded. There					

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Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
is no fee or other funding mechanism currently in place for future funding. Furthermore, the City cannot determine either the cost of the proposed freeway improvement projects or the Project's fair share proportional contribution to the improvement projects with sufficient certainty to enable the City to develop a fee-based mitigation measure that would satisfy the legal requirements for fee-based mitigation under both CEQA (see CEQA Guidelines 15126.4) and constitutional principles that call for a nexus and rough proportionality between a project's impacts and the fee-based mitigation measure. Finally, the prospects of the proposed freeway improvements ever being constructed remains uncertain due to funding priorities and on-going policy developments that may favor other approaches to addressing freeway congestion.					
Widening the freeway mainline right of way would create adverse impacts by requiring the removal of historic buildings in the Old Sacramento District, and potentially the Crocker Art Museum, which are already situated adjacent to the existing freeway right of way; would potentially require modifications to the flood wall/levee that protects Downtown Sacramento; and would create further physical barriers between people living and working in Downtown Sacramento and the Sacramento River and the Old Sacramento District. Such new impacts from widening the freeway would not be capable of mitigation to a less than significant level and would violate City policies concerning: the preservation of the Old Sacramento District; promoting ease of pedestrian access between Downtown Sacramento and the Sacramento River; promoting ease of pedestrian access between Downtown Sacramento and the Old Sacramento District; and protecting the integrity of Sacramento's flood control system.					

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the Project on the freeway mainline segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed Project on the freeway segments would remain significant and unavoidable.					
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
6.11-15 (A & B) No feasible mitigation measures were identified that would reduce the impact of the project on I 5 freeway ramps. The freeway ramp is not under the jurisdiction of the City but is subject to Caltrans' jurisdiction. Finally, improvements to this interchange are not included in any of Caltrans' funding mechanisms. Because mitigation is beyond the control of the project applicant, outside the jurisdiction of the City, and there is no established funding mechanism available for contribution, mitigation is considered infeasible. The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	
6.11-16 (A & B) No feasible mitigation measures were identified that would reduce the impact of the freeway ramp queues. The freeway off-ramps are not under the jurisdiction of the City but are subject to Caltrans' jurisdiction. Finally, ramp improvements are not included in any of Caltrans' funding mechanisms. Because freeway mitigation is beyond the control of the project applicant, outside the jurisdiction of the City, and there is no	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
established funding mechanism available for contribution, mitigation is considered infeasible. The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
6.11-17 (A & B) The City shall coordinate with RT to modify its bus routes and/or frequencies to better serve the needs of the proposed project and to help fund any necessary improvements. In particular, RT may increase the frequency of Route 33, which is a neighborhood shuttle service that operates between the Richards Boulevard district and the downtown area.	City to coordinate with RT to ensure adequate bus service is provided to the site.	City of Sacramento Department of Transportation.	Prior to project occupancy.	Development Services/ Department of Transportation.	
6.11-18 (A & B) (a) At the I-5 northbound ramps / Richards Boulevard intersection, optimizing signal timing would lessen the project impact; therefore the applicant shall pay a fair share toward the City of Sacramento traffic operations center for the re-timing and monitoring of the signal to improve vehicle progression along Richards Boulevard. To fully mitigate the project impact would require	The applicant shall pay their fair share towards this improvement and fair share to help fund the local share of the DNA costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
widening of the freeway on-ramp and acquisition of right-of-way, which is under Caltrans jurisdiction and beyond the capability of the project. The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					

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Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(b) At the Bercut Drive / Richards Boulevard intersection, under both Scenario A and Scenario B, the City shall install, or cause to be installed, one westbound through lane to provide one left-turn lane, four through lanes and one combination through-right lane; and optimize signal timing. The City has included the cost of this improvement in its approved Richards Boulevard Area Plan and Facility Element and the project applicant shall provide "fair-share" funding for this improvement through payment of traffic impact fees. The applicant's fair share contribution shall be calculated pro rata, on a per unit and/or square foot basis, based upon the land uses identified in development applications submitted to the City. The fair share contribution shall be paid to the City prior to the issuance of building permits. The project applicant's fair share contribution shall be determined based on the Richards Boulevard Area Plan and Facility Element in place as building permits are issued for each building. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS B (12.7 seconds delay) in the a.m. peak hour and LOS C (21.1 seconds delay) in the p.m. peak hour, thus reducing the impact to less than significant; and the level of service under Scenario B would be reduced to LOS B (12.5 seconds delay) in the a.m. peak hour and LOS C (24.8 seconds delay) in the p.m. peak hour thus reducing impact to less than significant. These results are shown in Table 6.11-24.	The City shall modify the signal phasing and construct the roadway improvements stated in MM 6.11-18(b) and the applicant shall pay their fair share. Verify the applicant has paid their fair share.	Project Applicant/City of Sacramento Department of Transportation.	Prior to issuance of building permits.	Development Services/ Department of Transportation.	
(c) At the N. 5th Street / Richards Boulevard intersection, under Scenario B, the applicant shall dedicate right-of-way and construct an additional one westbound through lane to	The applicant shall dedicate the appropriate ROW and construct the	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
provide one left-turn lane, four through lanes and one combination through-right lane; and optimize signal timing. The applicant shall also dedicate sufficient right-of-way and construct an expanded intersection to the City of Sacramento Standards. With implementation of this mitigation measure, the level of service under Scenario B would be reduced to LOS C (24.1seconds delay) in the a.m. peak hour and LOS C (21.3 seconds delay) in the p.m. peak hour thus reducing impact to less than significant. These results are shown in Table 6.11-26.	roadway improvements.				
However, the implementation of Mitigation Measure 6.11-18 d) at 7th Street/Richards Boulevard would create a downstream secondary impact at the N. 5th Street/ Richards Boulevard intersection during the p.m. peak hour under Scenario A, where the level of service would degrade to LOS E. The secondary impact may be mitigated by implementing Mitigation Measure 6.11-18c and modifying the signal phasing splits during the p.m. peak hour, which would reduce the secondary impact to a less-than-significant level. With implementation of this measure, the level of service under Scenario A would be reduced to LOS C (24.7 seconds delay) in the a.m. peak hour and LOS D (33.5 seconds delay) in the p.m. peak hour. These results are shown in Table 6.11-26. These mitigation measures shall be implemented by the applicant.					
(d) At the N. 7th Street / Richards Boulevard intersection, under both Scenario A and Scenario B, the applicant shall dedicate right-of-way for and construct one westbound through lane to provide one left-turn lane, four through lanes and	The applicant shall dedicate the appropriate ROW and construct the roadway	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

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MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
one right-turn lane; and optimize signal timing. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS D (36.3 seconds delay) in the a.m. peak hour and LOS C (26.3 seconds delay) in the p.m. peak hour, thus reducing the impact to less than significant during the p.m. peak hour while the impact during the a.m. peak hour remains significant and unavoidable; and the level of service under Scenario B would be reduced to LOS D (48.5 seconds delay) in the a.m. peak hour and LOS D (45.4 seconds delay) in the p.m. peak hour thus the impact remains significant and unavoidable during both peak hours. These results are shown in Table 6.11-26.	improvements.				
(e) At the N. 5th Street / Bannon Street intersection, under Scenario B during the p.m. peak hour, the City shall optimize signal timing in order to improve vehicle progression. Implementation of this measure would mitigate the project impact to a less-than-significant level. The applicant shall pay a fair share toward the City of Sacramento traffic operations center for the re-timing and monitoring of the signal to improve vehicle progression along Richards Boulevard.	The City shall modify the signal phasing stated in MM 6.11-18(e) and the applicant shall pay their fair share. Verify the applicant has paid their fair share.	Project Applicant/ City of Sacramento Department of Transportation.	Prior to project occupancy.	Development Services/City Department of Transportation.	
(f) At the 7th Street / North B Street intersection, under both Scenario A and Scenario B, mitigating the project impact would entail widening of the roadways, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way (typically 12 feet per lane) and/or relocation of light rail. These improvements are beyond the capability of the	N/A	N/A	N/A	N/A	N/A

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
project and not controlled by the project applicant.					
(g) At the 6th Street / Big Four Boulevard intersection, mitigating the project impact would entail widening the roadways, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane). These improvements are beyond the capability of the project and not controlled by the project applicant.	N/A	N/A	N/A	N/A	N/A
(h) At the 7th Street / Big Four Boulevard intersection, under both Scenario A and Scenario B, mitigating the project impact would require widening 7th Street which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane) and/or relocation of light rail. These improvements are beyond the capability of the project and not controlled by the project applicant.	N/A	N/A	N/A	N/A	N/A

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(i) At the 7th Street / F Street intersection, under both Scenario A and Scenario B, mitigating project impact would entail widening the roadways beyond the road width found in downtown which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets, walkable communities and the Smart Growth polices. Additionally, it will require acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane). These improvements are beyond the capability of the project and not controlled by the project applicant.	N/A	N/A	N/A	N/A	N/A
(j) At the 6th Street / G Street intersection, under both Scenario A and Scenario B, mitigating project impact would entail widening the roadways beyond the road width found in downtown and necessitate acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane) which is beyond the capability of the project and not controlled by the project applicant. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(k) At the 7th Street / G Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the road width found in downtown and necessitate acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane) which is not controlled by the project applicant. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(l) At the 6th Street / H Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the road width found in downtown and necessitate acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane) which is beyond the control of the project applicant. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(m) At the 6th Street / I Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the road width found in downtown and necessitate acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane). Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(n) At the 6th Street / J Street intersection, under both Scenario A and Scenario B, mitigating project impact would require widening the roadways beyond the road width found in downtown and necessitate acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane) which is beyond the control of the project applicant. Further, a wide roadway is in opposition of the City's goal of providing a pedestrian-friendly and walkable community.	N/A	N/A	N/A	N/A	N/A
(o) At the Richards Boulevard / 12th Street intersection, mitigating the project impact would require widening of 12th Street, which would be	N/A	N/A	N/A	N/A	N/A

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane) and/or relocation of light rail. These improvements are beyond the capability of the project and not controlled by the project applicant.					
(p) At the 12th Street / Bannon Street intersection, mitigating the project impact would require widening of 12th and Bannon Streets, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane) and/or relocation of light rail. These improvements are beyond the capability of the project and not controlled by the project applicant.	N/A	N/A	N/A	N/A	N/A

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(q) At the 7th / Signature Street intersection, the applicant shall implement Mitigation Measure 6.11-1(l) and add one westbound left-turn lane to provide two left-turn lanes and one through-right lane. With implementation of this mitigation measure, the level of service under Scenario A would be reduced to LOS C (31.8 seconds delay) in the a.m. peak hour and LOS F (215.9 seconds delay) in the p.m. peak hour, thus the impact would remain significant and unavoidable; and the level of service under Scenario B would be reduced to LOS C (33.9 seconds delay) in the a.m. peak hour and LOS F (177.7 seconds delay) in the p.m. peak hour, thus the impact would be reduced to less than significant during the a.m. peak hour but the impact during the p.m. peak hour would remain significant and unavoidable. These results are shown in Table 6.11-26. To fully mitigate the project impact would require further widening of 7th Street north of Signature Street for additional vehicle travel lanes to increase the capacity of the intersection (typically 12 feet per lane), which would be inconsistent with the goals and objectives of the project to create a pedestrian-friendly street that features a linear park and interpretive walkway down the median of 7th Street, with landscaping and amenities to encourage street life.	The applicant shall implement MM 6.11-1(l) and construct the other roadway improvements identified.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	
6.11-19 (A & B) (a) Widening of 5th Street between Richards Boulevard and Signature Street to provide two travel lanes per direction between Richards Boulevard and Signature Street would reduce the project impact of Scenario B to a less-than-significant level.	Verify that the roadway widening has been completed.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(b) Under both Scenario A and Scenario B, widening of 7th Street to provide two travel lanes per direction between Richards Boulevard and Signature Street would improve the roadway operations but the impacts of the 7th Street roadway segment would remain significant and unavoidable. As described in Mitigation Measure 6.11-12(a), further widening of 7th Street would necessitate acquisition of right-of-way and would create an unfriendly pedestrian environment. After implementation of this mitigation measure, Scenario A would produce LOS D (v/c of 0.87) and Scenario B would produce LOS D (v/c of 0.87). These results are shown in Appendix N.	Verify that the roadway widening has been completed.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	
c) Under both Scenario A and Scenario B, no feasible mitigation measure was identified that would reduce the impact of the proposed project on the Richards Boulevard roadway segments. Mitigation would require increasing the number of travel lanes to increase the capacity of the intersection (typically 12 feet per lane), which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way and/or relocation of light rail. These improvements are beyond the capability of the project and not controlled by the project applicant. Therefore, the impacts of proposed project on roadway segments would remain significant and unavoidable.	N/A	N/A	N/A	N/A	N/A

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
(d,e) Under both Scenario A and Scenario B, no feasible mitigation measure was identified that would reduce the impact of the proposed project on the Bannon Street roadway segments. Mitigation would require increasing the number of travel lanes, which would be inconsistent with the City of Sacramento goals and objectives to create pedestrian-friendly streets and the Smart Growth polices. Additionally, it will require acquisition of right-of-way. These improvements are beyond the capability of the project and not controlled by the project applicant. Therefore, the impacts of proposed project on roadway segments would remain significant and unavoidable.	N/A	N/A	N/A	N/A	N/A
6.11-20 (A & B) The Traffic Study found that the impacted freeway mainline segments currently operate at LOS "F" in the Baseline Condition during the PM Peak Hour without the Project, and would continue to operate at LOS "F" in both the "Near Term Cumulative Condition (2013)" and "Long Term Cumulative Condition (2030)" both without and with the Project. Freeway mainline improvements are within the exclusive jurisdiction of Caltrans which can and should propose and adopt appropriate improvement plans that would reduce freeway mainline impacts pursuant to Public Resources Code Section 21081 and CEQA Guideline Section 15091.	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City consulted with Caltrans prior to the preparation of this Draft EIR concerning possible mitigation measures to address impacts to the identified freeway mainline segments. The discussion focused on (1) identifying any Caltrans approved or adopted capital improvement projects that would improve access to and from Sacramento's downtown and improve the existing LOS F on the freeway mainline segments to LOS "E" or better in the Near Term (2013) and Long Term (2030), and (2) proportional share mitigation impact funding contributions to those projects as a means of addressing impacts to the highways from the Project and various other pending developments in the area. Caltrans indicated that they have developed general cost estimates for the following projects. Though these projects are designed to address regional transportation needs that extend far beyond the downtown area, Caltrans believes they would serve to mitigate impacts from pending downtown developments and are viable: • I 5 American River Bridge widening - two structures. Add one standard lane and re-establish standard shoulders to each structure: $134 million. • I 5 HOV lanes - Garden Highway to I-80 HOV lanes with direct connectors: $300 million. • I 5 HOV lanes - U.S. 50 Interchange to Elk Grove Blvd: $200 million. No preliminary improvement plans have been prepared for these proposed freeway improvements, and it is unclear what the cost estimates are based on or include.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
These proposed freeway improvement projects are included in Sacramento Area Council of Governments (SACOG) existing Metropolitan Transportation Plan (MTP) for preliminary engineering and environmental only. The MTP is a long-range plan which is based on growth and travel demand projections coupled with financial projections. The MTP lists hundreds of locally and regionally important projects. It is updated every three years, at which time projects can be added or deleted. SACOG uses the plan to help prioritize projects and guide regional transportation project funding decisions. The projects included in the MTP have not gone through the environmental review process and are not guaranteed for funding or construction.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Given the status of the improvement projects identified by Caltrans and the information available at this time, the City has concluded that there is currently insufficient information and certainty on which to base a feasible and viable mitigation measure to address the Project's impacts on the identified freeway mainline segments. The proposed freeway improvement projects are not currently approved and funded. There is no fee or other funding mechanism currently in place for future funding. Furthermore, the City cannot determine either the cost of the proposed freeway improvement projects or the Project's fair share proportional contribution to the improvement projects with sufficient certainty to enable the City to develop a fee-based mitigation measure that would satisfy the legal requirements for fee-based mitigation under both CEQA (see CEQA Guidelines 15126.4) and constitutional principles that call for a nexus and rough proportionality between a project's impacts and the fee-based mitigation measure. Finally, the prospects of the proposed freeway improvements ever being constructed remains uncertain due to funding priorities and on-going policy developments that may favor other approaches to addressing freeway congestion.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
Widening the freeway mainline right of way would create adverse impacts by requiring the removal of historic buildings in the Old Sacramento District, and potentially the Crocker Art Museum, which are already situated adjacent to the existing freeway right of way; would potentially require modifications to the flood wall/levee that protects Downtown Sacramento; and would create further physical barriers between people living and working in Downtown Sacramento and the Sacramento River and the Old Sacramento District. Such new impacts from widening the freeway would not be capable of mitigation to a less than significant level and would violate City policies concerning: the preservation of the Old Sacramento District; promoting ease of pedestrian access between Downtown Sacramento and the Sacramento River; promoting ease of pedestrian access between Downtown Sacramento and the Old Sacramento District; and protecting the integrity of Sacramento's flood control system.					
Consequently, the City has been unable to identify any feasible mitigation measures that could reduce or avoid the impact of the Project on I 5 freeway or SR 160 mainline segments to a less than significant level. The California Environmental Quality Act (Pub. Resources Code, §21000 et seq.) defines "feasible" for these purposes as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Pub. Resources Code, §21061.1). Therefore, the impacts of the proposed Project on the three I 5 freeway segments would remain significant and unavoidable.					

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
6.11-21 (A & B) No feasible mitigation measures were identified that would reduce the impact of the project on I 5 freeway ramp and weaving areas. The freeway is not under the jurisdiction of the City but is subject to Caltrans' jurisdiction. Improvements to this interchange are not included in any of Caltrans' funding mechanisms. Because mitigation is beyond the control of the project applicant, outside the jurisdiction of the City, and there is no established funding mechanism available for contribution, mitigation is considered infeasible and the impact is considered significant and unavoidable.	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
6.11-22 (A & B) No feasible mitigation measures were identified that would reduce the impact of the freeway ramp queues. The freeway ramps are not under the jurisdiction of the City but subject to Caltrans' jurisdiction. Improvements to these ramps are not included in any of Caltrans' funding mechanisms. Because mitigation is beyond the control of the project applicant, outside the jurisdiction of the City, and there is no established funding mechanism available for contribution, mitigation is considered infeasible and the impact is considered significant and unavoidable.	The applicant shall pay their fair share contribution to help fund the local share of the DNA project costs.	Project Applicant.	Prior to project occupancy.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
The City of Sacramento shall require the project applicant to provide a fair share contribution to help fund the local share of the DNA project costs. The amount shall be based on the project's projected retail and office transit trips in relation to the DNA project's projected total transit trips for the first phase of the DNA project. The applicant shall also dedicate the right-of-way for the light rail alignment and station within the Township 9 project boundaries. The applicant shall receive credit for the fair market value of the dedicated station land against its fair share DNA contribution. The Development Agreement shall detail the terms of donating the land once the DNA project construction is ready to proceed, and the payment of the net fair share contribution, if any, shall be owed on a proportional basis at the time of issuance of proposed project building permits.					
6.11-23 (A & B) The City shall work with RT to modify its bus routes and/or frequencies to better serve the needs of the proposed project and to help fund any necessary improvements. In particular, RT should increase the frequency of Route 33, which is a neighborhood shuttle service that operates between the Richards Boulevard district and the downtown area.	City to coordinate with RT to ensure adequate bus service is provided to the site.	City of Sacramento Department of Transportation.	Prior to project occupancy.	Development Services/ Department of Transportation.	
6.11-24 (A & B) Prior to the issuance of grading permits for the Township 9 project, the project applicant shall prepare a Construction Management Plan (CMP) that will address construction traffic and ensure acceptable and safe operating conditions on project area roadways. This Plan shall be reviewed and approved by the City and any other affected agency and will contain the following (at a minimum): • Identification of the anticipated mix of construction equipment and vehicles and their	The project applicant shall prepare the CMP that specifically addresses construction traffic to the satisfaction of the city.	Project Applicant.	Prior to issuance of grading permits.	Development Services/ Department of Transportation.	

TOWNSHIP 9 PROJECT

MITIGATION MONITORING PLAN

Mitigation Measure	Action	Implementing Party	Timing	Monitoring Party	Verification of Compliance
proposed staging location. • Number of truck trips and the daily schedule of truck trips entering and leaving the site. Truck trips shall be scheduled outside the AM and PM peak hours of traffic. • Identification of measures to maintain safe vehicular, pedestrian and bicycle movements in the project area. • Maintenance of access for emergency vehicles in the project area. • Provision of manual traffic control (if required). • Clear demarcation of construction areas along project roadways. • Provision of this plan 14 days prior to the commencement of construction.					
Initial Study - 14. Cultural Resources					
Cult-1 (A & B) Should paleontological resources be identified at any project construction sites during any phase of construction, the project manager shall cease operation at the site of the discovery and immediately notify the City of Sacramento Development Services Department. The project applicant shall retain a qualified paleontologist to provide an evaluation of the find and to prescribe mitigation measures to reduce impacts to a less-than-significant level. In considering any suggested mitigation proposed by the consulting paleontologist, the City of Sacramento Development Services Department shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, specific plan policies and land use assumptions, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation for paleontological resources is carried out.	Stop work should paleontological resources be identified at any project construction sites. Hire a paleontologist to evaluate any find and implement appropriate mitigation (including avoidance, if feasible).	Project Applicant.	Ongoing during construction.	Development Services.	

Attachment 5 – Development Agreement Ordinance

ORDINANCE NO. _____

Adopted by the Sacramento City Council

_____

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SACRAMENTO AND CAPITOL STATION 65 LLC FOR THE TOWNSHIP 9 PROJECT ENCOMPASSING PROPERTY LOCATED NORTH OF RICHARDS BOULEVARD BETWEEN 5TH AND 7TH STREETS IN THE RICHARDS BOULEVARD AREA PLAN (APN: ALL OR PORTIONS OF 001-0020-003, -019, -034, -041, -044, -045, -046; 001-0200-012, -013, -034 (P06-047))

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

SECTION 1.

This Ordinance incorporates, and by this reference makes part hereof, that certain Development Agreement (Agreement), by and between the City of Sacramento and Capitol Station 65 LLC (Landowner) for the Township 9 Project (Project) which encompasses the property as described in the Agreement, a copy of which is attached hereto.

SECTION 2.

On August 28, 2007, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 18.16.080, and received and considered evidence concerning the Township 9 Project and the term of this Agreement.

SECTION 3.

The City Council finds:

1. The Agreement is consistent with the City General Plan and the goals, policies, standards and objectives of the applicable specific or community plan.

2. Development of the Project should be encouraged in order to meet important economic, social, environmental and planning goals of the applicable specific or community plan.

3. The Project would be unlikely to proceed in the manner proposed in the absence of the Agreement.

4. The Landowner will incur substantial costs in order to provide public improvements, facilities and/or services that will benefit the general public.

5. The Landowner will participate in all programs established and/or required under the General Plan and the applicable specific or community plan, comply with all of the provisions in the resolutions approving the Project (including the Mitigation Monitoring Plan), and has agreed to the financial participation required under the applicable financing plan and its development fee and assessment district implementation measures, all of which will accrue to the benefit of the public.

6. The Landowner has made commitments to develop the Project with a high standard of quality and has agreed to comply with all applicable land use and development regulations as specified in the Agreement.

SECTION 4.

The Development Agreement attached hereto is hereby approved, and the City Manager is authorized to execute after the effective date of this Ordinance said Development Agreement on behalf of the City of Sacramento. This approval and authorization is based upon certification of the Environmental Impact Report and adoption of the Mitigation Monitoring Plan, and approval of the Project entitlements, which are the subject of separate resolutions adopted by City Council prior to or concurrent with the adoption of this Ordinance.

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Exhibit A – Development Agreement

P06-047 (Township 9)

August 21, 2007

No Fee Required: Recording benefits the City of Sacramento, a government entity.

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City Clerk
City of Sacramento
915 I Street
Sacramento, CA 95814

DEVELOPMENT AGREEMENT

for

TOWNSHIP 9

Project No. P-06047

Between CITY OF SACRAMENTO

And

CAPITOL STATION 65 LLC

August 21, 2007

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

P06-047 (Township 9) August 21, 2007

CITY AGREEMENT NO._____ DATE ADOPTED:_____

TOWNSHIP 9
DEVELOPMENT AGREEMENT

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FOR CITY CLERK USE ONLY

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CITY AGREEMENT NO._____ DATE ADOPTED:_____

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CITY AGREEMENT NO._____ DATE ADOPTED:_____

DEVELOPMENT AGREEMENT
BY AND BETWEEN
CITY OF SACRAMENTO
AND
CAPITOL STATION 65 LLC

This Development Agreement (hereinafter "Agreement") is made and entered into this 21 day of August, 2007, by and between the CITY OF SACRAMENTO, a municipal corporation (hereinafter the "CITY") and CAPITOL STATION 65 LLC (hereinafter 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.

RECITALS

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risks of development, the Legislature of the State of California adopted section 65864 et seq. of the Government Code which authorizes any city, county, or city and county to enter into a development agreement with an applicant for a development project, in order to establish certain rights and obligations of the parties relative to the property.

B. LANDOWNER owns a legal or equitable interest in those certain parcels of real property (hereinafter the "Property"), described in Exhibit "A" attached hereto and incorporated herein by this reference, which are located within the CITY. The Property consists of lands designated as Assessor Parcels Nos. 001-0020-003, -019, -034, -036, -041, -044, -045, -046, 001-0200-012, -013, AND -034. LANDOWNER seeks to develop the Property consistent with CITY's General Plan, Community Plan, the Richards Boulevard Area Plan (RBAP) and the Zoning Ordinance as they exist on the Effective Date and as amended by the Project approvals, including the Planned Unit Development (PUD) designation.

C. The City Planning Commission and the City Council have duly noticed public hearings on July 26, 2007 (Planning Commission), August 9, 2007 (Planning Commission) and August 21, 2007 (City Council). The PUD Design Guidelines and Schematic Plan were also reviewed by the Preservation Commission and the Design Commission, At the Planning Commission and City Council hearings, public testimony was heard and received and staff reports were reviewed for the following entitlements for the proposed Township 9 Project as more specifically set out in Exhibit C:

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- Development Agreement
- Rezone
- Planned Unit Development Design Guidelines
- Planned Unit Development Schematic Plan
- Tentative Map
- Richards Boulevard Special Planning District Amendment
- Facility Element of the Richards Boulevard Area Plan Amendment

The City Council at a duly noticed public hearing approved the Township 9 Project with the above described entitlements and certified the Environmental Impact Report (EIR) and adopted the Findings of Fact for the proposed Project. The Council also adopted Mitigation Measures and Statement of Overriding Considerations for the Project and a Mitigation Monitoring Plan (MMP), attached hereto as Exhibits D-1 and D-2. The Project is referenced throughout this Agreement as "Project" or "Township 9."

3. D. CITY and LANDOWNER desire to enter into a development agreement pursuant to the provisions of Government Code section 65865 et seq. in order to provide for the orderly development of the Property, in accordance with the goals set forth in Government Code section 65865, the General Plan, Community Plan and the RBAP.

4. E. The coordinated and orderly development of the Property, and LANDOWNER's commitment to the implementation of the Project, are essential to the proper implementation of the General Plan, Community Plan and the RBAP.

5. F. LANDOWNER desires to facilitate implementation of the General Plan, Community Plan, the RBAP and the Project, and LANDOWNER therefore agrees to develop the Property in a manner consistent with the policies therein, and the Special Conditions, provided that LANDOWNER is assured that no subsequent changes in the General Plan, Central City Plan, the RBAP, the Zoning Ordinance, or the PUD that are initiated by CITY or an entity other than LANDOWNER shall apply to the Property during the term of this Agreement, except as otherwise provided in this Agreement.

6. G. The City Council adopted the Procedural Ordinance by which CITY will, inter alia, consider, adopt, amend and subsequently review the development agreements by and between CITY and a given landowner.

7. H. Development of the Property, in accordance with the conditions of this Development Agreement, will provide orderly growth and development of the Property in accordance with the requirements, policies, goals, standards, and objectives of the General Plan, Community Plan and the RBAP. At the same time, it will assure that

LANDOWNER is committed to funding its appropriate share of the cost of Infrastructure and other facilities which are the subject of the Railyards/Richard Boulevard Area Finance Plan, and that the funding for acquisition and construction of those facilities will be available to CITY as and when required under the Infrastructure phasing program. The Parties acknowledge that the Finance Plan may be amended and the application of the amended Finance Plan to the LANDOWNER is discussed herein.

8. I. This Agreement is voluntarily entered into by LANDOWNER in order to assure the implementation of the General Plan, Community Plan, the RBAP and the Finance Plan, including the amendments to the Finance Plan, and is made in consideration of the rights conferred and the procedures specified herein for the development of the Property. This Agreement is voluntarily entered into by CITY in the exercise of its legislative discretion in order to assure the implementation of the General Plan, the RBAP, and the Finance Plan and in consideration of the agreements and undertakings of LANDOWNER hereunder.

J. The authority for this Agreement is contained in the City Charter of CITY, the Procedural Ordinance, other applicable CITY ordinances, resolutions and procedures and Government Code section 65864 et seq.

K. CITY and LANDOWNER have taken all actions mandated by and have fulfilled all requirements set forth in the Procedural Ordinance for the adoption of this Agreement by the City Council.

L. The City Council has reviewed and approved this Agreement. It finds that this Agreement is consistent with the General Plan, Community Plan, the RBAP, the Finance Plan, and all other applicable CITY ordinances, rules and regulations. The implementation of this Agreement is in the best interest of CITY and the health, safety and welfare of its residents. The environmental impacts of the development contemplated herein were adequately considered in the environmental documentation prepared by CITY and adoption of the ordinance and approval of this Agreement complies in all respects with the California Environmental Quality Act.

AGREEMENT

NOW, THEREFORE, in further consideration of the above recitals, all of which are expressly incorporated into this Agreement, and the mutual promises and covenants of the parties contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

FOR CITY CLERK USE ONLY

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I
DEFINITIONS

For purposes of this Agreement and all Exhibits, the capitalized terms shall have the meanings set forth below, unless the context otherwise requires or if the capitalized term is defined in a particular section. Words not defined in this Agreement shall be given their common and ordinary meaning. The word "shall" is always mandatory.

The documents which are attached to this Agreement and labeled as exhibits (Exhibits) and which are referred to in this Agreement or in each other are incorporated into this Agreement by such reference. The documents which are referenced in this Agreement or in the Exhibits which may not be physically attached to this Agreement are also incorporated into this Agreement by such reference.

1. Defined Terms

9. **1.1 Adopting Ordinance**: the ordinance pursuant to which the City Council approves this Agreement.

10. **1.2 Allocation Procedures**: those procedures set forth in Section 5.H of this Agreement, whereunder the various uses and densities are distributed to and among the various parcels, or portions of them, comprising the Property.

11. **1.3 Annual Review**: the process, and procedures therefor, whereby CITY reviews, pursuant to Government Code section 65865.1, the nature and extent of compliance by LANDOWNER and Assignee(s) with all of the terms and conditions of this Agreement, which process and procedures are as specified in the Procedural Ordinance, and in Section 17 of this Agreement.

12. **1.4 Assessment**: a special assessment levied on real property within the Richards Boulevard Area Plan area, for the purpose of financing Infrastructure and/or public facilities, or maintenance thereof, in accordance with the California Streets and Highways Code, the California Government Code, and/or the Sacramento City Code.

13. **1.5 Assessment District Policy Manual**: the document entitled "City of Sacramento Policy and Procedures for Use of Special Assessment and Mello-Roos Community Facilities District Financing for Infrastructure and Public Facilities," as adopted by the City Council on June 29, 1993 (Resolution 93-381), as said document may be amended from time to time.

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14. **1.6 Assignee**: a third Person executing an Assumption Agreement prepared in accordance with the format prescribed in Exhibit K.

15. **1.7 Assignment**: the sale or other transfer by LANDOWNER of all or part of its right, title and interest in the Property and in this Agreement to another Person, in accordance with the terms and conditions of this Agreement.

16. **1.8 Assumption Agreement**: the agreement prescribed in Exhibit K, whereby an Assignee undertakes to perform all obligations, and other terms and conditions of this Agreement, as a condition of release of the Assignee's predecessor in interest from the responsibility for performance of such obligations and other terms and conditions, with respect to the portion of the Property assigned to the Assignee.

17.

18. **1.9 Building Permit**: a permit issued pursuant to Title 15 of the City Code that allows for construction of improvements on the Property as specified in the permit.

19. **1.10 CEQA:** the California Environmental Quality Act (CEQA), as set forth at California Public Resources Code, Division 13, commencing at Section 21000 (CEQA Act), and the CEQA Guidelines as set forth in Title 14 of the California Code of Regulations commencing at Section 15000 (CEQA Guidelines), and as the CEQA Act and CEQA Guidelines are amended from time to time.

20. **1.11 City**: the City of Sacramento.

21.

22. **1.12 City Code**: the Sacramento Municipal Code as adopted by the City Council, as said Code may be amended from time to time, and the provisions of the Sacramento City Charter as it may apply to the provisions of the Sacramento Municipal Code and this Agreement, as said Charter may be amended by a vote of the electorate from time to time.

23. **1.13 City Council**: the Council of the City of Sacramento.

1.14 Community Plan: the Sacramento Central City Plan as adopted by the City Council in 1980 and updated in 1994, as said plan may be amended from time to time.

1.15 Days: as used in this Agreement, "days" shall mean calendar days.

24. **1.16 Dedication**: the transfer of real property, or a defined interest therein, to CITY, free of all encumbrances, mortgages, liens, leases, easements and other matters affecting the title except as may otherwise be expressly agreed to by CITY, and at no cost to CITY, as specifically set forth in the RBAP, Finance Plan, Project Entitlements, or Special

Conditions. Exhibit I provides the form of the Dedication Agreement if the irrevocable offer of dedication is not otherwise set out in a tentative or final subdivision map.

25. **1.17 Deed of Trust**: a real property security device whereby the debtor (trustor) conveys title to real property to a trustee as security for a debt owed to the creditor (beneficiary).

26.

27. **1.18 Design Guidelines**: the architectural and site design standards that are applicable to Development of the Property for the Project as set out in the Township 9 Planned Unit Development Design Guidelines ("Township 9 Design Standards") dated August 3, 2007, as approved by the City Council as referenced in the Project Entitlements, which is set forth in Exhibit L. The Design Guidelines also incorporate by reference a portion of the Central City Urban Design Plan design standards; to the extent that the same subject matter regarding a specific design standard is not included in the Township 9 Design Guidelines, then the applicable requirement in the Central City Urban Design Plan shall apply to the Project. As of the Effective Date of this Agreement, the Central City Urban Design Plan is in draft form. The Parties agree that the adopted version of the Central City Urban Design Plan, and as it may be amended in the future, will be applicable to the Project to the limited extent as described in this Section 1.18.

28. **1.19 Default**: a failure of performance, or unreasonable delay in performance, by either Party to this Agreement, of any of its terms, conditions, obligations or covenants as described in Section 17 of this Agreement. Default shall include, but not be limited to failure to comply with all provisions of the Finance Plan and/or failure to pay any fee, tax or assessment enacted pursuant to that Plan provided that such failure is considered a default under Section 17 of this Agreement.

29. **1.20 Development**: the use(s) to which the Property will be put, the buildings and improvements to be constructed on it, and the construction activities incident thereto, together with the process of obtaining all required land use entitlements and Building Permits for the Project.

30. **1.21 Development Agreement or "Agreement"**: this Agreement.

1.22 Development Fee: all fees now or in the future collected by the CITY from LANDOWNER for Development of the Property for the funding of Public Facilities, provided nothing herein shall preclude CITY from collecting fees lawfully imposed by another public agency having jurisdiction which CITY is required or authorized to collect pursuant to State law or local ordinance.

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31. **1.23 Development Plan**: LANDOWNER's plan for development of the Property, as set forth in Exhibit B. The Development Plan shall be deemed to be development consistent with the PUD Schematic Plan, the Project Entitlements (Exhibit C) and Design Guidelines (Exhibit L), the Land Use and Development Regulations, and where applicable changes in the Land Use and Development Regulations subject to the provisions contained in Section 5.H.(1).

32.

33. **1.24 Discretionary Approvals**: a decision that requires exercise of judgment and deliberation.

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34. **1.25 Effective Date**: the date on which the Adopting Ordinance became effective.

1.26 Final Environmental Impact Report: the report prepared for the Project in accordance with CEQA that was certified by the City Council by resolution as described in Exhibit D-1.

1.27 Finance or Financing Plan: the Railyards/Richards Boulevard Area Infrastructure Financing Plan dated September 17, 1997, which was prepared to implement the Facility Element of the Richards Boulevard Area Plan and the Railyards Specific Plan adopted on December 13, 1994 and as said plan may be amended from time to time.

35. **1.28 General Plan**: the General Plan of the City of Sacramento, as adopted by the City Council on January 19, 1988, as said plan may be amended from time to time.

36.

37. **1.29 Inclusionary Housing Ordinance**: the Mixed Income Housing Ordinance as set out in Title 17, Chapter 17.190 of the City Code. The Project is exempt from compliance with this ordinance.

38. **1.30 Infrastructure**: all public facilities and improvements needed to serve urban development, as identified in the RBAP, as amended by the Project Entitlements, and the Finance Plan, or in subdivision maps, parcel maps, or as may otherwise be constructed and conveyed to CITY or another public agency, including but not limited to street and freeway improvements, drainage improvements, sanitary sewer improvements and water storage and transmission facilities.

39. **1.31 Irrevocable Offer of Dedication**: an unconditional and irrevocable offer by LANDOWNER to transfer real property to CITY or a Public Agency, in the form specified in Exhibit I.

1.32 Land Acquisition Fee: the fee and reimbursement program, which is an integral part of the Financing Plan, and which is designed to equalize the cost of the Public Facilities among the various landowners within the area specified in the Financing Plan.

1.33 Land Acquisition Program: the program which may become an integral part of the implementation of the Financing Plan, as amended, provides a means for transfer to, or acquisition by, CITY of lands within the Community Plan and/or RBAP area which are designated to be held publicly, either at no cost by Dedication or to be acquired by Reservation as specified in the Land Acquisition Program, as more particularly described in Exhibit N.

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40. **1.34 Land Use and Development Regulations**: the General Plan, the Richards Boulevard Area Plan, the Central City Community Plan, the CITY's Subdivision Map Act Ordinance, Zoning Ordinances, Design Guidelines and the PUD, together with any other CITY ordinance or resolutions, rules, regulations and official policies as they exist on the Effective Date which govern or regulate Development in the Community Plan and/or Richards Boulevard Area Plan area which encompasses the Property.

41. **1.35 Lender**: a Person (or a successor in interest to such person) who has advanced funds to, or who is otherwise owed money by a debtor, where the obligation is embodied in a promissory note or other evidence of indebtedness, and where such note or other evidence of indebtedness is secured by a Mortgage or Deed of Trust.

42. **1.36 Mortgage**: a contract by which the mortgagor (debtor) as owner hypothecates or pledges real property, or otherwise grants a security interest therein to a Lender (mortgagee), to secure performance under a promissory note or other evidence of indebtedness, and where the holder of the mortgage is granted a power of sale.

43. **1.37 Ministerial Action**: a ministerial approval or disapproval and means an action that merely requires a determination whether there has been compliance with applicable statues, ordinances, resolutions, regulations or conditions of approval.

44.

45. **1.38 Mitigation Measures**: the measures adopted by the City Council as part of the certification of the Final Environmental Impact Report which apply to Development of the Property for the Project as set out in the Mitigation Monitoring Program and as may be referenced in the Project Entitlements.

46.

47. **1.39 Mitigation Monitoring Program**: the plan for implementation of the Mitigation Measures as of the Effective Date, which is set out in Exhibit D-2 and as may be referenced in the Project Entitlements.

48. **1.40 Parties**: the City of Sacramento and Landowner.

49. **1.41 Person**: any person, firm, association, organization, partnership, business trust, corporation or company.

50.

51. **1.42 Planned Unit Development** or PUD: the establishment of development and design standards which allow for changes in the Zoning Ordinance requirements for the underlying zoning classifications to allow for better integration and design of mixed residential and commercial developments.

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52. **1.43 Procedural Ordinance**: Chapter 18.16 of the City Code which sets forth procedures for application, review, approval, implementation, amendment, recordation, compliance review and related matters with respect to development agreements for lands outside of the North Natomas Community Plan area (which is governed by Ordinance No. 95-012) and that are not within the Railyards Specific Plan area (which is governed by Ordinance No. 95-063).

53.

54. **1.44 Project**: part or all of the elements set forth in LANDOWNER's Development Plan, Project Entitlements, PUD and Design Guidelines.

1.45 Project Entitlements: the plans, ordinances, resolutions, maps, plan review, permits and approvals which have been approved for the Project as of the Effective Date as set out in Exhibit C.

55. **1.46 Project Review**: CITY's actions in reviewing any project proposed by LANDOWNER with respect to the Property, including but not limited to review of all required land use entitlement applications.

56. **1.47 Property**: the real property owned by LANDOWNER, as set forth in Exhibit A.

57. **1.48 Protest Waiver**: the agreement set forth in Exhibit G executed by LANDOWNER pursuant to this Agreement, or in connection with the conditions of any required entitlement.

58. **1.49 Public Agency(ies)**: a city (other than CITY), county, special district, public utility, school district, a regional agency formed pursuant to federal or state law, joint powers agency, municipal corporation, or a non-profit corporation formed by a public entity to provide services to or charitable benefits for the public, and the City Council does not act as the governing board of that agency.

59.

60. **1.50 Public Facilities**: all Infrastructure, facilities, improvements and amenities needed to serve the Project, as identified in the General Plan, Community Plan, RBAP, and Finance Plan, or in the Development Plan, Project Entitlements, or as may otherwise be constructed or owned by, or conveyed to, CITY or Public Agency, including, without limitation: (i) streets, alleys, bridges, pedestrian and bicycle paths, parking lots and freeway improvements; (ii) heavy and light rail and trolley lines, stations, and passenger facilities; (iii) bus rapid transit lanes and bus transfer facilities, turnouts and stops; (iv) surface and storm drainage improvements; (v) sanitary sewer improvements; (vi) water storage and transmission facilities; (vii) flood control improvements; (viii) solid waste facilities; (ix) electrical and gas utilities; (x) street lighting; (xi) police and fire stations; (xii) parks, plazas,

open space, greenbelts, trails, and landscaping; (xiii) habitat conservation areas; (xiv) drainage retention and flood control basins; (xv) schools and educational facilities; (xvi) community centers, performing arts centers, and museums; and (xvii) publicly owned artwork.

61.

62. **1.51 Public Financing Mechanism**: an assessment district, a community facilities district, a fee district, or any similar financing mechanism imposed on real property or as a condition of development approval, excluding Development Fees.

63.

64. **1.52 Public Services**: all services provided by CITY and Public Agency to serve the residents and businesses located in the Property, as may be identified in the General Plan, Community Plan, RBAP, and Finance Plan, or in the Development Plan, Project Entitlements, or Special Conditions, including, without limitation, the maintenance, operation or the provision of, as the context implies: (i) streets, alleys, bridges, pedestrian and bicycle paths, parking lots and freeway improvements; (ii) heavy and light rail and trolley transit services; (iii) bus transit services; (iv) surface and storm drainage improvements and pollution control services; (v) sanitary sewer improvements and pollution control services; (vi) water storage and transmission facilities and water services; (vii) flood control improvements; (viii) solid waste services; (ix) electrical and gas utilities; (x) street lighting; (xi) police and fire services; (xii) parks, plazas, open space, greenbelts, trails, and landscaping; (xiii) habitat conservation areas; (xiv) drainage retention and flood control basins; (xv) educational services; (xvi) community centers, performing arts centers, and museums; and (xvii) publicly owned artwork.

65. **1.53 Reconfiguration**: the reconfiguration, adjustment or alteration of property lines through parcel or subdivision mapping, lot line adjustment, or lot merger, which may affect the description of LANDOWNER's Property as set out in Exhibit A.

66. **1.54 Reimbursement**: the reimbursement of monies to a Person who has advanced funds for Infrastructure or Public Facilities required for development of the Property, or who has advanced funding for Infrastructure, Public Facilities or other improvements which are required by the RBAP, the Finance Plan, or other document, and which have benefit to land beyond the Property, in accordance with a reimbursement agreement approved by CITY. Any such agreement will be limited to the portion of the funding advanced which is in excess of the allocable share of the cost of the Infrastructure, Public Facilities or improvement attributable to the Property.

67. **1.55 Reimbursable Infrastructure Costs**: those costs paid by LANDOWNER, and which are identified as reimbursable pursuant to CITY's Assessment District Policy Manual (as defined in Section I.1.5 of this Agreement).

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1.56 Reservation: the transfer of real property, or a defined interest therein, to CITY or Public Agency, free of all encumbrances, mortgages, liens, leases, easements and other matters affecting the title except as may otherwise be expressly agreed to by CITY or such Public Agency, at a purchase price set out in the Reservation Agreement, the form of which is provided as Exhibit J.

1.57 RBAP: the Richards Boulevard Area Plan as approved by the City Council on December 13, 1994, as said plan may be amended from time to time.

68. **1.58 Special Conditions**: those conditions, terms and requirements specified in Exhibit M.

69. **1.59 Special Permit**: any discretionary permit required pursuant to the Land Use and Development Regulations, and issued by CITY for development of the Property, upon proper application therefor by LANDOWNER.

70.

71. **1.60 Subdivision Ordinance**: the Subdivision Ordinance of the City of Sacramento which is set out in Title 16 of the City Code, and as said ordinance may be amended in the future from time to time.

72.

1.61 Subdivision Map Act: the provisions of Divisions 2 and 3 of the Government Code commencing at Section 66410.

73. **1.62 Term**: the length of this Agreement in terms of time, as specified in Section II.3, or as that time may be extended pursuant to any applicable provision of this Agreement.

74. **1.63 Transfer**: an assignment.

75. **1.64 Transferee**: an assignee.

76.

77. **1.65 Vested Right**: a property right conferred by this Agreement, pursuant to Government Code Section 65865.4, to develop the Property for the Project that may not be cancelled or revoked by CITY after the Effective Date, except as expressly provided in this Agreement.

78. **1.66 Zoning**: the division of the City of Sacramento into districts, and the application of zoning regulations thereto, which include (without limitation) regulation of the height or bulk of buildings (structural and architectural design) and the use to which the land and buildings within prescribed districts may be put, all as specified in the Zoning Ordinance.

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79. **1.67 Zoning Ordinance**: the Comprehensive Zoning Ordinance of the City of Sacramento, which is set out in Title 17 of the City Code, and as said ordinance may be amended in the future from time to time.

II
TERMS AND CONDITIONS OF AGREEMENT

1. **Property Description and Binding Covenants**. The Property is that certain real property owned by LANDOWNER and described in Exhibit "A." The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to the benefit of, the parties and, subject to Section II.4 below, to their successors-in-interest.

2. **Interests of Landowner**. LANDOWNER represents that LANDOWNER owns a legal or equitable interest in the Property and that all other Persons holding legal or equitable interests in the Property, including Lender, have executed and are bound by this Agreement.

3. **Term**. The term of this Agreement shall commence on the Effective Date and shall extend for a period of twenty (20) years thereafter, unless it is sooner terminated or modified by the mutual consent of the parties.

80. 4. **Assignment**. LANDOWNER shall have the right to sell, assign, or transfer its interests under this Agreement as part of a contemporaneous and related sale, assignment or transfer of its interests in the Property, or any portion thereof, without the consent of CITY; provided, however, that LANDOWNER shall notify CITY of such sale, assignment or transfer by providing written notice thereof to CITY in the manner provided in this Agreement. LANDOWNER shall remain obligated to perform all terms and conditions of this Agreement, unless such purchaser, assignee or transferee, to the satisfaction of and in a form acceptable to the City Attorney, executes and delivers to CITY an express agreement to assume all of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred. The execution of such an assumption agreement shall relieve LANDOWNER of the obligations expressly assumed only if (a) LANDOWNER is not in default under this Agreement at the time of the assignment or transfer; and (b) LANDOWNER has provided CITY with notice of said assignment or transfer in the manner provided hereunder. Any such assumption agreement with respect to LANDOWNER's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assignment and Assumption Agreement attached hereto as Exhibit "K" and incorporated herein by this reference, or such other form as shall be proposed by LANDOWNER and approved by the City Attorney prior to the effective date of the assignment.

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Any purchaser, assignee, or transferee shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, only with respect to the Property, or such portion thereof, sold, assigned, or transferred to it. Any such purchaser, assignee, or transferee shall observe and fully perform all of the duties and obligations of LANDOWNER under this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred.

5. **Development of the Property.**

A. **Permitted Uses and Development Standards**. Subject to compliance with the Special Conditions set forth in Exhibit M and the Mitigation Measures set forth in Exhibit D, any reserved Discretionary approvals specified in this Agreement, and all other terms and conditions of this Agreement, LANDOWNER may develop the Property for the Project in accordance with and subject to the terms and conditions of the Project Entitlements based on the Land Use and Development Regulations in effect on the Effective Date ("Vested Rights"). Specifically, the permitted uses, density or intensity of use, height or size of buildings and provisions for Reservation and Dedication of land for public purposes shall be as set forth in the PUD, Design Guidelines, and tentative map and as reflected in the Development Plan and Project Entitlements.

The parties acknowledge that as the Property develops and final maps are recorded and Building Permits are approved, the actual densities realized for some of the parcels may be less than the planned densities set forth in the PUD and Development Plan (the "Planned Densities"). CITY and LANDOWNER acknowledge and agree that LANDOWNER may reduce Planned Densities below the maximum number authorized by the Project Entitlements, at LANDOWNER's discretion, subject only to the minimum density provisions contained within the Land Use and Development Regulations and subject to any appropriate conditions imposed by CITY processing of subsequent entitlement applications.

B. **Discretionary Approvals**. Development of the Property is subject to all required Discretionary Approvals as set out in the Land Use and Development Regulations. In reviewing and approving applications for special permits and other Discretionary Approvals, CITY may exercise its independent judgment and may attach such conditions and requirements as are consistent with the policies, goals, standards and objectives of the General Plan, the Community Plan, RBAP and related Land Use and Development Regulations, and as may be necessary to comply with all applicable legal requirements and policies of CITY pertaining to such reserved Discretionary Approvals. Should the City Council amend the Finance Plan in

effect as of the Effective Date, the amended Finance Plan shall apply to Landowner as described in Section II.6.B of this Agreement.

C. **Development Timing**. This Agreement contains no requirement that LANDOWNER must initiate or complete development of any phase of the development of the Property or any portion thereof within any period of time set by CITY. It is the intention of this provision that LANDOWNER be able to develop the Property in accordance with LANDOWNER's own schedule. No future modification of the City Code or any ordinance or regulation which limits the rate of development over time shall be applicable to the Property. However, nothing herein shall be construed to relieve LANDOWNER from any condition regarding timing, with the exception of development phasing, in any permit or subdivision map approval or to excuse the timely completion of any act which is required to be completed within a time period set by any applicable code or permit provisions, or in the Mitigation Measures (Exhibit D) or Special Conditions (Exhibit M).

D. **Special Conditions**. Development of the Property shall be subject to the Special Conditions, as specified in Exhibit M.

E. **Land Use and Development Regulations**.

(1) Subject to the Special Conditions specified in Exhibit M, development of the Property shall be subject to the Land Use and Development Regulations applicable to such development on the Effective Date, as modified by the Project Entitlements.

(2) Priority of Enactment. In the event of conflict between the terms of this Agreement, the Land Use and Development Regulations and the Project Entitlements, the Parties agree that the following sequence of approvals establishes the relative priority of the approvals, each approval superior to the approvals listed thereafter: (a) the General Plan, Community Plan and RBAP as they may be amended as part of the approval of the Project Entitlements; (b) the PUD and Design Guidelines adopted for the Project; (c) the Development Agreement; and (d) the Land Use and Development Regulations, other than the General Plan, Community Plan and the RBAP.

(3) Except as otherwise provided in this Agreement, to the extent any future changes in Land Use and Development Regulations adopted by CITY purport to be applicable to the Property but are inconsistent with the terms and conditions of this Agreement, including subsection II.5.A above regarding the LANDOWNER's Vested Rights, the terms and conditions of

this Agreement shall prevail, unless (i) the changes are to the benefit of LANDOWNER and LANDOWNER notifies CITY of its desire to comply with the changed Land Use and Development Regulations and/or (ii) the Parties or their successors in interest mutually agree to amend or modify this Agreement in accordance with the provisions for modification hereinafter set forth.

(4) To the extent that any future changes in the Land Use and Development Regulations adopted by CITY are applicable to the Property and are not inconsistent with the terms and conditions of this Agreement or are otherwise made applicable by other provisions of this Agreement, such future changes shall be applicable to the Property.

(5) Nothing in this Agreement shall preclude the application to the Property of changes in the Land Use and Development Regulations, the terms of which are specifically mandated by changes in state or federal laws or regulations. In the event state or federal laws or regulations enacted after the Effective Date of this Agreement or action by any governmental jurisdiction other than CITY prevent or preclude compliance with one or more provisions of this Agreement or require changes in permits, maps or plans approved hereunder by CITY, this Agreement shall be modified, extended or suspended as may be necessary to comply with such state or federal laws or regulations or the regulations of such other governmental jurisdiction.

(6) To the extent that any actions of federal or state agencies (or actions of regional and local agencies, including CITY, required by federal or state agencies or actions of CITY taken in good faith in order to prevent adverse impacts upon CITY by state or federal actions) have the effect of preventing, delaying or modifying development of the RBAP area or any area therein including the Property, CITY shall not in any manner be liable for such prevention, delay or modification of said development. Such actions may include, but are not limited to, flood plain or wetlands designations and actions of CITY or regional agencies as a result thereof and the imposition of air quality measures or sanctions and actions of CITY or regional and local agencies as a result thereof. In such a situation, CITY's actions shall not be arbitrary or capricious, and the parties shall meet and endeavor to achieve solutions which preserve the integrity of the RBAP, while to the extent feasible allow development of the Property in the manner contemplated by this Agreement.

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(7) Nothing herein shall be construed to limit the authority of CITY to enact amendments to the Land Use and Development Regulations, or enact other ordinances or resolutions, except that such amendments, ordinances and resolutions shall not limit LANDOWNER's Vested Rights as referenced in Section II.5.A, above, unless otherwise expressly provided herein.

(8) Building codes, ordinances and regulations relating to construction standards or permits shall apply as of the time of grant of each applicable Building Permit or grading permit.

(9) No modification of CITY's ordinances, resolutions, policies, rules or regulations adopted after the Effective Date, which purport to limit the rate of development over time or to govern the sequence of development of land within the RBAP area, shall apply to the Property. The provisions of this subsection apply to modifications adopted or imposed by the City Council, or through the initiative or referendum process; provided, however, nothing in this subsection shall limit the ability of CITY to act in accordance with the provisions of subsections II.5.E(4) - (8) of this Agreement.

(10) Any and all references in this Agreement to documents "as they are amended from time to time" (or other similar language) shall not be construed to mean that LANDOWNER is subject to the conditions, policies and or requirements of the revised document except as expressly provided herein. LANDOWNER is obligated to comply with the conditions, policies and requirements contained in the Land Use and Development Regulations as of the Effective Date of this Agreement, with CITY Development Fees and the Financing Plan as described in Section II.6.A and B and the Special Conditions, changes to the Land Use and Development Regulations as described in the provisions of subsections II.5.E(4) - (7), and changes to the Building Code as described in subsection II.5.E(8).

F. **CITY Review of Applications**. Consistent with the standards set forth in Section II.16 of this Agreement, nothing contained in this Agreement shall preclude CITY from its right and responsibility to review applications for entitlements submitted by LANDOWNER in accordance with its normal and usual procedures and practices, as they may exist at the time the application is accepted as complete, or is otherwise deemed complete by operation of law, and to impose conditions in compliance with the Mitigation Measures, subsequent CEQA review of an application, the Land Use and Development Regulations, and the Subdivision Map Act.

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G. **Extension of Entitlements**. Pursuant to Government Code section 66452.6 all vesting tentative subdivision maps, master parcel tentative maps, parcel maps, subdivision tentative maps, planned unit development permits, special permits, or any other maps, rezonings or land use entitlements of potentially limited duration previously, contemporaneously or subsequently approved for the Property subject to this Development Agreement, shall be valid for a minimum term equal to the full term of this Agreement, or for a period of thirty-six (36) months, whichever is longer, but in no event for a shorter period than the maximum period of time permitted by the Subdivision Map Act or Government Code for such land use entitlements in effect at the time of approval. The provisions of Section II.26 of this Agreement relating to estoppel certificates shall apply to any request made by LANDOWNER to CITY with respect to the life of any entitlement covered by this subsection. Nothing in this section shall be construed to, or operate to extend the term of this Agreement.

H. **Allocation Procedures**. Procedures for allocating the uses or densities approved for the Property among the various parcels and/or portions thereof, and for resolution of any disputes regarding such allocations, shall be as follows:

(1) **Allocation**. Unless otherwise identified in the Development Plan, which is attached as Exhibit B to this Agreement or the Project Entitlements, which is attached as Exhibit C to this Agreement, the allocation of building square footage shall be as identified in subsequent entitlements for the Property, including but not limited to parcel maps, subdivision maps, and any amendments to the PUD, Development Plan and Design Guidelines which may have been approved by the Parties. The appropriate entitlement to address the allocation of building square footage by parcel shall be determined by CITY in accordance with this Agreement. Allocations for residential development shall be determined in the subdivision mapping process, unless CITY determines that some other method is appropriate under the circumstances. The Parties agree that the Project Entitlements represents the maximum amount of residential units and commercial and office square footages the LANDOWNER could develop on the Property and that LANDOWNER has the right but not the obligation to construct the described Project, as referenced in subsection II.5.A. The Parties further agree that LANDOWNER is entitled to transfer densities among parcels within the Project provided that the total number of units/square footage is not exceeded as specified in the Project Entitlements, subject to CITY review and approval of applications as set out in Section II.5.F. The Parties further agree that, should LANDOWNER choose to construct the Project at a lower density consistent with the PUD and Zoning Ordinance, or with the Land Use

and Development Regulations, such decision is within the sole discretion of LANDOWNER.

(2) **Dispute Resolution**. Where a dispute exists between LANDOWNER and any successor or successors in interest with respect to any matter involving allocation of residential units or building square footage for or on the Property, such dispute shall be resolved by arbitration, utilizing the commercial arbitration procedures of the American Arbitration Association, or some other alternative dispute resolution procedure mutually agreed upon by the parties involved in the dispute. In no case shall CITY be a party to such dispute, or to the dispute resolution procedures. All of the provisions of this Agreement relating to indemnification and defense of CITY, and payment of CITY costs, shall apply to all disputes relating directly or indirectly to allocation.

6. **Fees, Charges, Assessments and Taxes**.

A. **City Fees**. All applications for CITY approvals, permits and entitlements shall be subject to the application fees, processing fees, mitigation fees and other development fees within the control of the CITY that are in force and effect as of the date that the application or other request for approval is filed.

B. **Implementation of the Finance Plan**. The Finance Plan establishes a method for financing of required Infrastructure and Public Facilities through a combination of land transfers, dedications and contributions, fees, assessment districts, community facilities districts and other sources, so that the land encompassed by the Finance Plan pays for its share of the cost of such Infrastructure and Public Facilities. The Finance Plan also recognizes that there is a regional cost associated with certain portions of Infrastructure and Public Facilities, and that that share will ultimately have to be paid from other sources, even though developers within the area, including LANDOWNER, acknowledge that they may have to participate in funding regional costs on a fair share basis. LANDOWNER shall participate in the Finance Plan, as made applicable to the development of the Property, and shall faithfully and timely comply with each and every provision thereof. Without limiting the foregoing, applications for special permits, subdivision maps or other land use entitlements and building permits may be made subject to LANDOWNER's participation in and compliance with the Finance Plan. Failure to so participate shall be an event of default to which the default provisions of this Agreement and the Procedural Ordinance shall apply. For purposes of this Agreement "participate" and "participation" shall mean payment

of all monies required by virtue of the Finance Plan, and performance of all obligations imposed thereby, with the following exception:

The Parties acknowledge that it is likely that the Finance Plan in effect as of the Effective Date may be amended. Should the City Council approve amendments to the Finance Plan, the LANDOWNER shall comply with the amended Finance Plan and shall pay the fees imposed by the amended Finance Plan as described in the Special Conditions.

C. **LANDOWNER's Waivers**. LANDOWNER hereby agrees to the provisions of Exhibit G, which (without limitation) contains a comprehensive waiver of protest rights with respect to CITY's establishment and implementation of development and impact fees; CITY's actions in forming assessment districts and community facilities districts, and in levying assessments and taxes pursuant thereto; and CITY's actions in implementing any provision of the Finance Plan as it may apply to the Property. As set forth in Exhibit G, LANDOWNER reserves the right to protest the actual amount of the fee, assessment or tax levy, or other CITY charge imposed on or allocated to the Property pursuant to the Finance Plan.

7. **Reconfiguration of Parcels**. LANDOWNER shall have the right to file applications with CITY for subdivision, lot line adjustment, or for master parcelization of all or part of the Property, for the purpose of reconfiguration of the Property. Such applications shall be processed and determined in accordance with the provisions of Section II.5, and all other applicable provisions of this Agreement. Where reconfiguration requires a special permit or other entitlement applicable to the Property or portion thereof which is subject to the application, CITY reserves the right to require such entitlements as a condition of granting the application.

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8. **Infrastructure**.

A. **Construction by CITY**. To the extent that funds are available to CITY pursuant to the Finance Plan, and to the extent that any required real property has been transferred to CITY or has been obtained by CITY through its power of eminent domain, which CITY agrees to utilize, where required, and subject to LANDOWNER's compliance with the terms of this Agreement and all of the terms and conditions of any entitlement applicable to the Property, CITY agrees to use its best efforts to bring about the construction of the Infrastructure required to implement the Development Plan (Exhibit B). Provided, however, that CITY's obligations hereunder shall be limited to those items of Infrastructure which, under the Finance Plan, are to be constructed by CITY or under CITY's direction and control; where Infrastructure is to be constructed by LANDOWNER, either

pursuant to conditions of approval or otherwise, the provisions of this subsection shall not apply.

B. **Construction by LANDOWNER**. When required by conditions of approval, and in accordance with CITY specifications and standards in effect as of the date of construction, LANDOWNER shall diligently construct Infrastructure required for implementation of the Development Plan (Exhibit B) in accordance with the Project Entitlements (Exhibit C) Mitigation Measures (Exhibit D) and the Special Conditions (Exhibit M). LANDOWNER shall further comply with all required funding requirements specified in the Finance Plan.

C. **Infrastructure Financing Proceedings**.

(1) **LANDOWNER-Initiated Proceedings**. In the event that LANDOWNER desires to initiate proceedings for the formation of an assessment district, community facilities district, or other similar form of improvement financing mechanism to fund the construction of Infrastructure required by conditions of approval or otherwise, LANDOWNER shall file an application with CITY for that purpose in accordance with CITY's Assessment District Policy Manual, as same may be amended from time to time, or such other policy document as may after the Effective Date be adopted by the City Council as a substitute therefor. CITY agrees to diligently process any such application, provided that such application:

(a) is complete and is accompanied by payment of CITY fees applicable on the date of filing of the application;

(b) complies with the Land Use and Development Regulations and applicable law, including but not limited to the Assessment District Policy Manual as it exists on the date of the application, except as provided for herein;

(c) is consistent with CITY's policies and procedures, except as provided for herein;

(d) provides for a value-to-lien ratio and other financial terms that are reasonably acceptable to CITY;

(e) provides for all funding requirements established by CITY for the purpose of payment of the costs of outside consultants needed; and

(f) provides that the specific consultants (e.g., bond counsel, financial advisors, underwriters, or other consultants as may be necessary under the circumstances) shall be selected by CITY in its sole discretion.

Notwithstanding any other provision of this Agreement, CITY agrees that upon request made by LANDOWNER, CITY will consider making exceptions to the Assessment District Policy Manual, to allow for alternative methods of financing in-tract improvements, including but not limited to formation of assessment districts or similar financing mechanisms, where such alternatives are contemplated by the Finance Plan, including any amendments thereto. Provided, however, that CITY reserves its discretion to condition use of any such alternatives on satisfaction of performance preconditions (including but not limited to drainage capacity), and to consider underwriting considerations and criteria, together with the manner in which such alternatives further the overall implementation of the Finance Plan. Further, CITY may in its reasonable discretion deny any such request upon grounds, including but not limited to consistency of application of its policies and the potential for establishing negative precedent.

(2) Proceedings Initiated by CITY. In the event that pursuant to the Finance Plan, CITY in its discretion determines that a particular financing mechanism, including but not limited to an assessment district, a community facilities district, a fee district, a development fees procedure, or any similar mechanism, is required in order to implement the Finance Plan, LANDOWNER's participation obligations set forth hereunder (including but not limited to Special Conditions (Exhibit M), in the Finance Plan, or in any condition of approval, shall apply.

(3) Maintenance Districts. LANDOWNER may, following the procedures specified in subsection II.8.C(1), above, and in accordance with the provisions of the Special Conditions (Exhibit M), request that CITY establish one or more maintenance districts for the purpose of financing the maintenance of landscaping or other public improvements, whereunder lands benefitting from the improvements and their maintenance are assessed for a proportionate share of the maintenance cost.

D. **Reimbursement to LANDOWNER.**

(1) **From Financing Proceeds.** Subject to the terms of the Project Entitlements (Exhibit C) and the Special Conditions (Exhibit M), where LANDOWNER has provided advance funding for public Infrastructure required by the Finance

Plan or has constructed such Infrastructure under the direction and control of CITY, LANDOWNER shall be reimbursed for Reimbursable Infrastructure Costs at such time as CITY has established a permanent financing mechanism in the form of an assessment district, community facilities district, or other similar mechanism through which permanent public financing for such improvements is established. Those items qualifying as Reimbursable Infrastructure Costs shall be determined pursuant to CITY policies in existence at the time of establishment of the permanent financing mechanism. CITY agrees to entertain reasonable requests from LANDOWNER for exceptions to such policies; provided, however, that CITY may, in its reasonable discretion, deny any such request upon grounds, including but not limited to consistency of application of its policies and the potential for establishing negative precedent. Nothing in this Agreement shall authorize reimbursement of any cost which, in the opinion of CITY's bond counsel, is not permissible for purposes of establishing or retaining tax free status of any bonds issued, or contemplated to be issued by CITY.

(2) **Reimbursement From Others Benefitted**. In any case where CITY requires or permits LANDOWNER to plan, design, construct, or fund the planning, design or construction of improvements required for development by the Finance Plan, in excess of or beyond those required for development of the Property for the Project, or, where required by the Finance Plan (Exhibit F), Project Entitlements (Exhibit C) or the Special Conditions (Exhibit M) to make dedications, provide mitigation or incur costs in connection with public improvements or the planning of the Richards Boulevard area in excess of or beyond those required for development of the Property for the Project, and the provisions of the preceding subsection do not apply, CITY shall utilize its best efforts to require that all other Persons benefitted by the improvements shall reimburse (through fee districts, agreements, including development agreements, conditions of approval, or otherwise) LANDOWNER for such Person's proportionate share of such costs as determined in accordance with the Finance Plan, or by CITY. For purposes of this Agreement, the term "in excess of or beyond those required for development of the Property for the Project" shall mean requirements which exceed LANDOWNER's fair proportionate share, as determined in accordance with the provisions of the Finance Plan (Exhibit F), Project Entitlements (Exhibit C), Special Conditions (Exhibit M) and any associated documents or studies.

Such reimbursement shall be subject to the limitations specified in the preceding paragraph (including those provisions relating to consideration by

CITY of exceptions to its policies), relating to CITY policy and Reimbursable Infrastructure Costs. Reimbursement shall be limited to that amount which exceeds LANDOWNER's appropriate share of the cost, determined in accordance with principles established in the Finance Plan, and any associated documents or studies.

9. **LANDOWNER Obligations.**

A. **Transfer of Land to CITY.** As set forth elsewhere in this Agreement, LANDOWNER has agreed to transfer lands needed for Infrastructure or public facilities to CITY, or to such other public agency as is appropriate. As set forth in the Project Entitlements (Exhibit C) and the Special Conditions (Exhibit M) are the currently contemplated approximate location and amount of land which LANDOWNER will be required to transfer to CITY, or to such other public agency as appropriate for development of Infrastructure and public facilities which are covered by the terms of this subsection. LANDOWNER shall also transfer the lands required for development of the light rail system to CITY or to the Sacramento Regional Transit District (RT) utilizing the Irrevocable Offer of Dedication form set forth in Exhibit I attached hereto and incorporated herein by this reference. LANDOWNER shall transfer such lands to CITY and/or RT at such time as is:

(1) required pursuant to a condition or term of any entitlement for use or development of the Property; or

(2) requested by CITY, where LANDOWNER has not applied for an entitlement for use or development of the Property, but the land is needed, in CITY's sole discretion, for purposes of construction of Infrastructure or public facilities.

In the event that, at the time of the required transfer to CITY, the location of, or the quantity of land required for the Infrastructure or public facilities has changed from that specified in the Project Entitlements (Exhibit C) or in the Special Conditions (Exhibit M) to such a significant degree or extent that the location or quantity is inconsistent with the tentative map, the RBAP or the RABP Facility Element as each document exists on the Effective Date of this Agreement, or the Finance Plan or the RABP Facility Element as it may be updated, the Parties shall meet and negotiate, and in good faith endeavor to reach agreement on any amendments to this Agreement needed to allow development of the Property for the Project in a reasonable manner, taking into account the changes in Infrastructure and public facilities. If agreement is reached between the Parties,

the procedures specified herein and in the Procedural Ordinance shall apply to amendments to this Agreement. If agreement is not reached, either party shall have the right to terminate this Agreement by providing the other party sixty (60) days notice.

B. **Development Timing**. LANDOWNER shall have no obligation to initiate or commence development of any particular phase of the Property within any period of time.

10. **Litigation/Indemnification.**

A. Challenge to Agreement or Entitlements.

(1) In the event of any action instituted by a third party challenging the validity of any portion of this Agreement, including but not limited to, the proceedings taken for its approval (including the requirements of the California Environmental Quality Act B "CEQA") or any other act undertaken by the Parties hereto in furtherance of this Agreement or its terms, or any action instituted by a third party challenging the validity of any of the entitlements specified herein (including CEQA challenges), the Parties agree to cooperate in the defense of the action. In all such litigation brought to contest the validity of this Agreement or such entitlements, the following shall apply:

(a) CITY may, in its sole discretion, either defend such litigation or tender its defense to LANDOWNER.

(b) In the event that CITY determines to defend the action itself, LANDOWNER shall be entitled, to join in or intervene in the action on its own behalf, or to advocate in favor of validity of this Agreement or any challenged entitlement. In such a case, each party shall bear its own attorney fees and costs.

(c) In the event that CITY determines to tender the defense of the action to LANDOWNER, LANDOWNER shall defend the action on its behalf and on behalf of CITY, and shall bear all attorney fees and costs associated with such defense from and after the date of the tender. Provided, however, that CITY may at any time after the tender elect to assume representation of itself; in that event, from and after the date CITY gives notice of its election to do so, CITY shall be responsible for its own attorney fees and costs incurred thereafter.

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(2) If, in such litigation, a final judgment or other final order is issued by the court which has the effect of invalidating or rendering ineffective, in whole or in part, any provision of this Agreement or the Agreement itself, or any entitlement issued during the term of this Agreement and pursuant to its terms, the following shall apply:

(a) If the judgment or order includes a provision for attorney fees and/or costs of the successful party or parties, LANDOWNER shall pay the entire cost thereof, without right of offset, contribution or indemnity from CITY, irrespective of anything to the contrary in the judgment or order. Provided, however, that if the litigation relates entirely, solely and exclusively to a challenge to the RBAP in general, or to the Finance Plan in general, separate and apart from this Agreement or any entitlement relating to the Property, and if LANDOWNER is named or becomes a party in such litigation, LANDOWNER and CITY shall bear the cost of the successful party's attorney fees and/or costs in the manner specified in the court's judgment.

(b) CITY and LANDOWNER shall meet and endeavor, in good faith, to attempt to reach agreement on any amendments needed to allow development of the Property to proceed in a reasonable manner, taking into account the terms and conditions of the court's judgment or order. If agreement is reached, the procedures for amending this Agreement as specified herein, and in the Procedural Ordinance, shall apply. If agreement is not reached, either party shall have the right to terminate this Agreement by giving the other party sixty days' notice of termination.

(c) In the event that amendment is not required, and the court's judgment or order requires CITY to engage in other or further proceedings, CITY agrees to comply with the terms of the judgment or order expeditiously.

B. Indemnification. LANDOWNER agrees to defend and indemnify CITY, its elective and appointive boards, commissions, officers, agents and employees against any liability for damage or claims for damage for personal injury, including death, or property damage, arising out of or relating in any way to actions or activities to develop the Property, undertaken by LANDOWNER or LANDOWNER's contractors, subcontractors, agents or employees.

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11. Effect of Subsequent Laws

A. Laws of Other Agencies.

(1) If any public agency, other than CITY, adopts any new law, regulation, ordinance or imposes any new condition (herein referred to collectively as "the New Law") after the date of this Agreement, which prevents or precludes either the CITY or LANDOWNER, or both, from complying with one or more provisions of this Agreement, then immediately following the enactment of the New Law the Parties shall meet and confer in good faith to determine whether the New Law applies to the Property, and whether suitable amendments to this Agreement can be made, in order to maintain LANDOWNER's right to develop the Property in a reasonable manner pursuant to the Development Plan (Exhibit B).

(2) In the event that the Parties, after having engaged in good faith negotiations, are unable to agree on such amendments, the Parties shall consider whether suspension of the term of this Agreement is appropriate, and if so, what the terms and conditions of any such suspension should be. In the event that the Parties, after having engaged in good faith negotiations are unable to agree on the suspension issues, either Party shall have the right to terminate this Agreement by giving the other Party sixty (60) days' written notice of termination.

(3) LANDOWNER or CITY shall have the right to institute litigation relating to the New Law, and raise any issues relating to its validity. If such litigation is filed, this Agreement shall remain in full force and effect until final judgment is issued. Provided, however, that if any action that CITY would take in furtherance of this Agreement would be rendered invalid, facially or otherwise, by the New Law, CITY shall not be required to undertake such action until the litigation is resolved, or the New Law is otherwise determined invalid, inapplicable, or is repealed. In the event that such judgment invalidates the New Law, or determines that it does not affect the validity of this Agreement, this Agreement shall remain in full force and effect, and its term shall be extended by the amount of time between the effective date of the New Law, and the effective date of the judgment. In the event that such judgment determines that the validity of this Agreement is, directly or indirectly affected by the New Law, the provisions of subsections II.11.A(1) and II.11.A(2) above shall apply.

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B. Laws Passed by CITY.

Subject to the provisions of Section II.5 of this Agreement, CITY shall not enact any initiative, ordinance, policy, resolution, General Plan amendment or other measure that relates to the density or intensity of development on the Property, or the rate, timing or sequencing of the development or the construction on the Property on all or any part thereof, or that is otherwise in conflict, either directly or indirectly, with this Agreement.

12. **Enforced Delay; Extension of Times of Performance**. In addition to other specific provisions of this Agreement, performance by either Party hereunder shall not be deemed in default where delay or inability to perform is due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, enactment of conflicting state or federal laws or regulations, new or supplementary environmental laws or regulations, litigation instituted by third parties challenging the validity of this Agreement or any of the vested entitlements described in Section II.5 of this Agreement. Upon request of either Party to the other, a written extension of time for such cause shall be granted for the period of the enforced delay, or longer as may be mutually agreed upon.

13. **Legal Actions to Enforce Agreement; Applicable Law; Attorney's Fees**.

A. **Legal Actions**. In addition to any other rights or remedies, either Party may institute legal action to cure, correct, or remedy any default by any other party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder. Notwithstanding any other provision of law, or of this Agreement, in no event shall LANDOWNER or CITY, its officers, agents or employees be liable in damages for any breach, default or violation of this Agreement, it being specifically understood and agreed that the Parties' sole legal remedy for a breach, default or violation of this Agreement shall be a legal action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement.

B. **Applicable Law**. This Agreement shall be construed and enforced in accordance with the laws of the State of California. LANDOWNER agrees and acknowledges that CITY has approved and entered into this Agreement in the sole exercise of its legislative discretion and that the standard of review of the validity and meaning of this Agreement shall be that accorded legislative acts of CITY.

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C. **Attorney Fees**. In any arbitration, quasi-judicial, administrative or judicial proceeding (including appeals), brought by either party hereto to enforce or interpret any covenant or any of such party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing party shall be entitled to reasonable attorneys' fees and all costs, expenses and disbursements in connection with such action, including the costs of reasonable investigation, preparation and professional or expert consultation, which sums may be included in any judgment or decree entered in such action in favor of the prevailing party. For purposes of this section, and any other portion of this Agreement relating to attorney fees, reasonable attorneys fees of the City Attorney's Office shall be based on comparable fees of private attorneys practicing in Sacramento County.

14. **Amendment of Agreement**. This Agreement may be amended from time to time only by the mutual written consent of the Parties, in accordance with the provisions of Government Code sections 65867 and 65868. In addition, all of the provisions of the Procedural Ordinance relating to the need for amendment, and the manner thereof, shall apply. Upon request of a Party, this Agreement shall be amended to include the terms and conditions of any discretionary entitlement granted with respect to the Property after the Effective Date.

15. **Implementation**. Implementation of this Agreement will require a close degree of cooperation between CITY and LANDOWNER. In addition, over time the need may arise to make non-substantive revisions to the description of the Project. The City Manager is hereby authorized to approve any and all documents, to do any and all things, and to take any and all actions that may be necessary or advisable, in his or her discretion, to implement this Agreement, including the approval of non-substantive revisions to the description of the Project. The City Attorney shall be authorized to make the determination whether a requested action may be effectuated pursuant to this Section or whether the request is of such a character to require an amendment to this Agreement pursuant to Section II.14.

82. 16. **CITY's Good Faith in Processing**. Subject to the provisions of Section II.5 hereof, and LANDOWNER's compliance with each and every term and condition of this Agreement and all of its exhibits, CITY agrees that it will accept in good faith for processing, review, and action, all complete applications for master parcel maps, zoning, planned unit development designation, planned unit development guidelines, schematic plans, special permits, building permits, parcel maps, subdivision maps, or other entitlements for use of the Property in accordance with the General Plan, Community Plan, the RBAP and this Agreement.

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CITY shall inform the LANDOWNER, upon request, of the necessary submission requirements for each application for a permit or other entitlement for use in advance, and shall review said application and shall schedule the application for expeditious review by the appropriate authority.

83. 17. **Default, Remedies, Termination.**

A. **General Provisions.** Subject to any extensions of time by mutual consent of the parties, and subject to the cure provisions set forth herein, any failure or unreasonable delay by either Party to perform any material term or provision of this Agreement shall constitute a default.

(1) **LANDOWNER Default.** In addition to any other remedy specified herein, in the event that notice of default has been given in accordance with this section, wherein a default by LANDOWNER is alleged, CITY shall not be obligated to issue any building permit, or grant any entitlement as to which an application has been filed.

(2) **CITY Default.** In addition to any other remedy specified herein, in the event that notice of default has been given in accordance with this section, wherein a default by CITY is alleged, any resulting delays in LANDOWNER's performance caused by CITY's default shall not constitute a LANDOWNER default, or be grounds for termination or cancellation of this Agreement.

(3) **Successors in Interest.** Where the Property, following the Effective Date, has been lawfully conveyed in whole or in part to one or more successors in interest, in such a manner as to invoke the provisions of Section II.4 of this Agreement, and one or more of such successors in interest is in default with respect to the portion of the Property owned by it, neither LANDOWNER nor any other non-defaulting successor in interest shall be liable for the default, if the provisions of Section II.4 have been complied with, and in accordance with the terms and conditions of that section.

B. **Cure of Default.** In the event of an alleged default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured and a reasonable period of time in which to cure, that shall in no event be less than thirty (30) days.

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During any such period, the Party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

C. **Remedies After Expiration of Cure Period**. After notice and expiration of the thirty (30) day period, if the alleged default has not been cured in the manner set forth in the notice, the other Party may at its option:

(1) institute legal proceedings to obtain appropriate judicial relief, including but not limited to mandamus, specific performance, injunctive relief, or termination of this Agreement; or

(2) give the other Party notice of intent to terminate this Agreement pursuant to Government Code section 65868 and the Procedural Ordinance. In the event that such notice is given, CITY shall schedule the matter for public hearing before the City Council to review the matter and make specific written findings regarding the alleged default. Where LANDOWNER is the party alleged to be in default, LANDOWNER shall be afforded a reasonable opportunity to respond to all allegations of default at such public hearing. CITY shall provide LANDOWNER at least thirty (30) days prior written notice of such public hearing, as well as provide LANDOWNER copies of all CITY staff reports prepared in connection therewith at least five (5) days prior to the hearing.

18. **Annual Review**.

A. **General Provisions**. In accordance with Government Code section 65865.1, and the Procedural Ordinance, CITY shall, at least every twelve (12) months during the Term of this Agreement, review the extent of good faith compliance by LANDOWNER with the terms of this Agreement. Failure of CITY to conduct an annual review shall not constitute a waiver by CITY or LANDOWNER of the right to conduct future annual review or to otherwise enforce the provisions of this Agreement, nor shall a Party have or assert any defense to such enforcement by reason of any such failure. The failure of CITY to undertake such review, shall not, in itself, invalidate the terms of this Agreement or excuse any Party hereto from performing its obligations under this Agreement.

B. **Scope of Review**. The annual review shall be limited in scope to compliance with the terms and conditions of this Agreement.

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1. **Proceedings**. The procedures specified in the Procedural Ordinance for conduct of the annual review by the City Manager, and by the City Council, shall apply to each annual review of this Agreement. At least ten (10) days prior to the commencement of any annual review, CITY shall deliver to LANDOWNER a copy of any public staff reports and other documents to be used or relied upon in conducting the review. LANDOWNER shall be permitted an opportunity to respond to CITY's evaluation of LANDOWNER's performance by written and oral testimony at the public hearing to be held before the City Council, if LANDOWNER so elects.

   At the conclusion of the annual review, CITY shall make written findings and determinations on the basis of substantial evidence, as to whether or not LANDOWNER or its successors have complied in good faith with the terms and conditions of this Agreement.

2. **Failure of Compliance**. Any determination of failure of compliance shall be subject to the notice requirements and cure periods set forth in Section II.17 of this Agreement. If termination is proposed, it shall apply solely with respect to that portion of the Property (if less than all) affected by the failure to show good faith compliance. If modification of the Development Agreement is proposed, the modification shall pertain solely to the provisions hereof as applicable to that portion of the Property (if less than all) affected by the condition that has prompted the proposed modification.

19. **Termination Upon Completion of Development**.

A. **General Provisions**. This Agreement shall terminate as to each parcel of property contained within the Property when that parcel of property has been fully developed and all of LANDOWNER'S obligations in connection therewith are satisfied, as reasonably determined by CITY. CITY shall, upon written request made by LANDOWNER to CITY's Department of Development Services, determine if the Agreement has terminated, with respect to any parcel, and shall not unreasonably withhold termination as to that parcel if LANDOWNER'S obligations therewith are satisfied. CITY shall be entitled to receive payment of a fee commensurate with the cost of processing the request and making such a determination, including but not limited to CITY's administrative and legal expenses. Upon termination of this Agreement, CITY shall upon LANDOWNER's request record a notice of such termination in a form satisfactory to the City Attorney that the Agreement has been terminated. The aforesaid notice may specify, and LANDOWNER agrees, that termination shall not affect in any manner

any continuing obligation to pay any item specified by this Agreement, by the Financing Plan or any of the measures implementing said plan, and shall have the effect as set forth in Section II.17.C(2).

B. **Multi-family and Single Family Residential Projects**. This Agreement shall automatically terminate and be of no further force and effect as to any single family residence or multi-family building, and the lot or parcel upon which said residence or building is located, when it has been approved by CITY for occupancy.

C. **Effect of Termination on Landowner Obligations**. Termination of this Agreement as to the Property or any portion thereof shall not affect any of the LANDOWNER's obligations to comply with CITY's General Plan, Community Plan, the RBAP, and all entitlements issued for the Property, nor shall it affect any other covenants of this Agreement specified in this Agreement to continue after the termination of this Agreement including, but not limited to, those specified in Sections II.6, II.8, II.9, and II.10 and subsection II.13.C.

20. **No Joint Venture, Partnership, or Other Relationship**. Nothing contained in this Agreement or in any other document executed in connection with this Agreement shall be construed as creating a joint venture or partnership between CITY and LANDOWNER. No relationship exists as between LANDOWNER and CITY other than that of a governmental entity regulating the development of private property, and the owners of such private property.

21. **Notices.** All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the CITY and LANDOWNER or LANDOWNER's assigns and successors, and to Lender, if applicable. Notice shall be effective on the date delivered in person, or the date when received if such notice was mailed to the address of the other party as indicated below:

84.

85. A. Notice to the CITY:

86.

87. City of Sacramento
915 I Street
Sacramento, California, 95814
ATTN: City Manager

FOR CITY CLERK USE ONLY

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CITY AGREEMENT NO._____ DATE ADOPTED:_____

88. B. Notice to the LANDOWNER:

Capitol Station 65 LLC
424 North Seventh Street, Ste 200
Sacramento CA 95814
ATTN: Steve Goodwin

and

Scott Syphax
Nehemiah Corporation of America
424 North Seventh Street, Suite 250
Sacramento, CA 95814

with copies to:

Remy, Thomas, Moose and Manley
Attn: Tina A. Thomas
455 Capitol Mall, Suite 210
Sacramento, CA 95814
(916) 443-2745
(916) 443-9017
e-mail: tthomas@rtmmlaw.com

and

Alberto Esquivel
Esquivel Real Estate, Inc.
1801 "F" Street
Sacramento, CA 95816

Any Party may change the address to which notices are to be mailed by giving written notice of such changed address to each other party in the manner provided herein.

22. **Severability**. If any provision of this Agreement is held by a court to be invalid, void or unenforceable but the remainder of the Agreement can be enforced without failure of material consideration to any Party, then this Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified by mutual consent of the parties, utilizing the procedures specified herein and the Procedural Ordinance. Provided, however, that if such holding affects a material provision of this Agreement, LANDOWNER shall have the right in its sole discretion to terminate this Agreement

upon providing written notice of such termination to CITY; provided further, however, that in the event LANDOWNER so elects to terminate, such election shall not affect in any manner the terms and conditions of any entitlement theretofore granted by CITY with respect to the Property, or any portion thereof.

23. **Recording**. The City Clerk shall cause a copy of this Agreement to be recorded with the Sacramento County Recorder no later than ten (10) days following execution of this Agreement by CITY, which execution will take place no sooner than the effective date of the ordinance approving this Agreement.

24. **Reimbursement to CITY**. LANDOWNER agrees to reimburse the CITY for reasonable and actual expenses incurred by CITY that relate directly to CITY's review, consideration and execution of this Agreement. Such expenses include, without limitation, recording fees, ordinance publishing fees, any special meeting and notice costs, and staff time, including preparation or staff reports relating to approval of this Agreement and the Adopting Ordinance, and preparation and review of this Agreement and any changes requested by LANDOWNER by the City Attorney's Office. The cost for the preparation, processing and review of this Agreement by the City Attorney's Office is $142.00 per hour, but not to exceed $3,000. Such expenses shall be paid by LANDOWNER within thirty (30) days of receipt of a detailed written statement of such expenses.

25. **Provisions Relating to Lenders**.

A. **Lender Rights and Obligations**.

(1) **Prior to Lender Possession**. No Lender shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion, and shall not be obligated to pay any fees or charges which are liabilities of LANDOWNER or LANDOWNER's successors in interest, but shall otherwise be bound by all of the terms and conditions of this Agreement, which pertains to the Property or such portion thereof in which it holds an interest. Nothing in this section shall be construed to grant to a Lender rights beyond those of LANDOWNER hereunder, or to limit any remedy CITY has hereunder in the event of default by LANDOWNER, including but not limited to termination and/or refusal to grant entitlements with respect to the Property.

(2) **Lender in Possession**. A Lender who comes into possession of the Property, or any portion thereof, pursuant to foreclosure of a mortgage or deed of trust, or a deed in lieu of foreclosure, shall not be obligated to pay any fees or charges which are obligations of LANDOWNER, and which remain unpaid as of the date such Lender takes possession of the Property or portion thereof. Provided, however, that a Lender shall not be eligible to apply for or receive entitlements with respect to the Property, or otherwise be entitled to develop the Property or devote the Property to any uses or to construct any improvements thereon other than the development contemplated or authorized by this Agreement and subject to all of the terms and conditions hereof, including payment of all fees (delinquent, current and accruing in the future) and charges, and assumption of all obligations of LANDOWNER hereunder; provided, further, that no Lender, or successor thereof, shall be entitled to the rights and benefits of the LANDOWNER hereunder or entitled to enforce the provisions of this Agreement against CITY unless and until such Lender or successor thereof qualifies as a recognized assignee under the provisions of Section II.4 of this Agreement.

B. **Notice of LANDOWNER's Default Hereunder**. If CITY receives notice from a Lender requesting a copy of any notice of default given LANDOWNER hereunder and specifying the address for service thereof, then CITY shall deliver to such Lender, concurrently with service thereon to LANDOWNER, any notice given to LANDOWNER with respect to any claim by CITY that LANDOWNER has committed a default, and if CITY makes a determination of non-compliance, CITY shall likewise serve notice of such non-compliance on such Lender concurrently with service thereof on LANDOWNER.

C. **Lender's Right to Cure**. Each Lender shall have the right (but not the obligation) during the same period of time available to LANDOWNER to cure or remedy, on behalf of LANDOWNER, the default claimed or the areas of non-compliance set forth in CITY's notice. Such action shall not entitle a Lender to develop the property or otherwise partake of any benefits of this Agreement unless such Lender shall assume and perform all obligations of LANDOWNER hereunder.

D. **Other Notices Given By City**. A copy of all notices given by CITY pursuant to the terms of this Agreement shall be sent to Lender at the address provided in Section II.21 hereof.

26. **Estoppel Certificate**. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such other party to certify in writing that, to

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the knowledge of the certifying Party, (i) this Development Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Development Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the requesting Party is not in default in the performance of its obligations under this Development Agreement, or if in default, describing therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such estoppel certificate, or give a written detailed response explaining why it will not do so, within thirty (30) days following the receipt of each such request. Each Party acknowledges that such an estoppel certificate may be relied upon by third parties acting in good faith. A certificate provided by CITY establishing the status of this Agreement with respect to the Property or any portion thereof shall be in recordable form and may be recorded at the expense of the recording Party.

27. **Construction**. All parties have had the opportunity to be represented by legal counsel of their own choice in the preparation of this Development Agreement and no presumption or rule that "an ambiguity shall be construed against a drafting party" shall apply to the interpretation or enforcement of any provision hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain.

28. **Counterparts**. This Agreement may be executed in any number of counterparts and shall be deemed duly executed when each of the parties has executed such a counterpart.

29. **Time**. Time is of the essence of each and every provision hereof.

30. **Limitation of Actions**. No court action shall be filed by a party to this Agreement on the ground of default or breach of its terms unless such action is filed within one hundred eighty (180) days from the date of discovery by the aggrieved Party of the facts underlying the claim of breach or default.

31. **No Third Parties Benefitted**. No Person who is not a qualified successor or assign of a party hereto pursuant to Section II.4 of this Agreement, or who has not become a party by duly adopted amendment hereof may claim the benefit of any provision of this Agreement.

32. **Effect of Agreement Upon Title to Property**. In accordance with the provisions of Government Code section 65868.5, from and after the time of recordation of this Agreement, the Agreement shall impart such notice thereof to all persons as is

afforded by the recording laws of the State of California. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement.

33. **Covenant of Good Faith**. CITY and LANDOWNER agree that each of them shall at all times act in good faith in order to carry out the terms of this Agreement.

FOR CITY CLERK USE ONLY

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CITY AGREEMENT NO._____ DATE ADOPTED:_____

34. **Exhibits**: The following are the exhibits to this Agreement:

Exhibit "A"	Legal Description of Property
Exhibit "B"	Project Development Plan
Exhibit "C"	Project Entitlements
Exhibit "D"	Final Environmental Impact Report and Mitigation Measures
Exhibit "E"	Inclusionary Housing Plan
Exhibit "F"	Financing Plan
Exhibit "G"	Protest Waiver Provisions
Exhibit "H"	Map and Summary Listing of Land Dedications and Reservations and Public Facilities to be Constructed by Landowner
Exhibit "I"	Irrevocable Offer of Dedication Agreement Form
Exhibit "J"	Reservation Agreement Form
Exhibit "K"	Assignment and Assumption Agreement Form
Exhibit "L"	Design Guidelines
Exhibit "M"	Special Conditions
Exhibit "N"	Land Acquisition Program

35. **Entire Agreement**. This Agreement, together with its Exhibits A to N, inclusive, and all documents which are referred to in this Agreement or Exhibits constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement is specifically intended by the parties hereto to supersede all prior development agreements, if any, for the Property which may exist between CITY and LANDOWNER. The provisions of subsection II.10.B of this Agreement, relating to indemnification and defense of CITY, its officers, employees and agents, shall be applicable to any claim whatsoever against CITY, its officers, employees and agents, arising out of or in any way relating to the Property.

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CITY AGREEMENT NO._____ DATE ADOPTED:_____

IN WITNESS WHEREOF, the CITY and LANDOWNER have executed this Development Agreement as of the date first set forth above.

CITY OF SACRAMENTO

By: _____
Mayor

ATTEST:

_____
City Clerk

APPROVED FOR LEGAL FORM:

_____
Senior Deputy City Attorney

CAPITOL STATION 65 LLC

By: _____
Steve Goodwin

By: _____
Scott Syphax

(ATTACH APPROPRIATE ACKNOWLEDGMENT)

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ORDINANCE NO._____

CITY AGREEMENT NO._____

DATE ADOPTED:_____

EXECUTION PAGE FOR LENDER

_____(herein "LENDER") owns an equitable interest in the Property described in Exhibit "A" of this Agreement as the beneficiary of that certain deed of trust and assignment of rents dated _N/A_ and recorded on _N/A_, as Instrument _N/A_, in Book _N/A_, Page _N/A_, Official Records, Sacramento County, California.

LENDER hereby executes this Agreement and agrees to be bound by the terms and condition hereof, subject to the limitations set forth in section 24 hereof.

LENDER requests that it be provided with copies of all notices mailed to LANDOWNER pursuant to the terms of this Agreement and that said copies be addressed as follows:

_____
_____
_____
Attn:_____

Dated:_____

LENDER:

By:_____

Its:_____

(ATTACH APPROPRIATE ACKNOWLEDGMENT)

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ORDINANCE NO _____

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EXHIBIT A

DESCRIPTION OF LANDOWNER'S PROPERTY

THE PROPERTY CONSISTS PARCELS OF LAND DESIGNATED AS ASSESSOR PARCELS NOS. 001-0020-003, -019, -034, -036, -041, -044, -045, -046, 001-0200-012, -013, AND -034. THE PROPERTY IS LOCATED WITHIN THE STATE OF CALIFORNIA, COUNTY OF SACRAMENTO, CITY OF SACRAMENTO AS MORE PARTICULARLY DESCRIBED IN THE LEGAL DESCRIPTION PROVIDED AS EXHIBIT A-1 ATTACHED, WHICH IS INCORPORATED INTO THIS AGREEMENT BY THIS REFERENCE.

NOTE: UPON RECORDATION OF THE FINAL MASTER PARCEL MAP FOR THE PROJECT, THE PARTIES AGREE THAT EXHIBIT A-1 WILL BE REPLACED BY THE SAID MAP, WITHOUT THE NEED FOR AN AMENDMENT OF THIS AGREEMENT.

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EXHIBIT B

PROJECT DEVELOPMENT PLAN

SEE ATTACHED COPIES OF THE APPROVED ZONING MAP LABELLED AS EXHIBIT B-1, SCHEMATIC PLAN LABELLED AS EXHIBIT B-2, AND MASTER PARCEL MAP LABELLED AS EXHIBIT B-3. EXHIBITS B-1, B-2 AND B-3 ARE HEREBY INCORPORATED INTO THIS AGREEMENT BY THIS REFERENCE

NOTE: ANY CHANGES TO THE TERMS AND CONDITIONS OF THE ATTACHED MAPS AND PLANS REQUIRES AN AMENDMENT TO THIS AGREEMENT TO BECOME EFFECTIVE, UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT.

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EXHIBIT C
PROJECT ENTITLEMENTS

THE FOLLOWING APPROVED ENTITLEMENTS FOR THE PROJECT, WHICH IS REFERENCED AS P-06-047, AND THE ORDINANCES, RESOLUTIONS, PERMITS AND FINDINGS AND CONDITIONS ATTACHED TO SUCH ENTITLEMENTS AS OF THE EFFECTIVE DATE OF THIS AGREEMENT ARE HEREBY INCORPORATED INTO THIS AGREEMENT BY THIS REFERENCE.

NOTE: ANY CHANGES TO THE TERMS AND CONDITIONS OF THE FOLLOWING ENTITLEMENTS REQUIRES AN AMENDMENT TO THIS AGREEMENT TO BECOME EFFECTIVE, UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT.

Commission or City Council	Date of Hearing	Description of Approved Entitlements	Ordinance or Resolution No.	Attached as:
City Council		Master Tentative Parcel Map	Resolution No. 2007 - ___	**Exhibit C-1**
City Council		Rezoning from Heavy Industrial Zone -American River Parkway Corridor- Special Planning District North Richards Boulevard and Central Richards Boulevard (M-2-PC-SPD (N) and M-2-SPD (C) to Residential Mixed Use (RMX-PUD) and Open Space (AOS-PUD)	Ordinance No. 2007-___	**Exhibit C-2**
City Council		Designation of Property as a Planned Unit Development (PUD) and adoption of the Township 9 PUD Design Guidelines and Schematic Plan	Resolution No. 2007-	**Exhibit C-3**

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DATE ADOPTED:_____

EXHIBIT D

FINAL ENVIRONMENTAL IMPACT REPORT AND MITIGATION MEASURES

THE RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT AND ADOPTING FINDINGS OF FACT, MITIGATION MEASURES, STATEMENTS OF OVERRIDING CONSIDERATION IS ATTACHED AS EXHIBIT D-1.

THE ADOPTED MITIGATION MEASURES ARE SET OUT IN THE MITIGATION MONITORING PROGRAM, WHICH IS ATTACHED AS EXHIBIT D-2, AND ARE INCORPORATED IN THIS AGREEMENT BY THIS REFERENCE.

NOTE: IF THE CITY APPROVES ANY CHANGES TO THE MITIGATION MEASURES WHICH WERE REQUESTED BY LANDOWNER AFTER THE EFFECTIVE DATE OF THIS AGREEMENT, THOSE CHANGES WILL BE INCORPORATED INTO THIS AGREEMENT WITHOUT THE NEED FOR AN AMENDMENT TO THIS AGREEMENT, UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT.

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

CITY AGREEMENT NO. _____

DATE ADOPTED: _____

EXHIBIT E

INCLUSIONARY HOUSING PLAN

INTENTIONALLY OMMITTED

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

CITY AGREEMENT NO._____

DATE ADOPTED:_____

EXHIBIT F

FINANCING PLAN

THE RAILYARDS/RICHARDS BOULEVARD AREA INFRASTRUCTURE FINANCING PLAN (HEREINAFTER "PLAN") DATED AS OF SEPTEMBER 17, 1997 WAS THE BASIS FOR ESTABLISHMENT OF A PUBLIC FINANCING MECHANISM AND/OR DEVELOPMENT FEE PROGRAM TO FUND PUBLIC FACILITIES AND/OR PUBLIC SERVICES THAT THE LANDOWNER IS OBLIGATED TO COMPLY WITH AS A CONDITION OF APPROVAL OF THE PROJECT ENTITLEMENTS. THIS PLAN IS INCORPORATED IN THIS AGREEMENT BY THIS REFERENCE AS IF SET FORTH IN FULL.

NOTE: ANY CHANGES TO THE TERMS AND CONDITIONS OF THE FINANCING PLAN AS A RESULT OF THE CITY'S APPROVAL OF AN UPDATE OR REVISION OF THE FINANCING PLAN AFTER THE EFFECTIVE DATE OF THIS AGREEMENT DOES NOT REQUIRE AN AMENDMENT TO THIS AGREEMENT FOR THE LANDOWNER TO BE OBLIGATED TO COMPLY WITH THAT NEW FINANCING PLAN AND FOR THE CITY TO APPLY THE TERMS OF THAT PLAN TO THE PROJECT AND TO SUBSEQUENT APPROVAL, EXCEPT AS SPECIFIED IN THIS AGREEMENT.

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EXHIBIT G

PROTEST WAIVER PROVISIONS

LANDOWNER understands and agrees that financing of the Public Facilities, including the land covered by the Land Acquisition Program and other programs required under the RBAP and Specific Plan will be accomplished through a variety of Public Financing Mechanisms including, without limitation, a combination of special assessment districts, tax districts (such as Mello-Roos Community Facilities Districts), and Development Fees and Land Acquisition Fees, all of which mechanisms are designed to spread the cost of the Public Facilities in accordance with benefit to the properties included in such Public Financing Mechanisms and other fee programs and methodologies. LANDOWNER further understands and agrees that an important component of this Agreement is LANDOWNER's advance consent to the formation of, or implementation of, any such Public Financing Mechanisms and LANDOWNER's agreement not to protest or contest such formation, implementation or fee imposition.

Accordingly, LANDOWNER agrees for itself, its constituents, successors and assigns that it fully, finally and forever waives and relinquishes any right it may have to protest or contest the formation or implementation of any Public Financing Mechanism, together with any rights it may have to contest the imposition of any Development Fee, established or imposed pursuant to the Financing Plan or the Land Acquisition Fee established or imposed pursuant to the Land Acquisition Program. Nothing in this Agreement, however, shall prevent LANDOWNER from presenting CITY any information or opinions regarding any Public Financing Mechanism, Development Fee or Land Acquisition Fee CITY may from time to time consider establishing or imposing, which information or opinions relate to the dollar amount of any fees, assessments, taxes or other charges imposed by CITY pursuant to the Financing Plan or the Land Acquisition Program, or which information or opinions relate to the question of consistency of the Public Financing Mechanism, Development Fee or Land Acquisition Program with the Financing Plan.

If a Public Financing Mechanism, Development Fee and/or Land Acquisition Fee is proposed for adoption by CITY, which mechanism or fee (i) directly and significantly conflicts with the language and the intent of the Financing Plan, as it may be amended from time to time, (ii) directly and significantly conflicts with the Nexus Study adopted by the City Council in connection with establishment of Development Fee for the Financing Plan area, and/or (iii) directly and significantly

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conflicts with the Land Acquisition Program; LANDOWNER shall have the right to protest only the actual amount of the directly and significantly conflicting proposed fee, charge, special tax, or assessment proposed to be levied, charged, assessed or taxed against the Property by virtue of the proposed Public Financing Mechanism, Development Fee or Land Acquisition Fee. However, LANDOWNER's right to protest, together with any right to object, shall be waived unless LANDOWNER's protest of objection is made at or before the time of the public hearing wherein the proposed Public Financing Mechanism, Development Fee, or Land Acquisition fee, together with the fee, charge, special tax or assessment, is established by the City Council.

LANDOWNER's right to judicial challenge of any such Public Financing Mechanism, Development Fee or Land Acquisition fee, and the fees, charges, assessments or special taxes imposed or to be imposed in connection therewith, shall be limited to review of the decision of the City Council establishing the said mechanism and the said fees, charges, assessments or special taxes. LANDOWNER shall not have the right, in connection with any land use entitlement proceeding with respect to the Property, to judicially challenge the Public Financing Mechanism, Development Fee, Land Acquisition Fee, or the fees, charges, assessments or special taxes as applied to the Property or the Project, and waives any statutory or common law right to withhold payment or to pay such fees, charges, assessment or special taxes under protest. For purposes of this Agreement, "fees, charges, assessments or special taxes" shall include any monetary exaction or payment required to be paid by LANDOWNER by virtue of or relating to Development of the Property.

Without limiting the generality of the foregoing, LANDOWNER for itself, its constituents, successors and assignees specifically, as to the Property, agrees to the following which are adopted by the City Council pursuant to the Financing Plan:

(1) Waives and hereby grants advance consent to the formation and implementation of any and all special assessment districts, tax districts (such as Mello-Roos Community Facilities Districts), fee districts or other Public Financing Mechanisms of a similar nature recommended or established by CITY for the purpose of financing Public Facilities (including land transfers as set forth in the Land Acquisition Program).

Without limiting the generality of the foregoing, LANDOWNER specifically waives: (i) the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 of the Streets and Highways Code,

beginning at Section 2800), together with associated provisions of the California Constitution; (ii) the provisions of any other statute designed to provide a protest or contest procedure in connection with formation and implementation of a district or similar financing mechanism; and (iii) the provisions of any procedure embodied in the Sacramento City Code designed to provide a protest or contest procedure in connection with formation and implementation of a district or similar financing mechanism.

(2) Waives and hereby grants advance consent to the formation and implementation of any and all Development Fees, Land Acquisition Fees, and special fees, exactions, development fees, assessments, taxes or other charges established by CITY for the purpose of financing Public Facilities (including land transfers as set forth in the Land Acquisition Program). Without limiting the generality of the foregoing, LANDOWNER specifically waives: (i) to the extent applicable, those statutory and constitutional provisions specified in paragraph (1) above; and (ii) the provisions of Government Code Sections 66000, et seq., or any other provision of law providing a procedure for contest or protest of establishment or imposition of Development Fees, Land Acquisition Fees, and special fees, exactions, development fees, assessments, taxes or other charges of a similar nature.

(3) Agrees to: (i) affirmatively petition CITY, where applicable, for the formation of all special districts and other Public Financing Mechanisms that have been or will be in the future selected or recommended by CITY in order to implement the Financing Plan; (ii) execute an irrevocable proxy or proxies when necessary (such as in the formation of, or imposition of taxes relative to, a Mello-Roos Community Facilities District) authorizing a representative designated by CITY, who will vote in favor of establishing the specific Public Financing Mechanism in question; and (iii) execute immediately upon presentation any document which is required or convenient for the formation of the district or facilitation of the particular Public Financing Mechanism.

LANDOWNER agrees and specifically represents to CITY that it is fully aware of all of its legal rights relative to the waivers, advance consents and other agreements set forth herein, having been fully advised by its own independent attorneys. Having such knowledge and understanding of its rights, LANDOWNER has nevertheless voluntarily entered into the Agreement, of which this Exhibit is a material part. LANDOWNER is aware that CITY is relying on the representations contained in this Exhibit in entering into the Agreement.

EXHIBIT H

MAP AND SUMMARY LISTING OF LAND DEDICATIONS AND RESERVATIONS AND PUBLIC FACILITIES TO BE CONSTRUCTED BY LANDOWNER

INTENTIONALLY OMMITTED

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

CITY AGREEMENT NO._____ DATE ADOPTED:_____

EXHIBIT I

IRREVOCABLE OFFER OF DEDICATION AGREEMENT FORM

SEE ATTACHED

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

CITY AGREEMENT NO._____ DATE ADOPTED:_____

P06-047 (Township 9)

August 21, 2007

Recording Requested by and Benefiting the City of Sacramento, a Government Entity – No Fee Required per Government Code 6103

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City Clerk
City of Sacramento
915 I Street
Sacramento, CA 95814

IRREVOCABLE OFFER TO DEDICATE EASEMENT AGREEMENT FOR LIGHT RAIL FACILITIES

CAPITOL STATION 65 LLC, a California Limited Liability Company ("GRANTOR"), hereby irrevocably offers to dedicate an easement, of approximately 60 feet in width and 1,060 feet in length, to the CITY OF SACRAMENTO, a municipal corporation ("CITY"), for development of light rail transit facilities over that certain real property ("Property") in the City of Sacramento, County of Sacramento, State of California, described as follows, which description expressly reserves to GRANTOR the airspace rights to the Property above 35 feet measured from the ground surface:

See Exhibit "A", legal description, and Exhibit "B", exhibit map, attached hereto and made a part hereof.

GRANTOR, for itself, its successors and assigns hereby waives any claims for any and all damages which: (i) will accrue to the remaining property of the undersigned by reason of its severance from that portion the Property subject to this offer to dedicate, (ii) taking compensation, if any, or (iii) damages on account of the location, establishment, construction or operation of the public facilities to be located on the Property. The foregoing waivers shall include any and all rights or claims that GRANTOR may have under Article 1, Section 19 of the California Constitution, the Eminent Domain Law, or any other law or regulation. GRANTOR acknowledges for

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CITY AGREEMENT NO. _____

DATE ADOPTED: _____

itself, its successors and assigns that it has been advised to seek the advice of counsel on the issue of waiver of severance and other damages, and has either done so or has chosen not to do so despite being given such advice.

GRANTOR acknowledges and agrees as follows:

1. This offer is given pursuant to Government Code Section 7050, and is irrevocable upon its recordation in the office of the County Recorder, County of Sacramento.

2. This offer may be accepted at any time by the City Council of CITY or this offer may be transferred by CITY to the Sacramento Regional Transit District (RT) and accepted by RT, and in such event the references to "CITY" in the following sections shall mean "RT". This offer may be terminated only in the manner specified in the Streets and Highways Code, commencing at Section 8300, for summary vacation of streets or highways.

3. CITY assumes no responsibility or liability whatsoever with respect to the Property or occurrences thereon, as a consequence of the offer set forth herein.

4. GRANTOR shall not create, nor permit to be created, any lien, encumbrance or other title impediment of any sort or nature on or affecting the Property.

5. At the time CITY accepts this offer, GRANTOR shall insure that the Property is free and clear of all rights, restrictions, easements, impediments, encumbrances, liens, assessments or other security interests of any kind, except (a) easements or rights-of-way for public utilities, if any, and (b) item which CITY has expressly consented in writing, if any.

6. In the event that there are improvements upon the Property placed thereon after this offer is recorded, GRANTOR shall have full legal responsibility, without cost to CITY, to remove such improvements that conflict with or impair the easement interests set out herein, if this offer is accepted by CITY.

7. To the best of GRANTOR's knowledge, there are no notices or other information giving GRANTOR reason to believe that any conditions existing on the Property or in the vicinity thereof subject or could subject an owner of the Property to potential liabilities under any federal, state or local law, statute, ordinance, regulation, rule, order, decree, or other governmental requirement that pertains to the regulation of

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Hazardous Substances and/or the protection of public health and safety or the environment, including, but not limited to, the ambient air, soil, soil vapor, groundwater, surface water or land use.

As used in this offer, the term "Hazardous Substances" means any substance, material, waste or other pollutant or contaminant that is or becomes designated, classified and/or regulated as hazardous or toxic under any federal, state or local law, statute, ordinance, regulation, rule, order, decree, or other governmental requirement now in effect or later enacted. Any liability associated with the presence of any Hazardous Substances on or adjacent to any portion of the Property shall be governed by the provisions of section 8 below, regardless of whether any inspection, examination, sampling, testing, assessment or other investigation is conducted by CITY prior to acceptance of the offer.

8. GRANTOR agrees and covenants to indemnify and defend CITY and its officers, employees and agents, harmless from and against any and all liabilities, penalties, losses, damages, costs, expenses (including reasonable attorneys' fees, whether for outside or staff counsel), causes of action, claims, or judgments that arise by reason of any death, bodily injury, personal injury, property damage, or violation of any law or regulation resulting from any acts or omissions related to the presence, use, storage, treatment, transportation, release, or disposal of Hazardous Substances on or about any portion of the Property. GRANTOR further agrees and understands that CITY does not, and shall not be deemed to, waive any rights against GRANTOR which it may have by reason of the aforesaid indemnity and hold harmless agreement because of any insurance coverage available to CITY. The provisions of this Section 8 shall survive the acceptance of the Property by CITY hereunder.

9. This offer is made by GRANTOR for itself, its heirs, successors and assigns, and shall be fully binding on such heirs, successors and assigns.

GRANTOR represents and warrants that the GRANTOR owns the entire fee interest in the Property and therefore has the legal right to execute this offer. The individual executing this offer on behalf of GRANTOR represents and warrants that he or she has been authorized to do so by GRANTOR and that GRANTOR shall thereby be obligated to perform the terms of this offer.

GRANTOR expressly reserves the right to place kiosks, sign poles, signs, banners and

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similar facilities within the easement area for the purpose of advertising public events and providing directional signage which are otherwise permitted on private or public property under the City of Sacramento Municipal Code, as long as the placement, size, color and similar attributes of such facilities does not conflict, interfere or impede the exercise of the easement rights granted herein including, without limitation, the safe and convenient operation of the Sacramento Regional Transit light rail transit system.

IN WITNESS WHEREOF, GRANTOR has executed this offer on the date set forth below.

GRANTOR(s): _____

Capitol Station 65 LLC

By: _____
Steven Goodwin
Managing Member

Date: _____

[Notary Acknowledgement Required]

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CITY AGREEMENT NO. _____ DATE ADOPTED: _____

EXHIBIT J

RESERVATION AGREEMENT FORM

INTENTIONALLY OMITTED

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

CITY AGREEMENT NO _____ DATE ADOPTED:_____

EXHIBIT K

ASSIGNMENT AND ASSUMPTION AGREEMENT FORM

SEE ATTACHED

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ORDINANCE NO._____

CITY AGREEMENT NO._____ DATE ADOPTED:_____

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (herein "this Assignment") is entered into this _____ day of _____, 20___, by and between _____, a _____ (hereinafter the "LANDOWNER"), _____, a _____ (hereinafter "ASSIGNEE"), and the CITY OF SACRAMENTO, a municipal corporation (hereinafter the "CITY"). The LANDOWNER, ASSIGNEE and CITY hereinafter may be referred to collectively as the "Parties" or in the singular as "Party", as the context requires.

RECITALS

A. LANDOWNER has entered into a Development Agreement with CITY dated _____ (herein "the Development Agreement"), pursuant to which LANDOWNER obtained vested right to develop certain property as more particularly described in the Development Agreement (herein "the Property") for the project referred to as _____ (herein "the Project"), subject to LANDOWNER's compliance with certain conditions and obligations set forth in the Development Agreement.

B. LANDOWNER intends to transfer a portion of the Property to ASSIGNEE (herein the "Assigned Parcel(s)") under the terms of a written agreement between LANDOWNER and ASSIGNEE dated _____ (the "Exchange Agreement").

C. LANDOWNER has agreed to assign to ASSIGNEE, and ASSIGNEE has agreed to assume from LANDOWNER, all of the rights and obligations under the Development Agreement as they relate to the Assigned Parcel(s). The CITY has consented to the foregoing assignments and assumptions on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals which are specifically incorporated into the body of this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged,

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the Parties agree as follows:

1. **Effective Date; Termination**. This Assignment shall be effective as of the "Closing Date," as defined in the Exchange Agreement (the "Effective Date"). In the event the Exchange Agreement terminates prior to the closing thereunder, this Assignment shall automatically terminate and the Parties shall have no further obligations hereunder.

2. **Assignment and Assumption.** As of the Effective Date, LANDOWNER hereby assigns and transfers to ASSIGNEE any and all of LANDOWNER's rights under the Development Agreement as they relate to the Assigned Parcel(s), and ASSIGNEEE hereby accepts and assumes all of the duties and obligations of LANDOWNER under the Development Agreement as they relate to the Assigned Parcels(s). ASSIGNEE hereby agrees to observe and fully perform all of the duties and obligations of LANDOWNER under the Development Agreement, and to be subject to all of the terms and conditions thereof, with respect to the Assigned Parcel(s).

3. **Assumption Terms and Conditions.** LANDOWNER and ASSIGNEE understand and agree that this Assignment is subject in particular to Section II.4 of the Development Agreement, which reads as follows:

89.

90. "LANDOWNER shall have the right to sell, assign, or transfer its interests under this Agreement as part of a contemporaneous and related sale, assignment or transfer of its interests in the Property, or any portion thereof, without the consent of CITY; provided, however, that LANDOWNER shall notify CITY of such sale, assignment or transfer by providing written notice thereof to CITY in the manner provided in this Agreement. LANDOWNER shall remain obligated to perform all terms and conditions of this Agreement, unless such purchaser, assignee or transferee, to the satisfaction of and in a form acceptable to the City Attorney, executes and delivers to CITY an express agreement to assume all of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred. The execution of such an assumption agreement shall relieve LANDOWNER of the obligations expressly assumed only if (a) LANDOWNER is not in default under this Agreement at the time of the assignment or transfer; and (b) LANDOWNER has provided CITY with notice of said assignment or transfer in the manner provided hereunder. Any such assumption agreement with respect to LANDOWNER's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney

if executed in the form of the Assignment and Assumption Agreement attached hereto as Exhibit "K" and incorporated herein by this reference, or such other form as shall be proposed by LANDOWNER and approved by the City Attorney prior to the effective date of the assignment.

Any purchaser, assignee, or transferee shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, only with respect to the Property, or such portion thereof, sold, assigned, or transferred to it. Any such purchaser, assignee, or transferee shall observe and fully perform all of the duties and obligations of LANDOWNER under this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred."

4. **Assignee Development Agreement.** At the request of the CITY, ASSIGNEE agrees to enter into a separate development agreement with respect to the Assigned Parcel(s) in accordance with the same terms and conditions as set out in the Development Agreement, subject only to those changes in the Development Agreement that are mutually agreed to by both CITY and ASSIGNEE, and subject to processing of the approval of that development agreement in accordance with CITY's Procedural Ordinance.

5. **No Cross-Default**. The Parties acknowledge and agree that the respective obligations of LANDOWNER and ASSIGNEE under the Development Agreement shall be separate and independent from one another, such that a default by LANDOWNER of any of the LANDOWNER's duties and obligations will not constitute and default under the Development Agreement by ASSIGNEE, and a default by ASSIGNEE of any of the ASSIGNEE's duties and obligations will not constitute a default under the Development Agreement by LANDOWNER, and the CITY's rights and remedies under the Development Agreement shall apply only to the Party, and the Property or Assigned Parcel(s), that is the subject of the default. Any duties and obligations under the Development Agreement that apply to both the Property and the Assigned Parcel(s) must be complied with by both LANDOWNER and ASSIGNEE, but as separate obligations.

6. **Successors and Assigns.** All of the covenants, terms and conditions set forth in this Assignment shall be binding upon and shall inure to the benefit of the Parties and to their respective heirs, successors and assigns.

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7. **Legal Advice.** ASSIGNEE agrees that it has read, and has sought and received all required legal and other expert consultation with regard to the duties and obligations set out in the Development Agreement to which ASSIGNEE is herby bound, and fully understands all of its terms and conditions. ASSIGNEE further agrees that: (i) LANDOWNER has furnished ASSIGNEE with a copy of all documents and materials containing or relating to terms and conditions of development of the Assigned Parcel(s); (ii) ASSIGNEE has read and understands all of the terms and conditions of said documents and materials; and (iii) with such knowledge and understanding, which includes the nature and extent of the fees, taxes, assessments and other public financing mechanisms and obligations inherent in such documents and materials, nevertheless has voluntarily, freely and knowingly assumed and agreed to perform all of obligations and requirements, and be bound by all of the provisions of such documents and materials, in addition to the express terms and conditions of the Development Agreement.

8. **Representations; Entire Agreement.** ASSIGNEE hereby affirms and acknowledges that CITY has not made any representations, commitments or promises to ASSIGNEE that are contrary to or different from the express terms and conditions of the Development Agreement, unless such terms and conditions have been set forth in writing and approved by ASSIGNEE and the City Council prior to the execution of this Assignment. This Assignment contains the entire agreement of the Parties, no other understanding whether verbal, written or otherwise exists between the Parties, and no prior verbal or written communications regarding this Assignment shall be binding on any Party.

9. **Further Assurances**. The Parties agree to execute all such additional instruments and documents and to take all such additional actions, as may be reasonable and necessary to carry out the provisions of this Assignment.

10. **Notices.** All notices required or provided for under this Assignment shall be in writing and delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the principal offices of the other Parties and to Lender, if applicable. Notice shall be effective on the date delivered in person, or the date when received if such notice was mailed to the address of the other Party(ies) as indicated in Section 20 of the Agreement.

Any Party may change the address to which notices are to be mailed by giving written notice of such changed address to each other Party(ies) in the manner

provided herein.

11. **Governing Law.** The Assignment shall be governed by and construed in accordance with the laws of the State of California.

12. **Counterparts.** This Assignment may be executed in counterparts, each of which shall be deemed an original (including copies sent to a Party by facsimile transmission) as against the Party signing such counterpart, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Assignment as of the date and year first above written.

By:_____
LANDOWNER

By:_____
ASSIGNEE

By:_____
CITY

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EXHIBIT L

DESIGN GUIDELINES

THE TOWNSHIP 9 DESIGN GUIDELINES DATED AS OF AUGUST 3, 2007 AND APPROVED BY THE CITY COUNCIL ON AUGUST 21, 2007 AS REFERENCED IN THE PROJECT ENTITLEMENTS (EXHIBIT C) ARE ATTACHED AS EXHIBIT L-1 AND INCORPORATED IN THIS AGREEMENT BY THIS REFERENCE.

THE DESIGN GUIDELINES ALSO INCLUDE THE DESIGN GUIDELINES SET OUT IN THE RICHARDS BOULEVARD AREA PLAN DATED OCTOBER 1994 ADOPTED ON DECEMBER 13, 1994 BY RESOLUTION NO. 94-736. THE TOWNSHIP 9 DESIGN GUIDELINES AND THE TERMS OF THIS DEVELOPMENT AGREEMENT SHALL CONTROL IN THE EVENT OF ANY CONFLICT WITH THE RICHARDS BOULEVARD AREA PLAN DESIGN GUIDELINES.

91. THE DESIGN GUIDELINES ALSO INCORPORATE BY REFERENCE A PORTION OF THE CENTRAL CITY URBAN DESIGN PLAN DESIGN STANDARDS; TO THE EXTENT THAT THE SAME SUBJECT MATTER REGARDING A SPECIFIC DESIGN STANDARD IS NOT INCLUDED IN THE TOWNSHIP 9 DESIGN GUIDELINES, THEN THE APPLICABLE REQUIREMENT IN THE CENTRAL CITY URBAN DESIGN PLAN SHALL APPLY TO THE PROJECT. AS OF THE EFFECTIVE DATE OF THIS AGREEMENT, THE CENTRAL CITY URBAN DESIGN PLAN IS IN DRAFT FORM. THE PARTIES AGREE THAT THE ADOPTED VERSION OF THE CENTRAL CITY URBAN DESIGN PLAN, AND AS IT MAY BE AMENDED IN THE FUTURE, WILL BE APPLICABLE TO THE PROJECT TO THIS LIMITED EXTENT.

NOTE: ANY CHANGES TO THE ARCHITECURAL STANDARDS IN THE TOWNSHIP 9 DESIGN GUIDELINES REQUESTED BY LANDOWNER AND APPROVED BY CITY DOES NOT REQUIRE AN AMENDMENT TO THIS AGREEMENT TO BECOME EFFECTIVE, UNLESS OTHERWISE SPECIFIED IN THE AGREEMENT.

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EXHIBIT M
SPECIAL CONDITIONS

I. PURPOSE AND INTENT

The definitions applicable to the body of the Development Agreement shall apply to this Exhibit M.

Under no circumstances can Development of the Property proceed without satisfaction of the conditions specified in this Exhibit M in addition to the conditions set out in the Project Entitlements, Exhibit C, and the Mitigation Measures, Exhibit D.

These Special Conditions shall constitute binding and legally enforceable obligations of LANDOWNER and its successors and assigns, and binding and legally enforceable requirements and conditions for the Development of the Property for the Project, in addition to other obligations, requirements and conditions imposed as set out in the Development Agreement.

II. LANDOWNERS' OBLIGATIONS

A. **Park and Open Space Development Phasing.** Public parks and open spaces must be developed concurrently with the housing units on the adjacent lots so that these Public Facilities are available for use prior to, or no later than, when the housing units are ready for occupancy. Park and open space plantings require a reasonable period of time for growth to be established before they can be accessed by the public. Therefore, CITY retains the right to impose conditions of approval regarding subsequent Project tentative maps on the completion of certain Project parks and open spaces, which may be located within the subject phase or within a later phase, prior to the recordation of the final map in order to insure that the Project parks and open spaces are properly developed and have been completed and are available to serve the Project residents when the housing units are first occupied.

B. **Park and Open Space Maintenance.** The tentative map conditions imposed as part of the Project Entitlements require LANDOWNER to initiate and fund the proceedings to create an assessment district, the form of which is to be determined by CITY, that will encompass the Property to fund the maintenance of all of the Public Facilities as permitted under the applicable assessment district statute. The assessments would provide funding for

maintenance of the Project's public park and open space features which include, without limitation, the parks, parkways, greenbelts, paseos, plazas, fountains, trails, pedestrian pathways and facilities, lighting, landscaped medians, and decorative paving treatments.

The CITY will collect the assessments to fund maintenance of these Public Facilities and will determine whether to undertake the maintenance work with CITY forces or to contract for all or a portion of the maintenance work with private contractors, LANDOWNER, and/or with the homeowners association that is formed for the Project. Because the park and open space features in this Project are unique and will be developed with high quality materials and fixtures which are non-standard, it is important that the maintenance work is performed at a level that will protect and enhance these Public Facilities and that materials and fixtures will be replaced on an as-needed basis with the same or substantially similar materials (including plantings) and fixtures.

The CITY commits to LANDOWNER that it will in good faith maintain the Public Facilities funded under the assessment district in accordance with the Design Guidelines and at a high quality level of maintenance, and LANDOWNER acknowledges that the CITY's obligation to maintain the Public Facilities to such standards may require a higher level of assessments. The CITY commits that it will communicate and collaborate with LANDOWNER and the homeowners association in regards to the frequency and scope of maintenance of the park and open space Project features.

C. **Park and Open Space Dedication.** The City of Sacramento Municipal Code section 16.64.030 sets out the Quimby park dedication requirement, including payment of in-lieu fees, for the Project which must be met at the time of filing the final map(s). Compliance with the Quimby park dedication requirement will also satisfy the park and open space requirements set out in the Richards Boulevard Area Plan (RBAP).

Some of the lots on the Project's tentative master parcel map designated as park space are of such substandard size or design that the space does not conform to the Quimby park dedication requirement. However, in consideration of the unique design of the Project, its location abutting the American River Parkway, and the CITY's desire for development of this residential urban infill project within a blighted industrial area, the CITY will grant credit for park space (which includes open space) that is offered for dedication on the final map(s) towards the Quimby park requirements if the space would serve a public recreational purpose in accordance with the Project Entitlement conditions and the provisions and the following provisions.

The type of land proposed by LANDOWNER and conditionally approved by CITY as park space for Quimby dedication purposes would include developed park areas, natural open space areas within the American River Parkway that are above the flood line as established in the March 2001 photograph, landscaped medians which are large enough to be usable public gathering spaces, paseos which are exclusively for pedestrian/bicycle access and provide through connections to public streets or parks, plazas which are usable public spaces, and landscape easements which are large enough to be usable public gathering spaces along the street, provided that LANDOWNER installs, adjacent to the easements, sidewalks that exceed the standard width. Spaces which are part of the street right of way (including street sidewalks and intersections) that can not be safely accessed and used as public gathering spaces, such as the plazas within the roundabouts, will not be acceptable as park spaces for Quimby credit. In addition, land offered for dedication as park space for Quimby credit shall not be subject to easements or other encumbrances that could restrict or conflict with use of the space for public park purposes. Street right of way located within a parcel to be dedicated for a park shall not be counted towards Quimby credit. Landscaped walkways and paths (excluding street sidewalks) that are exclusively for pedestrian and bicycle use and dedicated to the CITY (excluding the light rail station parcel) may also be accepted for Quimby credit.

The amount of credit shall be determined at the time of filing the final map(s). The total acreage to be credited toward LANDOWNER's Quimby dedication requirement shall be based upon the actual amount of land dedicated and accepted by the CITY as park and open space, and that amount must be specified on the final map(s), subject to the foregoing limitations and exclusions. The final location of the park and open space parcels shall substantially conform to the location of each park and open space parcel shown on the tentative master parcel map, with the precise location within the LANDOWNER's sole discretion, but the amount of Quimby credit for such parcels shall be subject to the CITY's sole discretion.

D. **7th Street Median Park Easement.** Within the 7th Street right-of-way easement that was previously dedicated by LANDOWNER or its predecessors to CITY for a public street, LANDOWNER shall grant to CITY a twenty (20) foot easement for recreational purposes, measured from the centerline of the roadway, to allow for creation of a linear parkway within the street median. The easement shall either be an offer of dedication on the final map or in a form approved by the City Attorney, and shall be executed and conveyed to the CITY within thirty (30) days of the CITY's written request. Upon the conveyance and acceptance of the easement, the land subject to the easement shall be considered park space for purposes of satisfying the Quimby dedication requirement as set forth in Chapter

16.64.030 of the City Code.

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However, notwithstanding the foregoing, acceptance of the 7th Street median as park space for meeting Quimby dedication requirements is contingent on: (1) the CITY's ability to obtain an easement for recreational purposes for the additional 20 feet of right of way from the adjacent property owner to create a minimum 40 foot wide linear parkway; and (2) LANDOWNER's agreement to develop the 7th Street parkway under a turnkey agreement with the CITY, because the park spaces needs to be developed concurrently with the roadway and prior to 7th Street being opened for vehicular travel. As consideration for LANDOWNER's agreement to develop the 7th Street Parkway under a turnkey agreement, CITY shall credit the full value of the improvements installed pursuant to the turnkey agreement against LANDOWNER's obligation to pay park impact fees or Quimby requirements as per City Code.

E. **Off-Site Park Dedication.** The dedication of park and open space land as shown on the tentative master parcel map is not sufficient to meet the provisions of Chapter 16.64 of the City Code regarding the on-site park and recreational facilities needed to serve Project residents and occupants. The net unsatisfied park acreage requirement must be met by the payment of in-lieu dedication fees under Chapter 16.64.

However, the CITY desires the dedication of land within the RBAP area that can be developed as park space to serve the Project residents rather than payment of in-lieu fees, particularly so that sufficient land area in the vicinity of the Project can be secured to develop sports fields and other active recreation uses, and LANDOWNER has been diligent in trying to acquire land off-site of the Project to dedicate to the CITY to fully or partially satisfy the remaining park land dedication requirement. As of the Effective Date of this Agreement, the in-lieu fee for the area where the Project is located is based on a land valuation of $250,000 per acre (the "off-site land valuation fee"). Pursuant to Chapter 16.64 of the City Code, in-lieu fees require payment of this per acre fee plus 20% to cover the cost for improvements for off-site park parcels that would otherwise not be incurred by the CITY if the park was located within the Project, such as streets, sidewalks and utility extensions (the "off-site improvement fee").

In consideration of LANDOWNER's efforts to secure off-site parcels and due to the higher costs of land within the RBAP, the CITY agrees to waive the 20% off-site improvement fee from the amount of the in-lieu fee valuation for off-site parcels if the off-site parcels offered for dedication are acceptable to CITY and will be substantially improved with public streets, sidewalks and utilities at the time of CITY's acceptance of the off-site parcels. The off-site land dedication must be of sufficient size to develop at least two standard soccer or baseball playfields, which is approximately four (4) acres. The CITY will also accept off-site

land that is located within the American River Parkway or immediately adjacent to the

designated Sutters Landing Park and will waive the 20% off-site improvement fee, even though such parcels are not substantially improved with public streets, sidewalks and utilities.

Waiver the of the 20% off-site improvement fee means that the amount of the in-lieu fees owed by LANDOWNER will be based on the off-site land valuation fee in effect at the time of recording of the final map(s), which amount will exclude the 20% off-site improvement multiplier, compared against the value of the off-site land to be donated to CITY. If any net amount of in-lieu fee is owed at that time, the off-site improvement fee will be added to that net amount to determine the required Quimby in-lieu fee.

If CITY, in its sole discretion, approves the off-site land dedication, which may be in the form of an offer to donate the land, LANDOWNER or its affiliate entity shall dedicate or transfer the off-site land to CITY for park purposes by the time of filing of the first final subdivision map. The value of the off-site parcels for the purpose of off-setting the required Quimby in-lieu fee shall be based on the fair market value of the land at the time of the offer of dedication or donation, based on either the actual purchase price paid by LANDOWNER of its affiliated entity for the off-site parcels or a current appraisal, as determined by CITY at the time of filing the first final map. If the amount of the value of the off-site parcels to be dedicated or donated to CITY under this option is less than the in-lieu fees owed to meet the Project's Quimby requirement, then LANDOWNER shall pay the remaining in-lieu fees owing at the time of filing of the first final map in accordance with the provisions of Chapter 16.64 of the City Code. If the value of the off-site parcels to be dedicated or donated to CITY under this option is more than the in-lieu fees owed to meet the Project's Quimby requirement, then CITY shall pay LANDOWNER for the difference in the fair market value of the land that is accepted by CITY at the time title is transferred to CITY.

Notwithstanding the foregoing, nothing in this Agreement shall prohibit CITY from granting credits to LANDOWNER for privately owned and maintained open space or local recreation facilities, or both, as provided by Section 16.64.100 of the City Code. Such credit, if granted in acres, or comparable in lieu fees, shall not exceed twenty-five (25) percent of the dedication or fees, or both, as provided under Chapter 16.64 at the time of filing the final map(s).

F. **Richards Boulevard Special Planning District On-Site Open Space Requirements.** Within the RMX zone, the Richards Boulevard Special Planning District includes an open space requirement, as set out in Section 17.120.020 (3)(g) of the City

Code, that specifies that a minimum of eighty (80) square feet of common usable open space per unit and a minimum of fifty (50) square feet of private (exclusive) usable open space per unit that is directly accessible from the unit. LANDOWNER shall be allowed to meet this combined 130 square foot on-site open space per unit requirement by a combination of common and private open spaces. This means that if the amount of common open space provided exceeds eighty (80) square feet per unit, the excess common open space may counted towards meeting the minimum of fifty (50) square feet of private open space per unit, as long as each unit has some amount of private open space (e.g., a Juliette balcony). In addition, all or part of the common open space for one parcel may be provided on the immediately adjacent parcel of land if the common open space is accessible to the residents in both of the adjoining parcels. Landscaped setback areas may be counted towards meeting the common open space requirement if the setback area is designed to be an integral part of a larger common open space area.

The Parties acknowledge that CITY anticipates adopting a new Central City Urban Design Plan that makes recommendations regarding changes to Central City design guidelines and development standards, including open space requirements for residential developments. Notwithstanding that the applicable Land Use and Development Regulations are set as of the Effective Date, the Parties agree that, if and when the Urban Design Plan is adopted and the Richards Boulevard Special Planning District is amended to change the open space requirements for residential developments, the Project shall be subject to those open space requirements if such requirements provide for a reduction in the total amount of common and private open space or provide for any other benefit to the LANDOWNER.

G. **Richards Boulevard and North 8th Street Intersection.** In addition to funding the installation of the traffic signals and intersection improvements as listed in the Project Entitlements (Exhibit C) and/or as Mitigation Measures (Exhibit D), LANDOWNER shall also fund its fair share of the cost for installation of a traffic signal and intersection improvements at Richards Boulevard and North 8th Street if the adjacent property owner for the project referred to as Continental Plaza agrees to dedicate to CITY the right of way needed to create a North 8th Street and Richards Boulevard intersection. The cost for the North 8th Street intersection is estimated at $350,000. LANDOWNER's fair share contribution has been determined to be $175,000, and in no event shall LANDOWNER's contribution exceed $175,000, but the amount shall be subject to the following inflation escalation ("fair share"). The amount shall be adjusted by a figure equal to the percentage increase, if any, of the construction cost index for San Francisco (based on 1913 U.S. average = 100) during the period from the Effective Date of this Agreement to the date of payment.

If the Continental Plaza project applicant agrees to dedicate the right of way needed to create the North 8th Street and Richards Boulevard intersection and agrees to pay the remaining cost to fund this intersection improvement or the CITY otherwise has sufficient funding to undertake this improvement; LANDOWNER shall pay CITY its fair share of the cost for the North 8th Street intersection and said payment shall be due at the time of issuance of the first Building Permit after the date of the CITY's right of way dedication acceptance from the Continental Plaza property owner; provided, however, that LANDOWNER may defer its fair share payment to a later date if the Continental Plaza project has not yet commenced construction, and further provided that LANDOWNER shall be relieved of its "fair share" obligation in its entirety in the event construction of the Continental Plaza project does not commence prior to issuance of the final Building Permit for the Project. Once the Continental Plaza project has commenced construction, the fair share payment shall be due and payable at the time of the issuance of the Building Permit.

H. **North 8 Street.** CITY will obtain from Continental Plaza the obligation to dedicate a forty foot right-of-way for construction of North 8th Street north of Richards Boulevard to where Signature Street would intersect North 8th Street (approximately 320 feet). LANDOWNER shall be obligated to pay a fair share contribution for construction of North 8th Street, and to undertake construction of this street as follows. If at 50% of build-out of Township 9, North 8th Street has not been constructed by Continental Plaza, then LANDOWNER shall design and construct North 8th Street to the satisfaction of CITY, subject to reimbursement in the amount of Continental Plaza's fair share. If Continental Plaza develops phase 4 of their Planned Unit Development before Township 9 reaches 50% build-out, then CITY will require Continental Plaza to design and construct North 8th Street, subject to reimbursement by LANDOWNER in the amount of Township 9's fair share. Once the Continental Plaza project has commenced construction of North 8th Street, the fair share payment shall be due and payable at the time of the issuance of the next Building Permit for Township 9. "Fair share" contribution for both Continental Plaza and Township 9 is fifty percent (50%) of the total costs for the design and construction of North 8th Street. The cost of design and construction will be based upon an engineers estimate submitted either at the time of 50% build-out of Township 9 or the development of Phase 4 of Continental Plaza, which ever occurs first.

I. **Public Facilities Development Impact Fees.** In accordance with the provisions of Section II.6.B of the Development Agreement, the CITY is in the process of updating the Financing Plan for Facility Element of the Railyards Specific Plan and the Richards Boulevard Area Plan ("Facility Element") in response to the pending revision of the Railyards Specific Plan. Allocation of the total costs for the Public Facilities specified in the Facility

Element between the Railyards Specific Plan and the Richards Boulevard Area Plan areas was determined based on the proposed land use changes to the Railyards Specific Plan, and the costs for the Public Facilities was also updated. A copy of this study dated June 25, 2007 is attached as Exhibit M-1.

This Financing Plan update resulted in revised transportation impact fees and public facilities fees (collectively "Development Impact Fees") for the Project. While the residential development impact fee was reduced slightly as shown in Table 1 of Exhibit M-1, the office and retail development impact fee increased. LANDOWNER shall be obligated to pay CITY the Development Impact Fees for the Project's allocated fair share of the costs of off-site Public Facilities in accordance with the amounts specified in Table 1 of Exhibit M-1 entitled "Revised Richards Area Fees (2007)" as the time of issuance of each Building Permit. These Development Impact Fees may be adjusted annually by the change in the consumer price index ("inflation adjustment") in the same manner and in the same percentage increase as the CITY imposes for similar development impact fees. Notwithstanding the foregoing, if CITY undertakes a subsequent revision of the Financing Plan during the term of this Agreement and adjusts the amount of the Development Impact Fee, LANDOWNER shall pay that the amount of that fee at the time of issuance of each Building Permit, provided however that the Development Impact Fee specified in Table 1 of Exhibit M-1 plus the compounded annual inflation adjustment will be in effect for a minimum period of four years. The four year period shall commence upon the earlier of (i) the date of issuance of the first building permit, or (ii) December 31, 2008. In the event the Financing Plan is not updated on or before termination of the four year period described above, the Development Impact Fee specified in Table 1 of Exhibit M-1 plus the compounded annual inflation adjustment shall remain in effect until the adoption of new Development Impact Fees based on the updated Financing Plan.

J. **Freeway Congestion Mitigation.** The Final Environmental Impact Report on Table 6.11-15 indicates that freeway mainline operations along the I-5 freeway will remain at the same level of service with Project traffic added to the baseline conditions. However, because some of the freeway mainline segments are at level of service D or worse under the baseline condition, the California Department of Transportation (Caltrans) has requested that the CITY impose a freeway congestion mitigation requirement as a condition of approval of the Project, as well as to require fair share impact fees to fund improvements to the Richards Boulevard/I-5 Freeway interchange. LANDOWNER will pay its fair share of the interchange improvements as part of the Supplemental Development Fees, as addressed in Section J above, and the revised Development Fees imposed under the updated Financing Plan.

In regard to freeway congestion mitigation, in its letter dated April 16, 2007, Caltrans recognized that the extension of the existing light rail system along the adopted Downtown-Natomas-Airport (DNA) alignment will help alleviate congestion on the mainline segments of the I-5 freeway. The Phase 1 of the DNA project, referred to as the Minimum Operable Segment (MOS), will extend light rail service from the existing system at the Sacramento Valley Station (and the future Sacramento Intermodal Transportation Facility) along 7th Street to Richards Boulevard, with a station to be located at the Project site. The DNA MOS project is scheduled to be completed in 2014, which is when the build-out of the Project is anticipated. As noted in Caltrans letter dated November 27, 2006, the CITY has the responsibility to determine the fair share proportionality cost.

Following the same cost allocation concepts set out in the formulas in Appendix B, Methodology for Calculating Equitable Mitigation Measures, from Caltrans Guide for the Preparation of Traffic Impact Studies, using information provided by the Sacramento Regional Transit District (RT) for the MOS portion of the DNA project, and assuming federal, state and local funding for the DNA project consistent with funding of prior RT light rail projects, the LANDOWNER's fair share proportionate cost for the DNA project Minimum Operable Segment set as the current fair market value of the land LANDOWNER is required to dedicate for the DNA light rail station located on Property, as shown below.

RT Downtown-Natomas-Airport LRT Project

DNA Minimum Operable Segment Cost	$ 82.5 million ($ 2006)
Source RT Planning Dept May 7, 2007. MOS cost includes the Richards Blvd/ North 7th Street Light Rail Station	
Federal, state and Measure A subsidies (prior LRT projects received 50% federal/state funding. Assume only 40% since MOS segment not eligible for FTA funds per RT.)	$ 33 million
Net Local Costs DNA MOS Cost	$ 82.5 million - 33.0 million $ 49.5 million

Assume $50 million unfunded DNA MOS cost

Measure A funding of approximately $50 million has been programmed for DNA design and engineering studies, but RT is considering applying a portion of such funding towards construction of the DNA MOS segment, subject to approval by the Sacramento Transportation Authority of such reappropriation. Therefore, the net unfunded cost for the DNA MOS is unknown at this time.

Township 9 Project – Scenario A Residential/Retail Transit Trips

Project Average Weekday Boardings (DEIR Table 6.11-10)	249 retail transit trips
	610 residential transit trips
	859 total transit trips (2013)

Township 9 Project – Scenario B Residential/Office/Retail Transit Trips

Project Average Weekday Boardings (Scenario B DEIR Table 6.11-10)	249 retail transit trips
	467 office transit trips
Subtotal:	716
	+ 504 residential transit trips
	1,220 total transit trips (2013)

Township 9 DNA Contribution/ Freeway Congestion Mitigation

Since the Project is located within the Central City, the residential component will accommodate future growth by creating housing opportunities closer to jobs in the Central Business District, thereby reducing vehicle trips that would otherwise use the mainline freeway system. Also, locating a light rail station as part of the Project will encourage greater transit use by the employees and residents at the Project site to use transit as RT's light rail and bus system provides connections throughout Sacramento County. Once the DNA line is eventually extended to the South Natomas and North Natomas communities, and ultimately to the Sacramento International Airport, Project employees and residents will be able to use this alternative transportation route in lieu of the I-5 freeway for northbound trips.

The light rail station at the Project site at the intersection of Richards Boulevard and North 7th Street will serve the developments within a ¼ to ½ mile radius (walking distance) of the Project site, thereby further reducing traffic along the mainline freeway.

The total value of LANDOWNER's land dedication for the DNA project is approximately **$870,000** as set out in more detail below. In addition, as described in the PUD Design

Guidelines, portions of the existing buildings on-site will be used to replicate the cannery building architectural vernacular in the passenger shelter at the light rail station, and LANDOWNER may construct a portion of the station platform as part of a pedestrian plaza on Richards Boulevard. The value of these station construction contributions would be in addition to the value of the land dedications.

Township 9 - DNA Land Dedication Requirements

LRT Track Alignment - The Project will be required to dedicate at no cost the right of way needed for the DNA light rail tracks. The required track alignment is 40 feet in width by 1,060 feet in length or 42,400 square feet. The value of right of way land is approximately $8.00 per sq. ft. based on a recent railroad spur sale. Therefore, the value of the LRT right of way dedication is $339,200. This land dedication requirement is set out in more detail in Section I, below.

LRT Station – The Project will also be required to set-aside the additional land required for the Light Rail Station proposed at the DNA MOS terminus at North 7th Street and Richards Blvd because the Station is planned to be located at the Project site. Construction of the LRT Station is solely the obligation of Regional Transit, although LANDOWNER may undertake some of the station improvements in advance of the light rail line construction which would benefit RT. This land dedication requirement is set out in more detail in Section I, below.

The additional land needed for LRT Station is 20 feet in width and 1,060 feet in length or 21,200 sq. ft. This Station would be located behind the tracks in an area that could otherwise be developed for retail and/or residential use. The land value for vacant (developable) property along Richards Boulevard ranges from $20 to $25[5] per sq. ft. Since the land will be transferred in the future when RT is ready to construct the first phase of the DNA extension, the land value will increase. Therefore, at the high end of the range at $25 per sq. ft., the Station land value is $530,000.

Township 9 – LRT Station Land Over Dedication Reimbursement/Credit

The LANDOWNER only offered to reserve the Station land rather than to dedicate it. Reservation of land would have required RT to reimburse the LANDOWNER for the original cost of the land plus holding costs until it is transferred to RT. LANDOWNER has agreed to transfer the land to RT (or CITY) at no cost as an easement dedication with a reservation by LANDOWNER of the airspace rights above the Station to allow for possible future joint use development. A copy of the proposed easement to be executed in favor of the CITY is attached to this Agreement as Exhibit I.

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5 Source: Bud Applegate, commercial broker with Colliers International citing recent land transactions within the Richard Boulevard area.

In consideration for LANDOWNER's agreement to dedicate the Station land to RT at no cost, in addition to the LRT track alignment right of way, and in recognition that Station land value will increase significantly between 2007 and 2014, LANDOWNER's total land value contribution ($870,000 plus the value of these station construction contributions) for the DNA MOS project will be recognized as: (i) the Project's fair share contribution towards the Freeway Congestion Mitigation, and (ii) supporting RT's interim transit service within the Richards Boulevard area until the DNA MOS is constructed. LANDOWNER agrees that the track alignment right of way and the Station land may be used by RT on an interim basis to support bus transit service until the DNA MOS project is implemented. The Parties agree that the Project's total fair share contribution toward the Freeway Congestion Mitigation and RT's interim transit service shall not exceed LANDOWNER's total land value contribution, which has been determined to be $870,000 plus the value of any station construction contributions, including but not limited to the costs of preserving historic timbers for use in construction of the Station.

In the past, CITY has required other developers that benefit from a station to contribute towards the land cost and provides for partial reimbursement to the property owner who was required to dedicate the station parcel. In recognition of LANDOWNER's over-dedication of land for the station and the possibility that it may undertake some station improvements, CITY shall use its best efforts to secure contributions as conditions of entitlements for development of parcels within ½ mile of the Project boundary to pay a fair share contribution to fund station construction and to reimburse LANDOWNER for the value of its over-dedication. The value of LANDOWNER's land dedication and station construction which exceeds its fair share contribution will be based on the updated Finance Plan. The reimbursement that may be owed to LANDOWNER may be funded based on an adjustment of Development Fees and/or imposition of a Land Acquisition Fee pursuant to implementation of the updated Financing Plan. If a Development Fee and/or Land Acquisition Fee is established in the RBAP for the DNA project, LANDOWNER shall be credited for the value of its over-dedication on a pro-rata basis at the time of Building Permit issuance.

K. **Light Rail Dedication.** Pursuant to the terms of the Project Entitlements (Exhibit C) and the foregoing Freeway Congestion Mitigation Fee provision, LANDOWNER is required to dedicate right of way for the light rail alignment and an easement for the light rail station. Of the 129.5 feet of right of way to be dedicated to CITY and measured from the centerline of Richards Blvd across the Property: (i) 59.5 feet is to be dedicated in fee for the expansion of Richards Boulevard for consistency with the Richards Boulevard Area Plan street sections; (ii) 60 feet will be dedicated to the CITY as an easement along the southern

edge of Lots 13, 14 and 17 (approximately 1,060 feet in length) for the benefit of the Sacramento Regional Transit District for construction and operation of Phase 1 of the Downtown-Natomas-Airport (DNA) light rail line extension, including 40 feet for the light rail tracks and 20 feet for the light rail station and ancillary facilities subject to the terms of the Irrevocable Offer of Dedication Agreement provided as Exhibit I; and (iii) 10 feet will be dedicated to CITY as an easement for a sidewalk and landscaping strip. The location of the 60 foot light rail station easement and the 10 foot sidewalk and landscaping strip may be interchangeable because final design of the DNA line and station have not been completed and the DNA line and station may be located either abutting the street or behind the landscaping strip and sidewalk, and the 15 foot sidewalk and landscaping strip may be designed as part of the light rail station facility.

LANDOWNER has agreed to transfer the land to RT (or CITY) at no cost as an easement dedication with a reservation by LANDOWNER of the airspace rights above the Station to allow for possible future joint use development, provided however that LANDOWNER agrees that it shall not intrude into the "operating zone" or "restricted area" of the Station without prior review and approval from RT regarding safety issues and potential interference with the rail operations; and further provided that, prior to CITY's issuance of the first building permit for the Project, LANDOWNER and RT shall enter into an agreement regarding the allowable uses within the airspace above the Station. For purposes of this Development Agreement, the "operating zone" and the "restricted area" will be defined by an agreement between RT and LANDOWNER. The form of the easement for dedication of the land for the light rail station is provided in Exhibit I. This form easement may be revised to incorporate the approved operating zone and restricted area definitions.

L. **Regional Sanitation Fees**. The current "infill" fee imposed by the Sacramento County Regional Sanitation District ("District") is $2,725 per ESD (equivalent single family dwelling unit), and the District may grant developers sewer credits to account for the prior land uses on the property that generated sewer flows in light of the fees paid by the prior property owner for the District's infrastructure improvements. CITY currently budgets funds annually for payment of the Regional Sanitation "infill" fee on behalf of developers ("sewer fee credits") by waiving imposition of sewer fees at time of Building Permit issuance for eligible development projects. The amount of CITY sewer fee credits available for allocation to eligible development projects is contingent on the amount budgeted by CITY each year and the demand for sewer fee credits at any given time may exceed the amount budgeted. LANDOWNER owns 2,000 sewer fee credits issued by the District that it acquired through its purchase of the Property from the prior landowner.

LANDOWNER desires to sell its credits to developers within the Project area. CITY agrees that it shall not sell CITY's sewer fee credits to developers and/or builders within the Project area unless LANDOWNER no longer has sewer fee credits and notifies CITY that all previously obtained credits have been allocated to builders and/or developers within the Project area; provided, however, that LANDOWNER shall not unreasonably withhold its credits and further provided that LANDOWNER shall not sell its credits for a fee higher than the amount of the District's "infill" fee at the time of sale.

M. **North 7th Street Improvements.** LANDOWNER is obligated to install street right of way improvements on the west side of North 7th Street within the Project area as a condition of the Project Entitlements (Exhibit C). The adjacent property owner of the project referred to as Continental Plaza is obligated to install street right of way improvements on the east side of North 7th Street. Because LANDOWNER may commence Development of the Project prior the development of that portion of the Continental Plaza project which requires access from North 7th Street, LANDOWNER may be required by the CITY to install street right of way improvements both on the west and east sides of North 7th Street, and the cost of the improvements on the east side of North 7th Street would exceed LANDOWNER's obligation under the Project Entitlement conditions. If LANDOWNER is obligated to undertake improvements on the east side of North 7th Street, CITY will reimburse LANDOWNER for the costs of street right of way improvements which exceed LANDOWNER's obligations under the terms of the Project Entitlement conditions. Such reimbursement shall be pursuant to the terms and conditions of a standard CITY public improvement agreement to be executed between CITY and LANDOWER.

N. **Public Agency Radio and Microwave Communication Systems.** Notwithstanding LANDOWNER's Vested Rights and anything contained herein to the contrary, in the event CITY determines that the Project will interfere with the Public Agency Radio and/or Microwave Communication Systems, LANDOWNER agrees to work with CITY to reduce such interference by either (i) providing the funding necessary to purchase and install "repeaters" on Project buildings as necessary to re-route microwaves around the Project, (ii) restricting the heights of buildings to allow the microwaves to cross the Project site, or (iii) any other means acceptable to the Parties. In the event the LANDOWNER fails to comply with (i), (ii) or (iii), above, CITY may deny or condition a subsequent project approval including, without limitation, an application for a Building Permit or approval of a tentative or final map in order to avoid interference with the radio and microwave communications systems operated by the Sacramento Regional Radio Communications Systems (SRRCS), the Automated Local Evaluation in Real Time (ALERT) system and the State of California Public Safety Microwave Network.

These systems are emergency and weather communication facilities that serve federal, state, county, CITY and other Public Agencies and are used to protect the public health, safety and welfare. These systems are in existence as of the Effective Date, the systems' radio and microwaves cross the Property as is depicted in Exhibit M-2, attached, and the operations of one or more of these systems could experience interference if the Project is developed as permitted under the Land Use and Development Regulations. In addition, Building Permits may be conditioned on compliance with the provisions set out in Exhibit M-3, Public Safety Radio Communication Requirements for Buildings.

O. **Zoning Code Special Permits**. Chapter 17.180 of the City Code regarding regulation of Planned Unit Developments provides under Section 17.180.030 that development projects within a PUD shall be subject to a planning director's plan review under Chapter 17.200, unless the proposed project otherwise requires a special permit. Under Chapter 17.60 of the City Code, Height and Area Regulations, Section 17.60.030 (9) provides that building with a size in excess of 75,000 square feet, or in the OB zone a building in excess of 40,000 square feet, requires a special permit before the building can be constructed or expanded. In consideration of the fact that most of the buildings within the Project are proposed to exceed these building size standards and the design and development standards set out in the Design Guidelines already address the same considerations as a special permit would encompass, CITY hereby waives the requirement under Section 17.60.030 (9) for LANDOWNER to obtain a special permit based on the square footage size of a building.

III. CONDITIONS OF DEVELOPMENT; SPECIAL FINDINGS REQUIRED

A. In addition to other findings and conditions as may be deemed applicable, no special permit, subdivision map or other land use entitlement ("Subsequent Approval")for Development of the Property shall be approved unless the approving body either makes the following findings or expressly waives such findings, in whole or in part, as not applicable to the Property or the Project and stating the reasons therefor in the record or document of approval. These findings are:

1. The approval of the proposed project is consistent with the policies, goals, standards and objectives of the General Plan, RBAP and Specific Plan and other relevant factors and circumstances, and the LANDOWNER is in compliance with the applicable terms and conditions of the Development Agreement including, without limitation, these Special

Conditions, the Mitigation Measures and the conditions of approval of the Project Entitlements.

2. All transfers of land, owned by or under the control of LANDOWNER, which are specified in the Project Entitlements or in Section II, above, as being necessary for Public Facilities needed to serve the Project have been transferred to CITY, City Agency or Public Agency as appropriate.

3. LANDOWNER has obtained all permits and approvals required from other public agencies for Development of the Project and has entered into all agreements required by such agencies.

4. Appropriate environmental review of the Subsequent Approval has been completed, and all additional feasible mitigation measures resulting therefrom to reduce impacts to less than significant have been included as conditions of approval of the entitlement application.

B. In the event that any of the special findings required herein cannot be made and are not waived, approval may nevertheless be given to the entitlement application if all of the following conditions can be satisfied with respect to each such special finding not made:

1. Practicable and feasible requirements or mitigation measures can be imposed upon the Subsequent Approval, the implementation of which would allow such special finding to be made;

2. The applicant has agreed to be bound (through written agreement satisfactory to the City Attorney) by and to implement such requirements or mitigation measures, and has posted such security for compliance therewith as may be required by the City Manager; and

3. It is in the public interest and consistent with the policies, goals, standards and objectives of the General Plan, RBAP and Specific Plan for the entitlement application to be approved with such requirements and mitigation measures.

FOR CITY CLERK USE ONLY

ORDINANCE NO _____

CITY AGREEMENT NO. _____ DATE ADOPTED: _____

EXHIBIT M – 1

[Insert copy of EPS June 25, 2007 report]

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

CITY AGREEMENT NO._____ DATE ADOPTED:_____

EXHIBIT M – 2

[Insert diagram showing radio interference]

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

CITY AGREEMENT NO._____ DATE ADOPTED:_____

EXHIBIT M – 3

PUBLIC SAFETY RADIO COMMUNICATION REQUIREMENTS FOR BUILDINGS

The following requirements may be imposed at the time of application for a Building Permit. These requirements will be superseded by the adoption of an ordinance establishing public safety radio communication requirements after the Effective Date of this Agreement. Notwithstanding anything contain in this Agreement to the contrary, all Building Permit applications filed after the adoption of said ordinance shall be subject to compliance with its terms and conditions.

(A) **General.** Except as otherwise provided, no person shall erect, construct, change the use of or provide an addition of more than 20% to, any building or structure or any part thereof, or cause the same to be done, that fails to support adequate radio coverage for the Sacramento Regional Radio Communications System (SRRCS), including but not limited to firefighters and police officers. For purposes of this section, adequate radio coverage shall include all of the following: (1) a minimum signal strength of -95 dBm available in 90% of the area of each floor of the building when transmitted from the closest Sacramento Regional Radio Communications System site; (2) a minimum signal strength of -95 dBm received at the closest Sacramento Regional Radio Communications System site when transmitted from 90% of the area of each floor of the building; (3) the frequency range that much be supported shall be the current band of frequencies used by either the City or County sub-systems; and (4) a 100% reliability factor. When measuring the performance of a bi-directional amplifier, signal strength measurements are based on one input signal adequate to obtain a maximum continuous operating output level.

(B) **Amplifications Systems Allowed.** Buildings and structures that cannot support the required level of radio coverage shall be equipped with either a radiating cable system or an internal multiple antenna system with FCC type accepted bi-directional amplifiers as needed. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least 12 hours without external power input. The battery system shall automatically charge in the presence of an external power input. If used, bi-directional amplifiers shall include filters to reduce adjacent frequency interference. These filters shall be tuned to so that they will be 35 db below the SRRCS frequencies.

FOR CITY CLERK USE ONLY

ORDINANCE NO._____

CITY AGREEMENT NO._____ DATE ADOPTED:_____

(C) **Testing Procedures.**

1. Acceptance Test Procedure. When an in-building radio system is required, and upon completion of installation, it will be the building owner's responsibility to have the radio system tested to ensure that two-way coverage on each floor of the building is a minimum of 90%. Each floor of the building shall be divided into a grid of approximately 20 equal areas. A maximum of two non-adjacent areas will be allowed to fail the test. In the event that three of the areas fail the test, in order to be more statistically accurate, the floor may be divided into 40 equal areas. In that event, a maximum of four non-adjacent areas will be allowed to fail the test. After the 40 area test, if the system continues to fail, the building owner shall have the system altered to meet 90% coverage requirement. The test shall be conducted using a Motorola MTS2000, XTS2500, XTS5000 or equivalent portable radio, talking through the Sacramento Regional Radio Communications System as specified by the authority having jurisdiction. A spot located approximately in the center of a grid area will be selected for the test, then the radio will be keyed to verify two-way communications to and from the outside of the building through the SRRCS. Once the spot has been selected, prospecting for a better spot within the grid area will not be permitted. The gain values of all amplifiers shall be measured and the test measurement results shall be kept on file with the building owner so that the measurements can be verified each year during the annual tests. In the event that the measurement results become lost, the building owner will be required to rerun the acceptance test to re-establish the gain values.

   As part of the installation, a spectrum analyzer or other suitable test equipment shall be utilized to insure that spurious oscillations are not being generated by the subject bi-directional amplifier (BDA) due to coupling (lack of sufficient isolation) between the input and output systems. This test will be conducted at time of installation and subsequent annual inspections.

2. Annual Tests. When an in-building radio system is required, the building owner shall test all active components of the system, including but not limited to amplifiers, power supplies and backup batteries, a minimum of once every 12 months. Amplifiers shall be tested to ensure that the gain is the same as it was upon initial installation and acceptance. Backup batteries and power supplies shall be tested under load for a period of one hour to verify that they will

properly operate during an actual power outage. If within the one hour test period, in the opinion of the testing technician, the battery exhibits symptoms of failure; the test shall be extended for additional one hour periods until the testing technician confirms the integrity of the battery. All other active components shall be checked to determine that they are operating within the manufacture's specifications for the intended purpose.

3. Five-Year Tests. In addition to the annual test, the building owner shall perform a radio coverage test a minimum of once every five years to ensure that radio system continues to meet the requirements of the original acceptance test. The procedure set forth above shall apply to these tests.

4. Qualifications of Testing Personnel. All tests shall be conducted, documented and signed by a person in possession of a current FCC license, or a current technician certification (minimum Associate level) issued by the Electronics Technicians Association. All original test records shall be retained on the inspected premises by the building owner and copies of the records shall be submitted to the Sacramento Fire Department via the "Self Help Inspection Process".

5. Field Testing: Police and Fire personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field-testing to be certain that the required level of radio coverage is present.

(D) **Permits:** A permit fee of $100.00 shall be submitted to the Sacramento Fire Department along with copies of all test records.

(E) **Implementation:** Although not a condition of occupancy, the building shall be in compliance of this ordinance within 90 days of occupancy.

(F) **Penalties:** Pursuant to 8.040.080 of the SCC, a violation of this ordinance is a misdemeanor criminal offense and a civil penalty up to $25,000.00 per day (for each and every day that the violation exists) can be imposed.

(G) **Exemptions:** This section shall not apply to buildings less than 5,000 square feet or buildings zoned for Residential 1& 2 Family Units.

FOR CITY CLERK USE ONLY

ORDINANCE NO _____

CITY AGREEMENT NO. _____ DATE ADOPTED: _____

(H) *Required Path Availability of SRRCS Microwave System & Mitigation Issues:*
The SRRCS Microwave System is designed for a minimum of 99.999% availability which takes into consideration existing structures along the microwave system transmission path, obstruction from natural terrain, and environmental factors.

If the City determines that mitigation efforts are required, prior to the issuance of final permits or occupancy of the building, the building owner shall mitigate the new building or structure's blockage or obstruction of the SRRCS Microwave System paths so as to restore a minimum of 99.999% system availability by either (1) providing a new microwave relay site/equipment at another site; (2) relocating existing microwave relay/site equipment or (3) pay an impact fee to be determined by the City to cover any work required to restore the SRRCS Microwave System's availability. Prior to commencing any mitigation work, the building owner shall submit a detailed mitigation plan to the City for approval.

EXHIBIT N

LAND ACQUISITION PROGRAM

The purpose of this Exhibit is to address the contingency for funding the costs of land required for development of off-site Public Facilities needed to serve the Project which are not otherwise addressed under the Project Entitlements (Exhibit C) or the Special Conditions (Exhibit M), or where it is uncertain as of the Effective Date whether the land costs for off-site Public Facilities will be included as part of the Development Fees to be established in the future to implement the Financing Plan update. However, a Land Acquisition Program has not been adopted for the Richards Boulevard Area Plan pursuant to the Facility Element or the Financing Plan as of the Effective Date. Since LANDOWNER has agreed to: (i) be subject to compliance with the Financing Plan as it may be updated in the future as described in Exhibit M, which may include both a change in the amount of the Development Fees as well as a separate Land Acquisition Fee, and (ii) pay updated Development Impact Fees subject to the restrictions set forth in Exhibit M Section H; there is no need to address a Land Acquisition Program for this Project.

Attachment 6 – Richards Boulevard Area Plan (RBAP) Facility Element Resolution

RESOLUTION NO.

Adopted by the Sacramento City Council

AMENDING THE RICHARDS BOULEVARD AREA PLAN (RBAP) FACILITY ELEMENT TO REDESIGNATE NORTH 7th STREET, NORTH OF SIGNATURE STREET AND VINE STREET (STREET "A"ON TENTATIVE MAP), FROM FOUR LANES TO TWO LANES IN SACRAMENTO, CALIFORNIA. (P06-047)

BACKGROUND

The City Council conducted a public hearing on August 28, 2007 concerning the Richards Boulevard Area Plan (RBAP) Facility Element and based on documentary and oral evidence submitted at the public hearing, the City Council hereby finds:

A. The proposed facility plan amendment does not inhibit connectivity to the planned Riverfront Drive or access to the American River levee;

B. The amended street cross section for North 7th Street provides an additional park amenity;

C. The amended street cross section for Vine Street provides for a pedestrian friendly street; and

D. The proposal is consistent with the policies of the Central City Community Plan and Richards Boulevard Special Planning District to develop N 7th Street as a grand street and Vine Street as a neighborhood serving street.

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

Section 1. The City Council adopts the Richards Boulevard Area Plan Facility Element Amendment for the property, as described on the attached Exhibits A & B, in the City of Sacramento which hereby re-designates N 7th Street and Vine Street from four lanes to two.

Table of Contents:

Exhibit: A – North 7th Street Cross Section
Exhibit B – Vine Street Cross Section

Exhibit A – North 7th St Cross Section

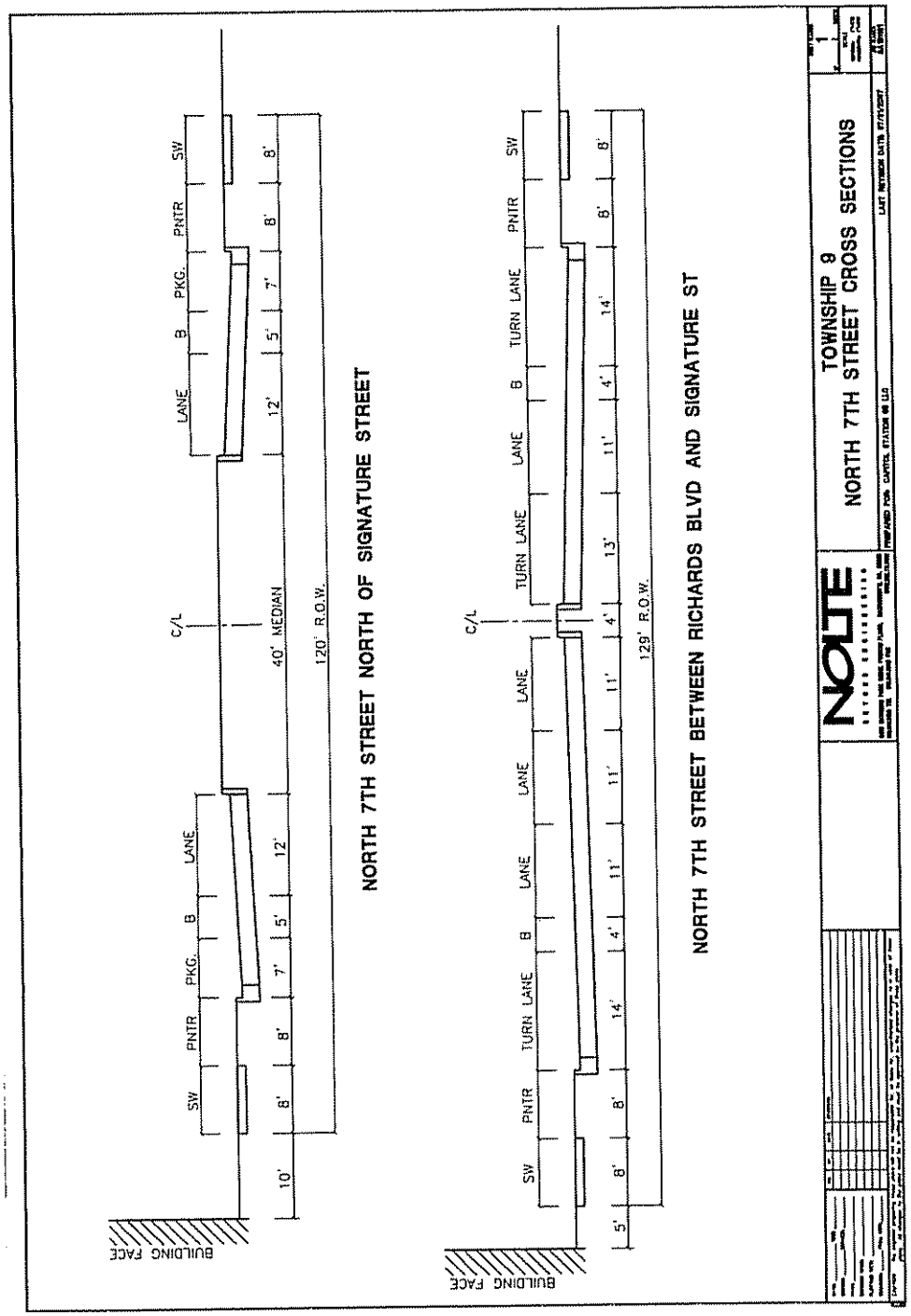
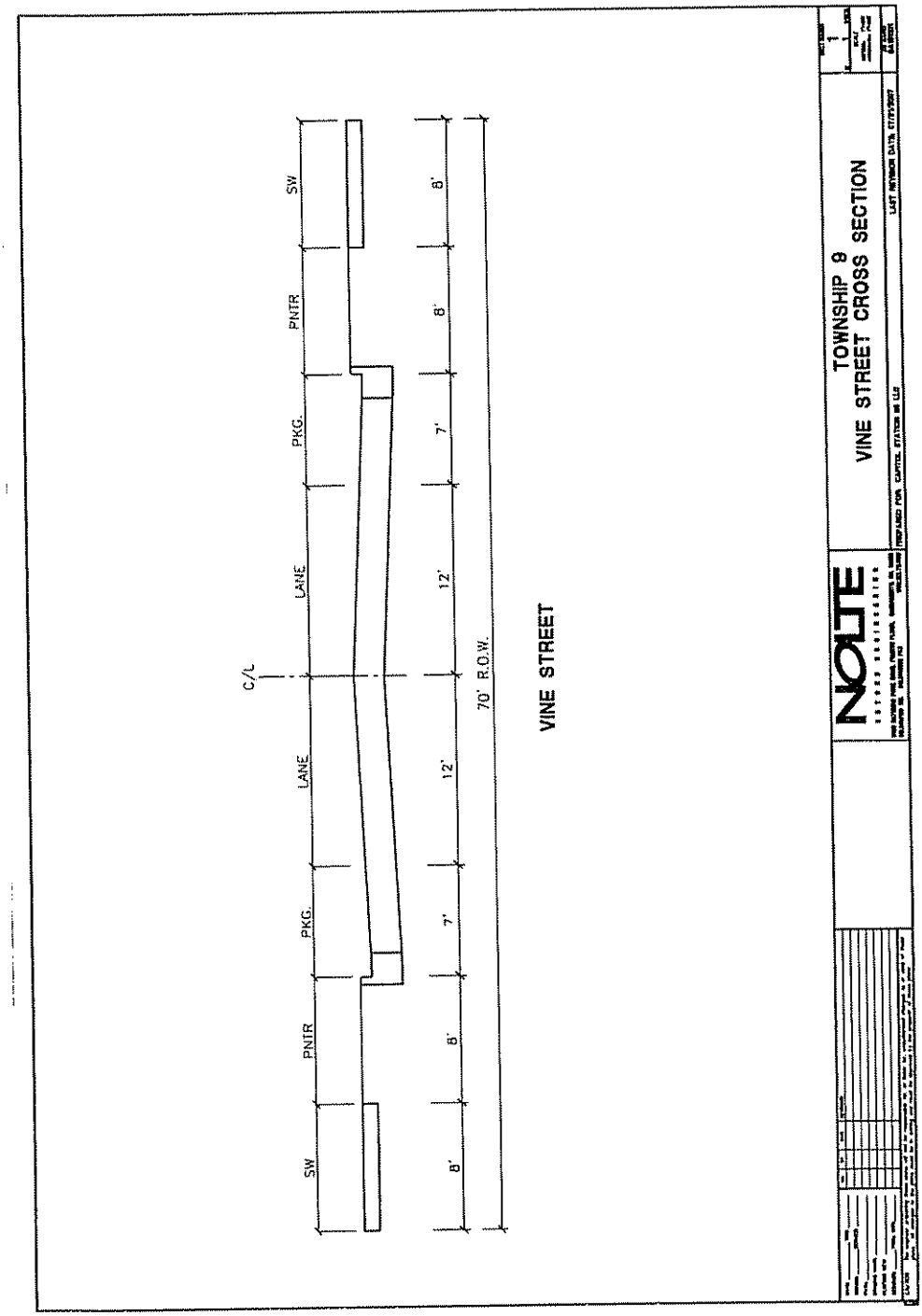


Exhibit B – Vine St Cross Section



Attachment 7 – Richards Boulevard Special Planning District (SPD) Ordinance

ORDINANCE NO.

Adopted by the Sacramento City Council

AMENDING CHAPTER 17.120 OF TITLE 17 OF THE CITY CODE (THE ZONING CODE) REGARDING THE RICHARDS BOULEVARD SPECIAL PLANNING DISTRICT (M07-051)

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

SECTION 1. Section 17.120.020 of the Sacramento City Code is amended to read as follows:

17.120.020 Richards Boulevard special regulations.

Applications for development in the Richards Boulevard SPD shall be subject to the land use objectives, policies, development standards and design guidelines set forth in the Richards Boulevard Area Plan and the following special rules and regulations, in addition to the other regulations of this title. Development within a planned unit development (PUD) within the Richards Boulevard SPD shall also be subject to the requirements and restrictions contained in the PUD schematic plan and development guidelines for the development. Pursuant to Chapter 17.180, PUD development guidelines may modify the height, area, setback, and density standards set forth in this chapter. In addition, and notwithstanding any other provision of this chapter to the contrary, development in a PUD is exempt from design review as provided in Chapter 17.132. In the event of conflict between the provisions of this section and other provisions of this title, the provisions of this section shall prevail

A. Residential Mixed Use (RMX and RMX(PC)) Zone.

1. Uses. Except as otherwise provided herein, (1) uses permitted in the RMX zone outside the Richards Boulevard special planning district by this title shall be permitted in the RMX/RMX(PC) zone in the Richards Boulevard special planning district; and (2) if this title requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the RMX zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

a. Conditionally Permitted Uses:

i. Hotel

ii. Performing Arts Center

2. Master Plan or Planned Unit Development Requirement. Applications for the development of sites of five acres or more shall concurrently submit a master plan or apply for a

planned unit development (PUD) designation which includes a schematic plan and development guidelines pursuant to the provisions contained in Chapter 17.180 of this title. The master plan or PUD designation, schematic plan and PUD guidelines shall be processed concurrently with the special permit or planning director plan review application, if applicable.

a. The contents of the master plan or PUD schematic plan and development guidelines shall include an overall schematic plan designating acreage proposed for each parcel, location of proposed land uses, general description of the types and intensities of uses, building elevations, heights, square footage, parking, open space and the proposed pedestrian, bicycle and traffic circulation system.

3. Development Standards. Notwithstanding the provisions of this title, the following development standards shall apply:

a. Height.

i. Buildings shall not exceed seventy-five (75) feet in height.

ii. Within the American River parkway corridor (PC) zone, development shall comply with the height limitations of the American River parkway corridor zone.

b. Density.

i. The permitted density range for property less than five acres in size shall be a minimum of fifteen (15) dwelling units per net acre and a maximum of sixty-five (65) dwelling units per net acre.

ii. The permitted density range for property more than five acres in size shall be a minimum of twenty-five (25) dwelling units per net acre and a maximum of sixty-five (65) dwelling units per net acre.

(A) For property more than five acres in size, the density on a portion of the project site may be anywhere within the designated range, as long as the average density per net acre of the whole site is developed at a minimum average density of thirty (30) units per net acre.

iii. Within the American River parkway corridor designation residential development shall not exceed a maximum density of thirty (30) dwelling units per net acre.

c. Setbacks.

i. Street Setbacks. A twenty-five (25) foot landscaped setback shall be provided along North 7th Street. A fourteen (14) foot landscaped setback shall be provided along 12th Street (proposed Gateway Boulevard). A minimum ten (10) foot landscaped setback shall be provided along all other streets. The setback along Riverfront Drive shall not exceed the ten (10) foot setback requirement so as to encourage spatial definition and promote activity along the perimeter of the riverfront corridor.

ii. Rear and Interior Side Yard Setbacks. A minimum fifteen (15) foot rear setback and a minimum ten (10) foot interior side yard setback shall be required, provided that additional setbacks may be required to mitigate the effects of noise, light and glare from adjacent industrial or commercial uses. The setback area shall be landscaped and planted with fifteen (15) gallon trees, twenty-five (25) feet on center.

d. Noise Standards.

i. Interior Standards. Residential projects shall be evaluated in the context of the surrounding industrial uses, and shall comply with the interior noise standards set forth in the

noise element of the general plan (Table 1, Section 8).

ii. Exterior Standards. For purposes of Section 8.68.060 of this code, and the exterior noise standard established pursuant thereto, and notwithstanding any provisions in Chapter 8.68 to the contrary, residential developments located within the area of the Richards Boulevard area plan designated "industrial/residential" shall be considered to be industrial and shall be subject to the exterior noise standards for the "industrial, manufacturing, utilities, agricultural" land use categories set forth in the noise element of the general plan (Figure 3, Section 8); provided that the exterior standards set forth in the noise element of the general plan (Table 1, Section 8) shall apply to interior courtyards and rear yard areas for residential developments

e. Hazardous Materials. A hazardous material investigation shall be undertaken as part of the rezone or special permit application. A Phase I site investigation, and, if warranted, a Phase II site assessment and appropriate clean-up, shall be required prior to approval of the rezone or special permit.

f. Wall Requirements.

i. Residential Uses Abutting Nonresidential Uses. A minimum six foot high wall of solid brick, masonry or similar material shall be provided along all property lines abutting a nonresidential use or zone.

ii. Street Frontage. Fences greater than three feet in height shall be prohibited along street frontages.

(A) Exception—Wrought Iron/Open Iron Fencing. A decorative metal wrought iron or open iron fence, painted black or similarly unobtrusive color, not exceeding six feet in height may be placed on the property lines adjacent to street frontages.

iii. Chain link fencing is prohibited.

g. Open Space Requirements.

i. On-site Open Space. Areas specifically designed for outdoor living, recreation or passive enjoyment of the outdoors are required for new residential development.

(A) A minimum of eighty (80) square feet of common usable open space per unit is required. Such areas may include courtyards, gardens, recreational and similar areas.

(B) A minimum of fifty (50) square feet of private usable open space per unit is required. This area is for the exclusive use of the unit. Such areas may include decks, balconies and patios. Private useable open space shall be directly accessible from the associated unit.

ii. Park Land Requirement. Park land shall be provided at a ratio of five acres per one thousand (1,000) residents.

(A) Park land, if not previously dedicated, shall be provided through dedication of land or through the payment of in-lieu fees thereof, at the option of the city for park or recreational purposes according to the standards and formula contained in Chapter 16.64 of this code.

h. Entrances from Alleys. Dwelling unit(s) located on an alley may have its main entrance off of the alley.

i. South Shore of American River. Development along the south shore of the American River shall demonstrate that all required permits have been obtained from all state

and federal agencies with jurisdiction along the river.

j. Parking. Off street parking requirements shall be provided as follows:

i. Ground floor commercial, retail or service uses as allowed by Chapter 17.28 of this title.

(A) No parking shall be required for a commercial, retail or service use provided that the use is a component of a residential project and provided that the use does not exceed five thousand (5,000) gross square feet per building. If parking is provided for the commercial, retail or service use the maximum amount of off-street vehicle parking permitted for such use shall be one space per four hundred fifty (450) gross square feet of floor area.

(B) One space per four hundred fifty (450) gross square feet shall be required for a commercial, retail or service use provided that the use is a component of a residential project and provided that the use does not exceed nine thousand six hundred (9,600) gross square feet per building. The maximum amount of off-street vehicle parking permitted shall be one space per four hundred (400) gross square feet of floor area.

(C) One parking space per four hundred (400) gross square feet shall be required for a commercial, retail or service use provided that the use is a component of a residential project and provided that the use exceeds nine thousand six hundred (9,600) gross square feet per building. The maximum amount of off-street vehicle parking permitted shall be one space per two hundred fifty (250) gross square feet of floor area.

ii. Restaurant. One parking space per four hundred fifty (450) gross square feet shall be provided for a restaurant use provided that the use is a component of a residential project. The maximum amount of off-street vehicle parking permitted shall be one space per one hundred (100) gross square feet of floor area.

iii. Other nonresidential uses or nonresidential uses not a component of a residential project shall be required to provide parking as set forth in Chapter 17.64 of this title.

iv. Along the south side of the American River parking areas shall be located no closer than one hundred (100) feet to the toe of the levee.

v. Minimum Bicycle Parking Requirements.

(A) Apartments. One bicycle parking facility is required for every ten (10) units. Fifty (50) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

(B) Commercial. One bicycle parking facility is required for every twelve thousand five hundred (12,500) gross square feet of occupied space. Twenty-five (25) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

(C) Restaurant. One bicycle parking facility is required for every fifty (50) seats. Twenty-five (25) percent of the required bicycle facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

k. Design Review. All development in the RMX zone shall be subject to design review and shall comply with all applicable design guidelines pursuant to Chapter 17.132 of this title.

B. Office Building (OB) Zone.

1. Uses. Except as otherwise provided herein, (1) uses permitted in the OB zone outside of the Richards special planning district by this title shall be permitted in the OB zone in the Richards special planning district; and (2) if this title requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the OB zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

a. Office Use. Office use shall be permitted subject to the issuance of a special permit.

b. Additional Uses. The following additional uses shall be permitted in the OB zone in the Richards Boulevard special planning district:

i. Cafes, restaurants, delis.

ii. Ground floor commercial, retail or service uses as allowed by Chapter 17.28 of this title.

iii. Other Conditionally Permitted Uses. The following uses shall be permitted in the OB zone in the Richards Boulevard special planning district, subject to approval of a special permit:

(A) Multiple family residential;

(B) Hotels/motels.

iv. Ground Floor Retail Requirement. Twenty-five (25) percent of the street level frontage of a building along Richards Boulevard and 7th Street shall be occupied by retail or personal service business uses as designated in Table 1 of Section 17.96.070 of this title.

2. Master Plan or Planned Unit Development Requirement. Applications for the development of sites of five acres or more shall concurrently submit a master plan or apply for a planned unit development (PUD) designation which includes a schematic plan and development guidelines pursuant to the provisions contained in Chapter 17.180 of this title. The master plan or PUD designation, schematic plan and PUD guidelines shall be processed concurrently with the special permit or planning director plan review application, if applicable.

a. The contents of the master plan or PUD schematic plan and development guidelines shall include an overall schematic plan designating the acreage proposed for each parcel, location of proposed land uses, general description of the types and intensities of uses, building elevations, heights, square footage, parking, open space and the proposed pedestrian, bicycle and traffic circulation system.

3. Development Standards. Notwithstanding the provisions of this title the following development standards shall apply:

a. Density and Intensity.

i. Minimum Floor Area Ratio (FAR).

(A) Office development shall be developed with a minimum net FAR of 1.0;

(B) Office development within the 7th Street Loop (one-eighth of a mile from the intermodal terminal) shall be developed with a minimum net FAR of 4.0.

ii. Maximum Floor Area Ratio (FAR).

(A) Office development shall be developed at a maximum FAR of 3.0;

(B) Office development within the 7th Street Loop (one-eighth of a mile from the intermodal terminal) shall be developed with a maximum FAR of 6.0;

iii. Residential Density. The permitted density range shall be a minimum of twenty-five (25) dwelling units per net acre and a maximum of sixty-five (65) dwelling units per net acre.

b. Height.

i. Buildings within the 7th Street Loop (one-eighth of a mile of the intermodal terminal) shall be permitted to a maximum height of four hundred (400) feet.

ii. Buildings outside the 7th Street Loop (one-eighth of a mile of the intermodal terminal) may not exceed eighty-five (85) feet in height, provided that a special permit may be granted to permit buildings of additional height if the project meets the following criteria:

(A) Either the building is located within six hundred sixty (660) feet of an existing or proposed light rail station (the six hundred sixty (660) foot distance shall be measured from the center point of the block designated for a station to the subject site); or the proposed project involves an expansion of an office use that is currently located in the Richards Boulevard area and served by public transportation that complies with RT service standards; and

(B) The project does not exceed the maximum FAR of 3.0; and

(C) Applicant agrees to enter into an owner participation agreement to meet city redevelopment and planning objectives for the area; and

(D) The project contributes to increased massing at important intersections; and

(E) Additional height (over eighty-five (85) feet) is stepped back from the building face so that the forty (40) foot base height is the most predominate portion of the building, similar to the urban design guidelines for the central business district as well as additional change in surface plane to break up long facades, orientation of building to transit facilities, transit enhancing amenities (e.g., colonnades, retail to serve patrons, etc.), and roof top treatments; and

(F) A minimum twenty (20) percent of the required open space is provided on site. The open space shall be incorporated into the building site to break up building mass, to enhance the pedestrian environment and promote arts in public places.

c. Setbacks.

i. Street Setbacks.

(A) No setbacks shall be required along 7th Street, south of Richards Boulevard except, that the tower portion above eighty-five (85) feet shall be set back fifteen (15) feet from the property line.

(B) Development along 7th Street, north of Richards Boulevard shall provide a twenty-five (25) foot landscaped setback.

(C) Setbacks from all other street frontages shall be ten (10) feet.

(D) Buildings which exceed the eighty-five (85) foot height limit shall provide a minimum fifteen (15) foot setback from the property line, except as noted in subsections (B)(3)(c)(i)(A) and (B)(3)(c)(i)(B) of this section. The portion of the tower above eighty-five (85) feet shall be stepped back an additional fifteen (15) feet from the property line as appropriate

(e.g., 7th Street, north of Richards Boulevard forty (40) feet; 7th Street, south of Richards Boulevard fifteen (15) feet; all other streets twenty-five (25) feet).

ii. Rear and Interior Side Yard Setbacks. Buildings shall be set back fifteen (15) feet from the rear and interior side yard property line. The setback area shall be landscaped and planted with minimum fifteen (15) gallon trees planted thirty (30) feet on center.

d. Hazardous Materials. A hazardous material investigation shall be undertaken as part of the rezone or special permit application. A Phase I site investigation, and, if warranted, a Phase II site assessment and appropriate clean-up, shall be required prior to approval of the rezone or special permit.

e. Wall Requirements. Any development which abuts a residential use or zone or a lot zoned M-2, shall provide a minimum six foot high wall of solid brick, masonry or similar material along the property line.

f. Open Space Requirements.

i. Open space shall be provided at a ratio of one square foot of open space per ten (10) square feet of development.

ii. Open space shall be provided on-site; provided that subject to approval of an owners participation agreement (OPA) by the redevelopment agency or a development agreement (DA) or other similar agreement or arrangement by the city, the open space may be provided off-site. Off-site open space provided pursuant to such agreements or arrangements shall be provided as part of the same development proposal, and shall be located within the Richards Boulevard area.

iii. Open space provided on-site shall be in the form of courtyards, public plazas or other spaces as determined by the planning commission.

iv. Office developments of one hundred thousand (100,000) square feet or more shall provide a minimum two thousand five hundred (2,500) square foot on-site courtyard or plaza area.

v. Courtyards and plazas shall be a minimum of two thousand five hundred (2,500) square feet and shall not exceed eighty-five thousand (85,000) square feet. Courtyard and plaza square footage requirement shall not include required landscaped setback areas, except that required landscaped setback areas may be counted towards the open space requirement provided that the landscape areas contribute to the active or passive enjoyment of employees of the office development as determined by the planning commission.

(A) Courtyards and plazas shall be oriented toward pedestrian linkages or located adjacent to people-oriented uses (such as retail or restaurants).

(B) Courtyards and plazas shall incorporate, but not be limited to, one or more of the following features:

1. Landscaping (i.e., turf, trees, flower gardens, etc.);
2. Decorative paving (i.e., tile, cobblestone, colored concrete, etc.);
3. Public art pieces;
4. Water features (i.e., ponds, reflecting pools, etc.);
5. Seating areas;

6. Canopies;

7. Lighting.

(C) Courtyard and plaza features shall be complimentary to the building architecture. Design elements, materials, colors, and lighting should be contextual with the proposed building or existing adjacent buildings.

g. Parking Requirements.

i. Office.

(A) Minimum Off-Street Parking. The minimum required off-street vehicle parking spaces for office is one space for every six hundred (600) gross square feet of floor area.

(B) Maximum Off-Street Parking. The maximum amount of off-street vehicle parking permitted for office is one space for every five hundred (500) gross square feet of floor area.

(C) Parking Reduction Related to Trip Reduction Measures. Parking may be reduced to a minimum ratio of one parking space for every one thousand (1,000) gross square feet of floor area provided that additional TSM measures, beyond those mandated by the developer TSM ordinance, shall be implemented in order to support the minimum parking requirements. The developer transportation management plan (TMP) must be submitted concurrently with the special permit application to justify the requested parking reduction.

ii. Commercial or Retail.

(A) Vehicle parking shall not be required for a commercial or retail use provided that such use is a component of a residential or office project and provided that such use does not exceed five thousand (5,000) gross square feet per building. If parking is provided for the commercial or retail use the maximum amount of off-street vehicle parking permitted for such use shall be one space per four hundred fifty (450) gross square feet of floor area.

(B) One vehicle parking space per four hundred fifty (450) gross square feet shall be required for a commercial or retail use provided that such use is a component of a residential or office project and provided that such use does not exceed nine thousand six hundred (9,600) square feet per building. The maximum amount of off-street vehicle parking permitted shall be one space per four hundred (400) gross square feet of floor area for the commercial or retail use.

(C) One vehicle parking space per four hundred (400) gross square feet shall be required for a commercial or retail use provided that such use is a component of a residential or office project and provided that such use exceeds nine thousand six hundred (9,600) gross square feet per building. The maximum amount of off-street vehicle parking permitted shall be one space per two hundred fifty (250) gross square feet of floor area for the commercial or retail use.

iii. Restaurant.

(A) Minimum Off-Street Parking. The minimum required off-street vehicle parking spaces for a restaurant use, provided that the use is a component of a residential or office project is one space per four hundred fifty (450) gross square feet of floor area.

(B) Maximum Off-Street Parking. The maximum amount of off-street vehicle parking permitted for a restaurant use, provided that the use is a component of a residential or office project is one space per one hundred (100) gross square feet of floor area.

iv. Other nonresidential uses or nonresidential uses not a component of a residential or office project shall be required to provide parking as set forth in Chapter 17.64 of this title.

v. Minimum Bicycle Parking Requirements.

(A) Office. One bicycle parking facility is required for every six thousand (6,000) gross square feet of building area. Fifty (50) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

(B) Commercial. One bicycle parking facility is required for every twelve thousand five hundred (12,500) gross square feet of occupied space. Twenty-five (25) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

(C) Restaurant. One bicycle parking facility is required for every fifty (50) seats. Twenty-five (25) percent of the required bicycle facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

(D) Apartments. One bicycle parking facility is required for every ten (10) units. Fifty (50) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

h. Design Review. All development shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title.

C. Highway Commercial (HC and HC(PC)) Zone.

1. Uses. Except as otherwise provided herein, (1) uses permitted in the HC/HC(PC) zone outside of the Richards Boulevard special planning district by this title shall be permitted in the HC/HC(PC) zone in the Richards Boulevards special planning district; and (2) if this title requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the HC/HC(PC) zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

a. Permitted Uses. The following additional uses shall be permitted in the HC/HC(PC) zone in the Richards Boulevard special planning district:

i. Recreation-oriented retail, such as bicycle rental or fishing and tackle shop;

ii. Visitor centers;

iii. Office uses lawfully established and operational prior to July 1, 1994.

b. Additional Uses Allowed by a Zoning Administrator's Special Permit. Zoning administrator special permit may allow other similar recreation or visitor-serving uses which enhance public access and recreational use of the riverfront.

2. Development Standards. Notwithstanding the provisions of this title the following development standards shall apply:

a. Height.

i. Buildings shall not exceed forty-five (45) feet in height.

ii. Within the American River parkway corridor (PC) zone, development shall comply with the height limitations of the American River parkway corridor zone.

b. Setbacks. A ten (10) foot landscaped setback shall be provided from all street

frontages.

c. Minimum Bicycle Parking Requirements.

i. Commercial. One bicycle parking facility is required for every twelve thousand five hundred (12,500) gross square feet of occupied space. Twenty-five (25) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

ii. Restaurant. One bicycle parking facility is required for every fifty (50) seats. Twenty-five (25) percent of the required bicycle facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

d. Design Review. All development shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title.

D. Heavy Commercial (C-4 and C-4(PC)) Zone.

1. Uses. Except as otherwise provided herein, (1) uses permitted in the C-4/C-4(PC) zone outside of the Richards Boulevard special planning district by the comprehensive zoning ordinance shall be permitted in the C-4/C-4(PC) zone in the Richards Boulevard special planning district; and (2) if the comprehensive zoning ordinance requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the C-4/C-4(PC) zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

a. Office Uses. Office uses shall be permitted in the CA zone as follows:

i. Permitted as a Matter of Right. Office use, including medical clinic and medical offices, shall be permitted as a matter of right only if they are related to a commercial/industrial use located in the same building or on the same parcel and do not occupy more than twenty-five thousand (25,000) square feet or twenty-five (25) percent of the gross floor area of the building on the site, whichever is less. Where multiple buildings are located on a single parcel, the maximum amount of space that may be devoted to office use, which shall be related to the commercial/industrial use(s) on that parcel shall be twenty-five (25) percent of the total square foot floor area of all buildings on that parcel or twenty-five thousand (25,000) square feet, whichever is less.

ii. Office Use of Buildings in Existence on January 1, 1997—Special Permit Required. Subject to approval of a special permit by the zoning administrator or planning commission pursuant to the following provisions, buildings existing on January 1, 1997 may be devoted to office space that is unrelated to a commercial/industrial use or exceeds the limitations set forth in subsection (D)(1)(a)(i) of this section.

(A) Zoning Administrator Authority. The zoning administrator shall have the authority to approve a special permit to allow for office use of a building existing on January 1, 1997 where the office use is not related to a commercial/industrial use located in the same building or on the same parcel or where the office use will exceed the twenty-five thousand (25,000) square feet or twenty-five (25) percent limitation set forth in subsection (D)(1)(a) of this section, provided that the maximum amount of office space that the zoning administrator may approve for a single parcel shall be fifty thousand (50,000) square feet; and provided further that the establishment or expansion of office use shall be limited to tenant improvements of buildings

existing on January 1, 1997, and shall not involve the addition or expansion of the square footage of such existing buildings or the construction of a new building.

(B) Planning Commission Authority. The planning commission shall have the authority to approve a special permit to allow for office use of a building existing on January 1, 1997 where the office use is not related to a commercial/industrial use located in the same building or on the same parcel or where the office use will exceed the twenty-five (25) percent or twenty-five thousand (25,000) square feet limitation set forth in subsection (D)(1)(a) of this section, and where the amount of office space exceeds that which the zoning administrator is authorized to approve pursuant to subsection (D)(1)(a)(i) of this section, provided that the maximum amount of office space that the planning commission may approve for a single parcel shall be one hundred thousand (100,000) square feet; and provided further that the establishment or expansion of office use shall be limited to tenant improvements of buildings existing on January 1, 1997, and shall not involve the addition or expansion of the square footage of such existing buildings or the construction of a new building.

b. Conditionally Permitted Uses. The following additional uses shall be permitted in the C-4/C-4(PC) zone in the Richards Boulevard special planning district, subject to approval of a special permit.

i. Single Room Occupancy (SRO) Housing Units. The units shall comply with the standards set forth in Section 17.24.050(50) of this title and other conditions the planning commission may add to ensure that the proposed use satisfies the requirements of Chapter 17.212 of this title.

2. Development Standards. Notwithstanding the provisions of this title, the following development standards shall apply:

a. Density. Residential development shall not exceed a maximum of sixty-five (65) dwelling units per net acre.

b. Setbacks.

i. Along North 12th Street (proposed Gateway Boulevard) a fourteen (14) foot landscaped setback shall be provided.

ii. Residential projects shall provide a minimum ten (10) foot landscaped setback along all street frontages.

iii. Rear and Interior Side Yard Setbacks. Lots which abut a residential use or zone shall provide a ten (10) foot landscaped setback. The setback area shall be landscaped, at a minimum fifteen (15) gallon trees planted twenty-five (25) feet on center.

(A) Residential development shall provide a minimum ten (10) foot setback along the rear and side property lines.

c. Wall Requirements. Lots which abut a residential use or zone, shall provide a minimum six foot high wall of solid brick, masonry or similar material along the property line.

d. Minimum Bicycle Requirements.

i. Commercial. One bicycle parking facility is required for every twelve thousand five hundred (12,500) gross square feet of occupied space. Twenty-five (25) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

ii. Restaurant. One bicycle parking facility is required for every fifty (50) seats. Twenty-five (25) percent of the required bicycle facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

e. Design Review. All development shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title.

E. Heavy Industrial (M-2) Zone. Within the industrial zone in the Richards Boulevard special planning district, there shall be four geographic areas (Exhibit A), designated east, north, central and west which establish different development standards. The boundaries of the area are (1) east: east of 16th Street and south of Thornton Avenue, as shown on Exhibit A; (2) north: extending from approximately three hundred seventeen (317) feet west of North 3rd Street on the west to the Dos Rios housing development on the east; American River on the north; and approximately three hundred fifty (350) feet north of Richards Boulevard east of the proposed light rail transit alignment, and Richards Boulevard for property west of the light rail transit alignment on the south, as shown on Exhibit A; (3) central; described as Southern Pacific rail lines on the south, North 10th Street on the east, lots fronting on Richards Boulevard on the north and the water treatment plant and the HC zone on the west, as shown on Exhibit A; and, (4) west: bounded by I-5 on the west, Southern Pacific rail lines on the south, Bannon Street on the north and proposed 5th Street on the east, as shown on Exhibit A.

1. Heavy Industrial (M-2 and M2(PC)) Zone (East).

a. Uses. Except as otherwise provided herein, (1) uses permitted in the M-2/M-2(PC) zone outside of the Richards Boulevard special planning district by this title shall be permitted in the M-2/M-2(PC) zone (east) in the Richards Boulevard special planning district; and (2) if this title requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the M-2/M-2(PC) zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

i. Prohibited Uses. The following uses are prohibited in the M-2/M-2(PC) zone (east) in the Richards Boulevard special planning district:

(A) Office use which exceeds twenty-five (25) percent of the gross floor area of the building(s) on the parcel on which they are located.

b. Development Standards. Notwithstanding the provisions of this title, the following development standards shall apply:

i. South Shore of American River. Development along the south shore of the American River shall demonstrate that all required permits have been obtained from all state and federal agencies with jurisdiction along the river.

ii. Minimum Bicycle Parking Requirements.

(A) Industrial. One bicycle parking facility is required for every twenty-five thousand (25,000) gross square feet of building area. Fifty (50) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

(B) Commercial. One bicycle parking facility is required for every twelve thousand five hundred (12,500) gross square feet of building area. Twenty-five (25) percent of the required bicycle parking facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

(C) Restaurant. One bicycle parking facility is required for every fifty (50) seats. Twenty-five (25) percent of the required bicycle facilities shall be Class I. The remaining facilities may be Class I, Class II or Class III.

c. Design Review. All development shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title.

2. Heavy Industrial (M2 and M2(PC)) Zone (North).

a. Uses. Except as otherwise provided herein, (1) uses permitted in the M-2/M-2(PC) zone outside of the Richards Boulevard special planning district by the comprehensive zoning ordinance shall be permitted in the M-2/M-2(PC) zone (north) in the Richards Boulevard special planning district; and (2) if the comprehensive zoning ordinance requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the M-2/M-2(PC) zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

i. Office Uses. Office uses shall be permitted in the M-2/M-2(PC) zone as follows:

(A) Permitted as a Matter of Right. Office use, including medical clinic and medical offices, shall be permitted as a matter of right only if they are related to a commercial/industrial use located in the same building or on the same parcel and do not occupy more than twenty-five thousand (25,000) square feet or twenty-five (25) percent of the gross floor area of the building on the site, whichever is less. Where multiple buildings are located on a single parcel, the maximum amount of space that may be devoted to office use, which shall be related to the commercial/industrial use(s) on that parcel shall be twenty-five percent of the total square foot floor area of all buildings on that parcel or twenty-five thousand (25,000) square feet, whichever is less.

(B) Office Use of Buildings in Existence on January 1, 1997—Special Permit Required. Subject to approval of a special permit by the zoning administrator or planning commission pursuant to the following provisions, buildings existing on January 1, 1997 may be devoted to office space that is unrelated to a commercial/industrial use or exceeds the limitations set forth in subsection (E)(2)(a)(i)(A) of this section.

(1) Zoning Administrator Authority. The zoning administrator shall have the authority to approve a special permit to allow for office use of a building existing on January 1, 1997 where the office use is not related to a commercial/industrial use located in the same building or on the same parcel or where the office use will exceed the twenty-five thousand (25,000) square feet or twenty-five (25) percent limitation set forth in subsection (E)(2)(a)(i)(A) of this section, provided that the maximum amount of office space that the zoning administrator may approve for a single parcel shall be fifty thousand (50,000) square feet; and provided further that the establishment or expansion of office use shall be limited to tenant improvements of buildings existing on January 1, 1997, and shall not involve the addition or expansion of the square footage of such existing buildings or the construction of a new building.

(2) Planning Commission Authority. The planning commission shall have the authority to approve a special permit to allow for office use of a building existing on January 1, 1997 where the office use is not related to a commercial/industrial use located in the same building or on the same parcel or where the office use will exceed the twenty-five (25) percent or twenty-

five thousand (25,000) square feet limitation set forth in subsection (E)(2)(a)(i)(A) of this section, and where the amount of office space exceeds that which the zoning administrator is authorized to approve pursuant to subsection (E)(2)(a) of this section, provided that the maximum amount of office space that the planning commission may approve for a single parcel shall be one hundred thousand (100,000) square feet; and provided further that the establishment or expansion of office use shall be limited to tenant improvements of buildings existing on January 1, 1997, and shall not involve the addition or expansion of the square footage of such existing buildings or the construction of a new building.

ii. Conditionally Permitted Uses. The following additional uses shall be permitted in the M-2/M-2(PC) zone north in the Richards Boulevard special planning district, subject to approval of a special permit:

(A) Multiple family residential;

(B) Single Room Occupancy (SRO) Housing Units. The units shall comply with the standards set forth in Section 17.24.050(50) of this title and other conditions the planning commission may add to ensure that the proposed use satisfies the requirements of Chapter 17.212 of this title;

(C) Hotels and motels;

(D) Live/work units.

iii. Prohibited Uses. The following uses are prohibited in the M-2/M-2(PC) zone (north) in the Richards Boulevard special planning district:

(A) Adult entertainment establishment or activity;

(B) Adult related establishments;

(C) Auto wrecking;

(D) Beverage bottling plant;

(E) Bus and other transit vehicle maintenance and storage;

(F) Boat building;

(G) Cement or clay products manufacturing;

(H) Concrete batch plant;

(I) Dairy products processing;

(J) Food processing, except as lawfully established and operational prior to July 1, 1994;

(K) Fuel yard;

(L) Junk yard;

(M) Lumber yard;

(N) Machine shop, except as lawfully established and operational prior to July 1,1994;

(O) Material recovery facility/yard waste composting facility (recycling plant);

(P) Monument works—stone;

(Q) Nonprofit organization food storage and distribution, food preparation for off-site consumption, meal service facility, as defined in Chapter 17.16 of this title;

(R) Petroleum storage;

(S) Planing mill;

(T) Public utility yard;

(U) Railroad yard or shop;

(V) Terminal yard, trucking;

(W) Towing service and storage yard;

(X) Truck and tractor repair;

(Y) Other heavy industrial uses, similar to the above uses, which the planning commission determines to inhibit future development consistent with the Richard Boulevard area plan.

iv. Exception—Existing Uses. A use otherwise prohibited by subsection (E)(2)(a)(iii) of this section, but which was lawfully in existence and operational on July 1, 1994 may be continued, and may be altered, modified and expanded on the parcel or parcel(s) on which it was located on July 1, 1994 in the same manner and to the same extent that this title allows for the alteration, modification and expansion of such use in the M-2 zone areas outside of the Richards Boulevard special planning district and other special planning districts; provided that to the extent the use is modified, altered or expanded, such modification, alteration or expansion shall meet the development standards set forth in subsection (E)(2)(b) of this section and shall be subject to design review pursuant to subsection (E)(2)(c) of this section.

v. Residential projects shall be reviewed pursuant to the standards in the Richards Boulevard special planning district RMX zone, subsection A of this section.

b. Development Standards. Notwithstanding the provisions of this title, the following development standards shall apply:

i. Setbacks.

(A) A twenty-five (25) foot landscaped setback shall be provided and maintained along North 7th Street.

(B) A ten (10) foot landscaped setback shall be provided and maintained on all other street frontages.

(C) A fifteen (15) foot setback shall be provided from all interior property lines. The setback area shall be landscaped with mounded turf and/or live ground cover and shrubs and at a minimum fifteen (15) gallon trees planted thirty (30) feet on center.

(D) For existing buildings which have been lawfully constructed with less than the required setback, additions to the building may follow the existing building plane, provided that the addition shall not encroach further into the required setback area.

ii. Wall Requirement. Lots which abut a vacant lot, residential zone or use, shall provide a minimum six foot high wall of solid brick, masonry or other similar material wall along the property line.

iii. South Shore of American River. Development along the south shore of the American River shall demonstrate that all required permits have been obtained from all state and federal agencies with jurisdiction along the river.

iv. Parking shall comply with the requirements in Chapter 17.64 of this title provided

that along the south side of the American River parking areas shall be located no closer than one hundred (100) feet to the toe of the levee.

v. Expansion of Existing Buildings. Buildings or structures which are expanded shall comply with the following requirements:

(A) The proposed area of expansion shall conform to all current development standards, except as provided in subsection (E)(2)(b)(i)(D) of this section.

(B) All exterior improvements shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title,.

(C) Minor improvements to facades fronting on streets shall be required when an expansion occurs. Facade improvements, may include but are not limited to paint and awnings.

(D) Front landscaping shall be required, if determined to be appropriate and required by design review approval.

(E) Site improvements to fencing, signage, and trash enclosures shall be required to improve the appearance of the site which is in view of the public.

vi. Construction on vacant lots shall conform to the current development standards, provided that all uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence (i.e., cyclone fence with slats, wood, etc.) or wall (i.e., masonry, brick, etc.) at least six feet in height. No material or supplies shall be stored within any required landscaped setback areas.

c. Design Review. All development shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title.

3. Heavy Industrial (M-2) Zone (Central).

a. Uses. Except as otherwise provided herein, (1) uses permitted in the M-2 zone outside of the Richards Boulevard special planning district by the comprehensive zoning ordinance shall be permitted in the M-2 zone (central) in the Richards Boulevard special planning district; and (2) if the comprehensive zoning ordinance requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the M-2 zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

i. Office Uses. Office uses shall be permitted in the M-2 zone as follows:

(A) Permitted as a Matter of Right. Office use, including medical clinic and medical offices, shall be permitted as a matter of right only if they are related to a commercial/industrial use located in the same building or on the same parcel and do not occupy more than twenty-five thousand (25,000) square feet or twenty-five (25) percent of the gross floor area of the building on the site, whichever is less. Where multiple buildings are located on a single parcel, the maximum amount of space that may be devoted to office use, which shall be related to the commercial/industrial use(s) on that parcel shall be twenty-five (25) percent of the total square foot floor area of all buildings on that parcel or twenty-five thousand (25,000) square feet, whichever is less.

(B) Office Use of Buildings in Existence on January 1, 1997—Special Permit Required. Subject to approval of a special permit by the zoning administrator or planning

commission pursuant to the following provisions, buildings existing on January 1,1997 may be devoted to office space that is unrelated to a commercial/industrial use or exceeds the limitations set forth in subsection (E)(3)(a)(i)(A) of this section.

(1) Zoning Administrator Authority. The zoning administrator shall have the authority to approve a special permit to allow for office use of a building existing on January 1, 1997 where the office use is not related to a commercial/industrial use located in the same building or on the same parcel or where the office use will exceed the twenty-five thousand (25,000) square feet or twenty-five (25) percent limitation set forth in subsection (E)(3)(a)(i)(A) of this section, provided that the maximum amount of office space that the zoning administrator may approve for a single parcel shall be fifty thousand (50,000) square feet; and provided further that the establishment or expansion of office use shall be limited to tenant improvements of buildings existing on January 1, 1997, and shall not involve the addition or expansion of the square footage of such existing buildings or the construction of a new building.

(2) Planning Commission Authority. The planning commission shall have the authority to approve a special permit to allow for office use of a building existing on January 1, 1997 where the office use is not related to a commercial/industrial use located in the same building or on the same parcel or where the office use will exceed the twenty-five (25) percent or twenty-five thousand (25,000) square feet limitation set forth in subsection (E)(3)(a)(i)(A) of this section, and where the amount of office space exceeds that which the zoning administrator is authorized to approve pursuant to subsection (E)(3)(a) of this section, provided that the maximum amount of office space that the planning commission may approve for a single parcel shall be one hundred thousand (100,000) square feet; and provided further that the establishment or expansion of office use shall be limited to tenant improvements of buildings existing on January 1, 1997, and shall not involve the addition or expansion of the square footage of such existing buildings or the construction of a new building.

ii. Conditionally Permitted Uses. The following additional uses shall be permitted in the M-2 zone (central) in the Richards Boulevard special planning district, subject to approval of a special permit:

(A) Hotel/motel.

iii. Prohibited Uses. The following uses are prohibited in the M-2/M-2(PC) zone (central) in the Richards Boulevard special planning district:

(A) Auto wrecking;

(B) Beverage bottling plant;

(C) Cement or clay products manufacturing;

(D) Concrete batch plant;

(E) Dairy products processing;

(F) Food processing;

(G) Fuel yard;

(H) Junk yard;

(I) Material recovery facility/yard waste composting facility (recycling plant);

(J) Nonprofit organization food storage and distribution, food preparation for off-site

consumption, meal service facility, as defined in Chapter 17.16 of this title;

(K) Petroleum storage;

(L) Railroad yard or shop;

(M) Other heavy industrial uses, similar to the above uses, which the planning commission determines to inhibit future development consistent with the Richard Boulevard area plan.

b. Development Standards. Notwithstanding the provisions of this title the following development standards shall apply:

i. Setbacks.

(A) All street frontages shall provide a minimum ten (10) foot landscaped setback.

(B) A fifteen (15) foot setback shall be provided from all interior property lines.

(C) For existing buildings which have been lawfully constructed with less than the required setback, additions to the building may follow the existing building plane, provided that the addition shall not encroach further into the required setback area.

ii. Expansion of Existing Buildings. Buildings or structures which are expanded shall comply with the following requirements:

(A) The proposed area of expansion shall conform to all current development standards, except as provided in this section.

(B) All exterior improvements shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title,.

(C) Minor improvements to facades fronting on streets shall be required when an expansion occurs. Facade improvements, may include but are not limited to paint and awnings.

(D) Front landscaping shall be required, if determined to be appropriate and required by the design review approval.

(E) Site improvements to fencing, signage, and trash enclosures shall be required to improve the appearance of the site which are in view of the public.

iii. Construction on vacant lots shall conform to the current development standards, provided that all uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence (i.e., cyclone fence with slats, wood, etc.) or wall (i.e., masonry, brick, etc.) at least six feet in height. No material or supplies shall be stored within any required landscaped setback areas.

c. Design Review. All development shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title.

4. Heavy Industrial (M-2) Zone (West).

a. Uses. Except as otherwise provided herein, (1) uses permitted in the M-2 zone outside of the Richards Boulevard special planning district by title shall be permitted in the M-2 zone (west) in the Richards Boulevard special planning district; and (2) if this title requires the approval of a special permit or other discretionary entitlement(s) to establish a particular use in the M-2 zone outside of the Richards Boulevard special planning district, approval of the same discretionary entitlement(s) shall be required to establish the use within the Richards Boulevard special planning district.

b. Development Standards. Notwithstanding the provisions of this title, the following development standards shall apply:

i. Setbacks. As permitted by this title, provided that a ten (10) foot landscaped setback shall be required from all street frontages.

c. Design Review. All development shall be subject to design review and shall comply with all applicable design requirements pursuant to Chapter 17.132 of this title.

Attachment 8 – Rezone Ordinance

ORDINANCE NO.

Adopted by the Sacramento City Council

Date

AMENDING TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) BY REZONING CERTAIN REAL PROPERTY FROM HEAVY INDUSTRIAL SPECIAL PLANNING DISTRICT (M-2-SPD) TO RESIDENTIAL MIXED USE PLANNED UNIT DEVELOPMENT SPECIAL PLANNING DISTRICT (RMX-PUD-SPD), OFFICE PLANNED UNIT DEVELOPMENT SPECIAL PLANNING DISTRICT (OB-PUD-SPD) AND AGRICULTURE-OPEN SPACE (A-OS) TOWNSHIP 9 PROJECT (P06-047)(APN:ALL OR PORTIONS OF 001-0020-003, -079, -036, -041, -044, -045, -046; 001-0200-012, -013, -034)

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

Section 1. Title 17 of the Sacramento City Code (the Zoning Code) is amended by rezoning the property shown in the attached Exhibit A, generally described, known, and referred to as Township 9 (APN: All or portions of 001-0020-003, -079, -036, -041, -044, -045, -046; 001-0200-012, -013, -034) and consisting of ± 37.28 net acres, from Heavy Industrial Special Planning District (M-2-SPD) zone to 25.79 ± acres of Residential Mixed Use Planned Unit Development Special Planning District (RMX-PUD-SPD) zone, 6.02 ± acres of Office Planned Unit Development Special Planning District (OB-PUD-SPD) zone, and 5.47 ± acres of Agriculture-Open Space (A-OS) zone.

Section 2. Rezoning of the property shown in the attached Exhibit A, by the adoption of this Ordinance, will be considered to be in compliance with the requirements for the rezoning of property described in the Zoning Code, as amended, as those procedures have been affected by recent court decisions.

Section 3. The City Clerk of the City of Sacramento is directed to amend the official zoning maps, which are part of the Zoning Code, to conform to the provisions of this Ordinance.

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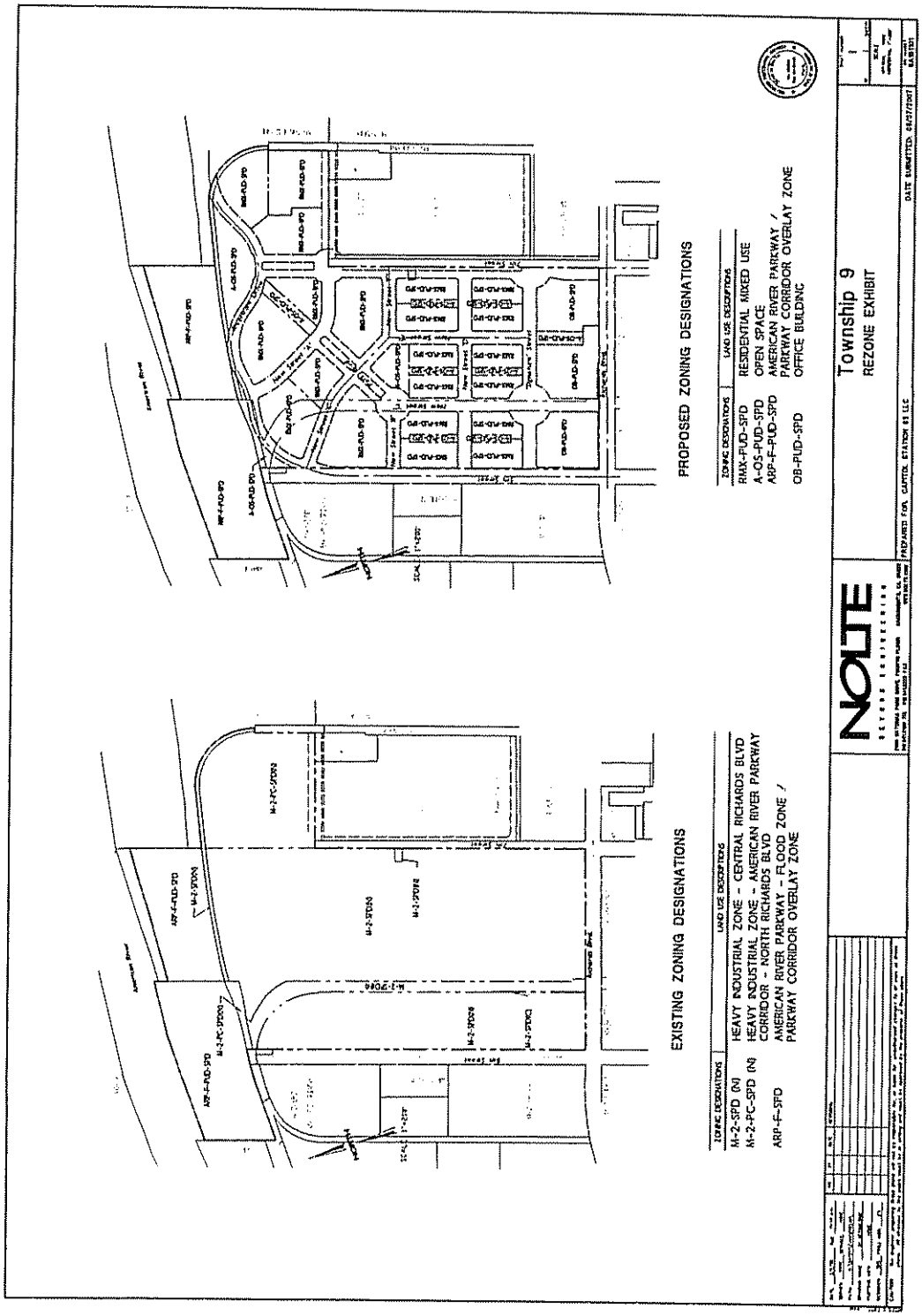
Exhibit A – Rezone



RESOLUTION NO.

Adopted by the Sacramento City Council

ESTABLISHING THE TOWNSHIP 9 PLANNED UNIT DEVELOPMENT (PUD) AND ADOPTING DEVELOPMENT GUIDELINES AND SCHEMATIC PLAN FOR PROPERTY LOCATED AT 430,819 NORTH 7TH STREET AND 424 NORTH 5TH STREET (P06-047) (APN'S: All or portions of 001-0020-003, 019, 034, 036, 041, 044, 044, 046; 001-0200-012, 013 and 034)

BACKGROUND

The City Council conducted a public hearing on August 28, 2007, to consider the establishment of the Township 9 PUD and the adoption of Development Guidelines and Schematic Plan for Township 9. Based on documentary and oral evidence submitted at said public hearing, the City Council hereby finds:

1. The PUD Development Guidelines and Schematic Plan conform to the General Plan, the Central City Community Plan, the Richards Boulevard Area Plan and the Sacramento Blueprint; and

2. The PUD meets the purposes and criteria stated in the City Code (Title 17) in that the PUD facilitates the design of a well-planned facility that will provide a long lasting benefit to the community and the City.

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

Section 1. The City Council of the City of Sacramento, in accordance with the City Code, Title 17, establishes Township 9 Planned Unit Development and adopts Development Guidelines and Schematic Plan as shown on the attached Exhibits A and B).

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Exhibit A: Township PUD Guidelines

Exhibit B: Schematic Plan

Capitol Station 65, LLC

DESIGN GUIDELINES

Township 9

AUGUST 3, 2007

Carter&Burgess

DRAFT

REVIEW

Township 9

Sacramento, California

PUD Design Guidelines

Adopted by Resolution _____

Applicant:

Capitol Station 65, LLC

Consultant:

Carter & Burgess, Inc.

August 3, 2007

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Section 1: Purpose and Intent

1.1 Vision for Community

Township 9 is a mixed-use, urban infill development located on the south bank of the American River in the River District of Sacramento, California. The 65-acre site is generally bounded by the American River to the north, North 5th Street to the west, Richards Boulevard to the south, and North 7th Street to the east. Access to the region is provided via Interstate 5 (a half-mile to the west) State Route 160, (a half-mile to the east) and a future light rail line between downtown Sacramento and the Sacramento International Airport. Direct access to the Central Business District (CBD)—Downtown and Midtown—is provided via 7th Street. The CBD can also be accessed via Jibboom Street and 12th Street. Not only is the CBD within walking distance, alternatives to automobile also include future light rail and bus service and regional bicycle network access via Two Rivers Trail along the American River.

The vision for Township 9 is a vibrant mixed-use neighborhood developed to a human scale in accordance with principles of the Sacramento Blueprint. The plan also incorporates New Urbanism and Smart Growth principles with neighborhood parks,

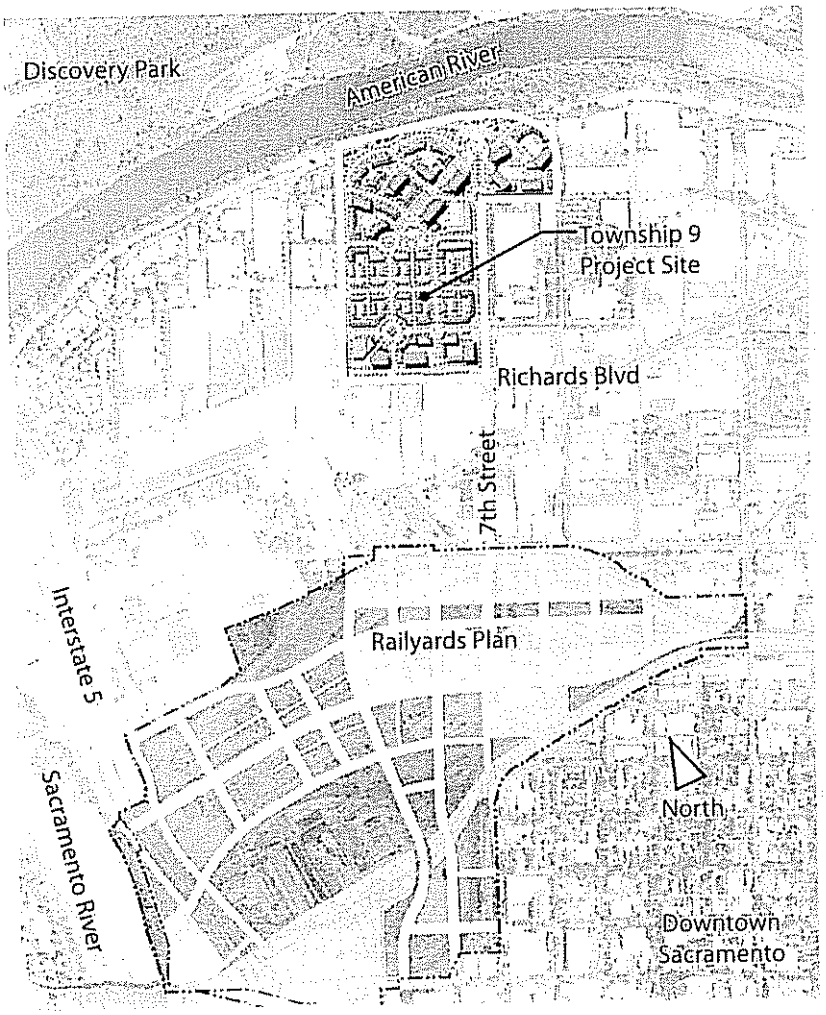


Figure 1 - Vicinity Map

paseos, and tree-lined streets to encourage walking and neighborhood interaction. The pedestrian environment and activated streets will be enhanced by a unified lighting concept, attractive site furnishings and pedestrian-scaled architecture.

1.2 Purpose and Effect of Development Guidelines

The Township 9 Design Guidelines have been adopted by the Sacramento City Council under authority of Chapter 17.180 of Title 17 of the Sacramento City Code (the Zoning Code) to implement the Township 9 Planned Unit Development (PUD) and the Richards Boulevard Area Plan (RBAP). These Guidelines contain the development standards applicable to development within the Township 9 PUD and contain specific details, elements, conditions, and restrictions that the City Council determined to be necessary and appropriate to carry out the vision of the Township 9 PUD.

As authorized under Chapter 17.180 of the Zoning Code, certain zoning regulations related to height, setbacks, area requirements, and other development standards otherwise applicable to the property may have been modified in these Guidelines for the Township 9 PUD. Therefore, to the extent that development standards contained in these Guidelines conflict with provisions of the Zoning Code, the development standards contained in these Guidelines shall apply. City of Sacramento staff will review project applications for conformance to these Guidelines as described below in Section 1.3.

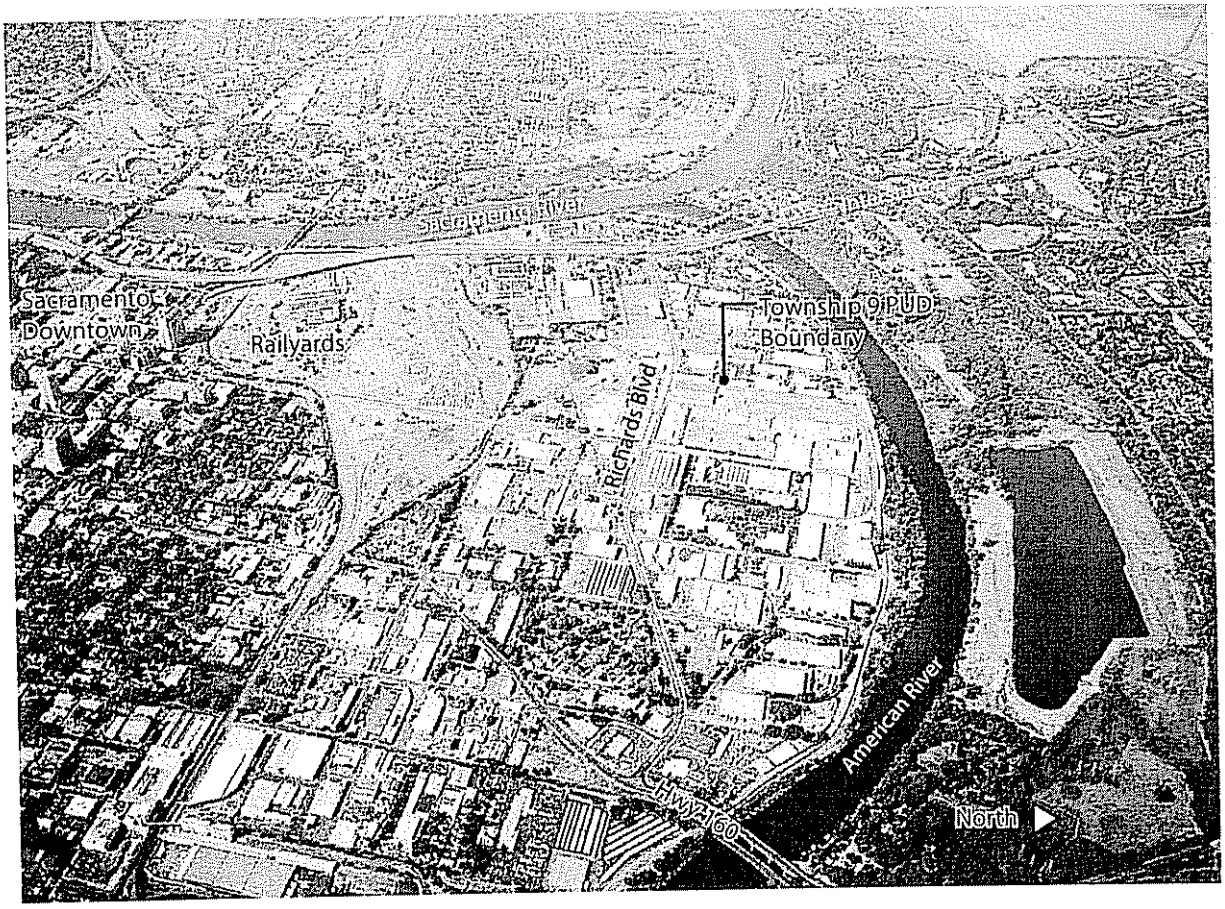


Figure 2 - PUD Boundary

The Township 9 Design Guidelines incorporate by reference a portion of the Central City Urban Design Plan design standards. To the extent that the same subject matter regarding a design standard is not included in these Township 9 Design Standards, then the applicable requirement in the Central City Urban Design Plan shall apply to the Township 9 PUD. As of the date of approval of these Township 9 Design Guidelines, the Central City Urban Design Plan was in draft form. Therefore, the adopted version of the Central City Urban Design Plan, and as it may be amended in the future, will be applicable to the Township 9 PUD to the limited extent as described above.

These Guidelines incorporate both mandates and recommendations. *Where the word "shall" is used it is intended to be a mandate and where the words "should" or "encouraged" are used it is intended to be a recommended guideline.* The mandates are treated as standards with little room for variation whereas the recommendations are subject to some interpretation and have room for minor variations.

These Guidelines have been organized for ease of use by planners, design reviewers, City staff and builders. Section 2: Development Areas describes the overall land use plan and types of uses and buildings envisioned for the project. Section 3: Development Standards establishes design standards for buildings, roadways, and individual parcel development. Section 4: Development Guidelines provides recommended design criteria for architecture, site plans, common use areas and other community elements.

1.3 Procedures for Approval

All development in the Township 9 PUD is subject to Planning Director Plan Review to ensure conformance with the PUD Schematic Plan and these Guidelines. The Plan Review application shall include information required on the standard City application.

The Township 9 Development Agreement provides that the Township 9 PUD is exempt from the special permit requirement for large buildings, as set out in Section 17.60.030 (9) of the Zoning Code. If a proposed use requires a special permit, then review for conformity with the PUD Schematic Plan and these Guidelines would be part of the special permit process as provided in Chapter 17.220 in lieu of the Planning Director's Plan Review process.

Because the Township 9 Project is a PUD, development is not subject to City design review under Chapter 17.132 of the Zoning Code that otherwise is required for all development in the Richards Boulevard SPD (Project applications will also be subject to review by the township 9 Design Review Committee which standards and review may exceed these Guidelines). Section 17.120.020 exempts properties within a planned unit development from design review because the PUD project approval process incorporates design review. The Planning Director's Plan Review process will ensure that projects within the Township 9 PUD comply with these Guidelines. Appeal of a Planning Director's decision regarding Plan Review for a project is set out in Chapter 17.220 of the zoning code.

Amendments to these Guidelines and development project entitlements approved in the Township 9 PUD are subject to review and approval of the City as required by the Zoning Code, and subject to the provisions of the Township 9 Development Agreement.

Section 2: Development Areas

Township 9 is comprised of four distinct development areas linked by a network of pedestrian-friendly streets and open spaces. The design vernacular is "urban mixed-use" where elements of the former cannery building can mix with contemporary mixed-use design elements typically found in warehouse conversion developments. The **Transit Area** is a high density mix of office and/or high-density residential and retail uses adjacent to a future light rail station on Richards Boulevard. **The Central Mixed-Use Area** provides a medium density transition from the intensity of the transit area to a central residential neighborhood. The **Live-Work / Townhouse Area** provides an enclave of primarily residential uses. The **Riverfront Area** is a collection of mid-rise residential buildings with ground floor retail that embrace the new Riverfront Drive along the American River.

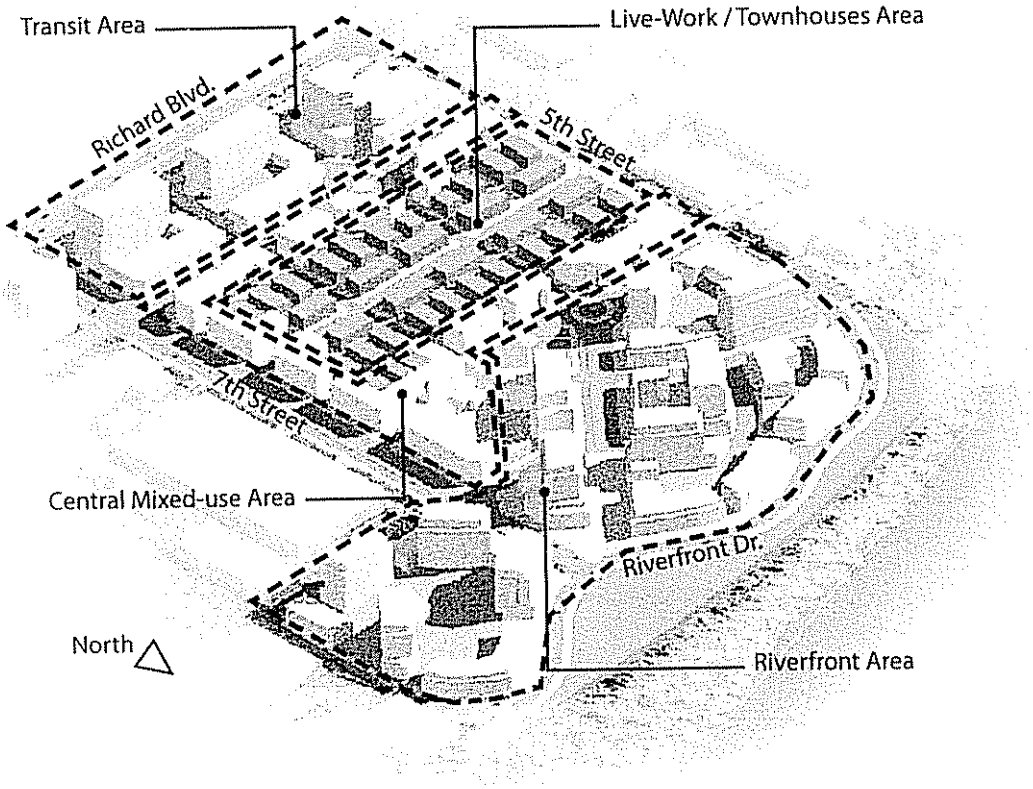


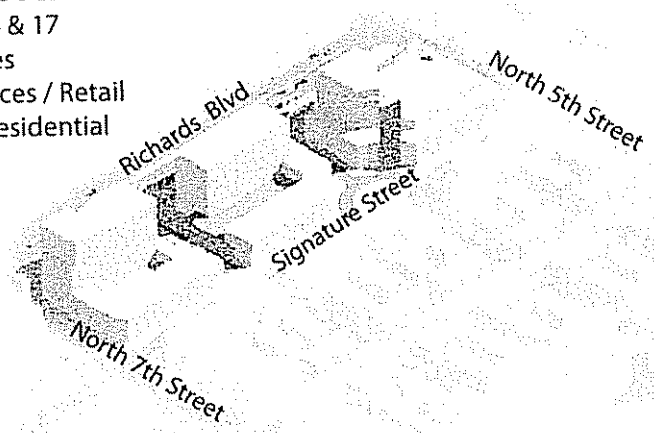
Figure 3 - Development Area Exhibit

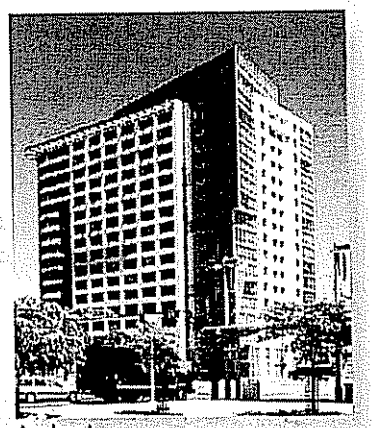
Note: Conceptual Design of Potential Build Out

2.1 *Transit Area*

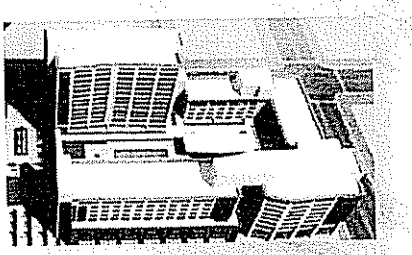
The transit area incorporates a future light rail station and fronts Richards Boulevard, the arterial connecting the project to highways east and west of the site. The Transit Area will also have frontage on Signature Street, the "main street" of Township 9, located parallel to Richards Boulevard and one block north. The Transit Area will be the front door to Township 9 and will have the highest activity, highest densities and tallest buildings. It is planned either for mixed use combinations of multi-family residential or office with ground floor retail. It is anticipated that buildings in this area will have underground parking with the ability to have shared parking. Dramatic downtown views will be provided to users of buildings on these sites.

Transit Area
Lots 13, 14 & 17
8-15 Stories
Mixed Offices / Retail
Possible Residential



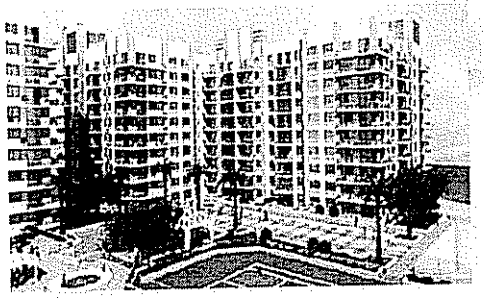


Avalon I
16-story residential
San Francisco, CA
Fisher Friedman, Architects

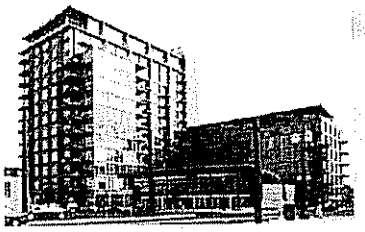


Beacon East
16-story mixed use
San Francisco, CA
SOM/HKS Architects

Unknown project
8-story residential
San Diego, CA



The Edge
15-story residential
West Palm Beach, FL



Pinnacle Condos
14-story residential
Portland, OR

Figure 4 - Building Prototypes - Transit Area

The transit station at Township 9 presents a unique opportunity to preserve the history of this site as one of the prominent canneries in California. The station is envisioned as a partially enclosed warehouse structure built from the trusses and bricks recovered from the largest of the historic cannery buildings on the site.

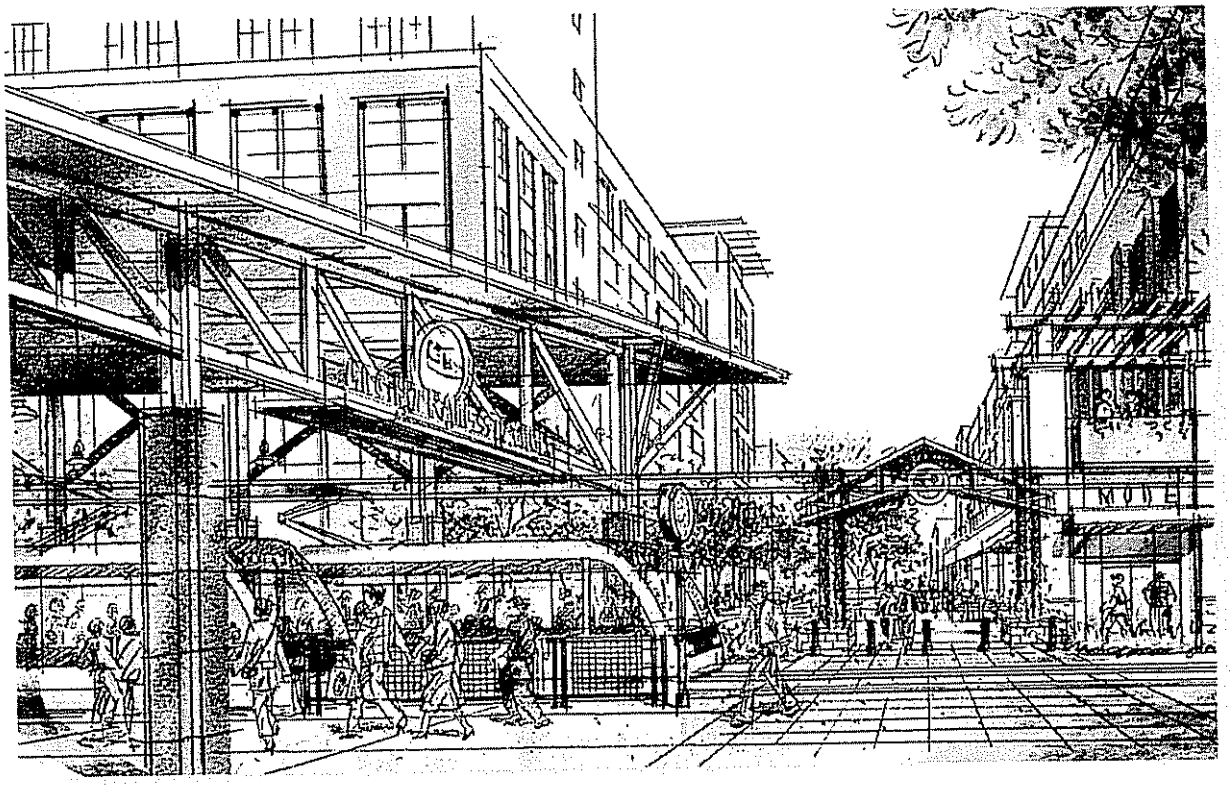


Figure 5 - Transit Station Conceptual Sketch

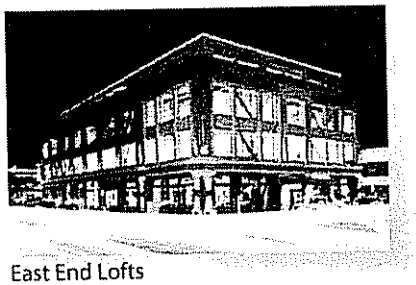
Note: Conceptual Design

2.2 Central Mixed Use Area

The Central Mixed-Use Area provides a transition from the higher density transit area to a lower density residential area in the middle blocks of the project. It is intended to provide an active neighborhood edge and street life while keeping a pedestrian scale. Buildings will be 3 to 5 stories in this area. Retail is expected to serve the surrounding residential neighborhood, except along Signature Street where community or regional uses may occur. Many parcels in this area are within two development areas- the Central Mixed Use and the Live-Work/ Townhouse Area that are discussed below. There is no fixed or defined boundary between the two development areas on any given parcel; however, the Central Mixed-Use Area is intended to have 50' to 100' lot depths fronting major streets, such as Signature Street and North 7th Street, or the area fronting a public open space.

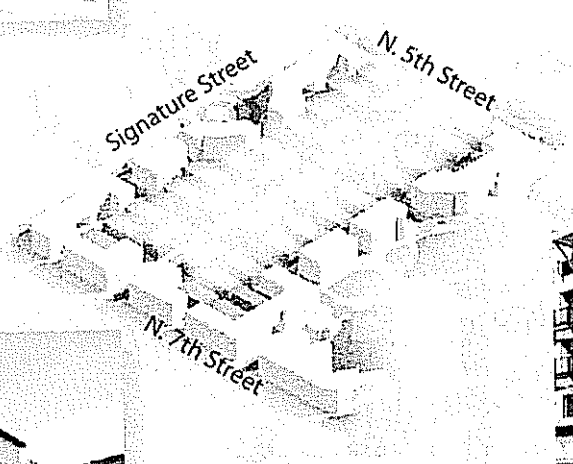
Central Mixed Use Area

Portions of Lots 7, 8, 10, 11, 12, 15 & 16
Mixed use Retail and Residential uses
3-4 stories



East End Lofts
4-story mixed use
Sacramento, CA
Loftworks LLC

200 Second Street
6-story mixed use
Oakland, CA
David Baker+Partners, Architect



'O' Lofts East End Lofts II
4-story mixed use
Sacramento, CA
Loftworks LLC

9th & Flower
Los Angeles, CA

M21
San Diego, CA

4-story mixed use
RTKL, architects

Figure 6 - Building Prototypes - Central Mixed Use Area

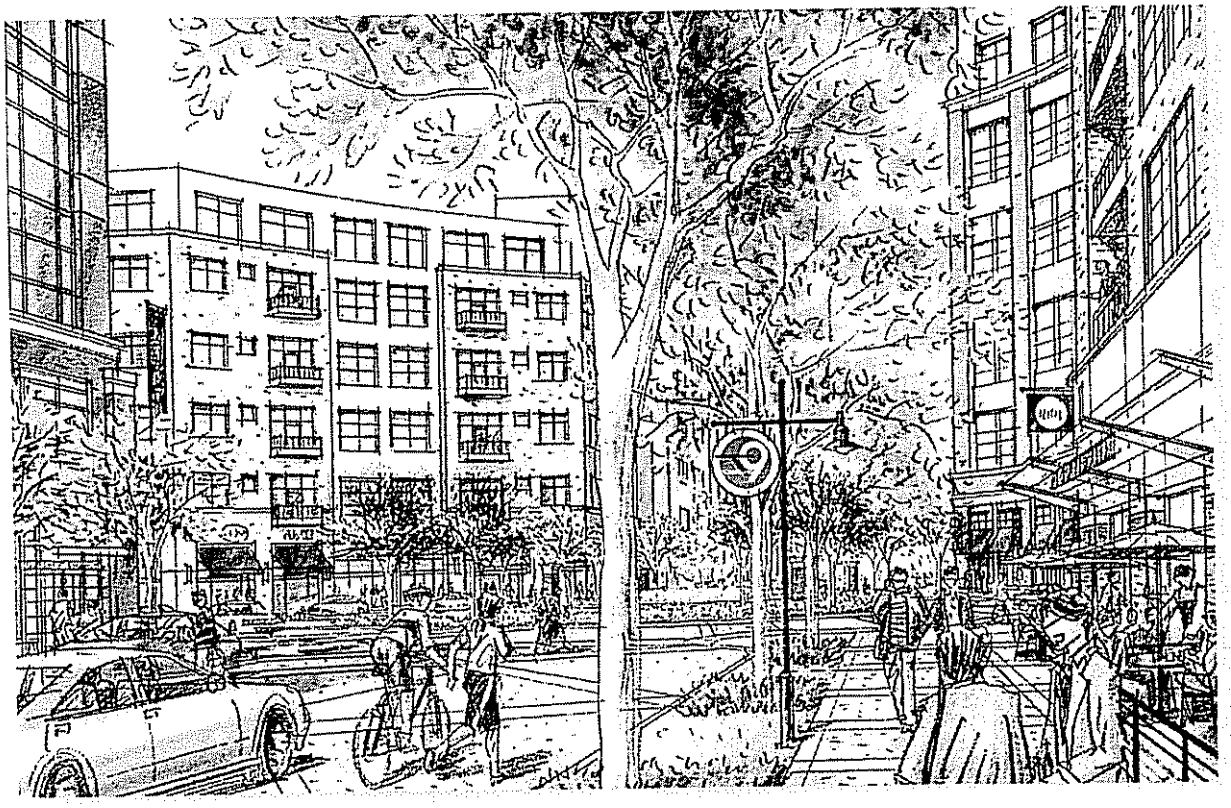


Figure 7 - Central Mixed Use Area Sketch (Traffic Circle With Fountain)

Note: Conceptual Design

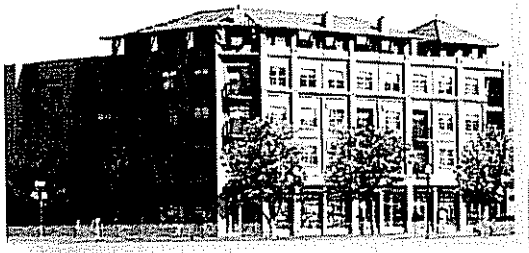
2.3 *Live-Work / Townhouse Area*

This area is planned primarily for multi-family residential use. It will be developed at a pedestrian scale with building story heights limited to low-rise construction. Two to four-story attached residences are expected. The area will have a network of local driveways and pedestrian passages connecting the Transit Area to the Riverfront Area.

Buildings and sites in the Live-Work / Townhouse Area are limited to Multi-family Residential or any non-residential accessory use directly related to Live-Work occupancies that would otherwise be allowed in comparable zones elsewhere in the City and as stipulated by the existing Richards Boulevard Area Plan.

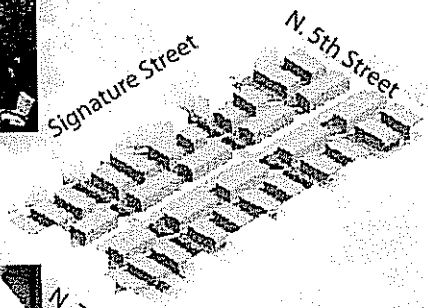
Live-Work / Townhouse Area

Portions of Lots 7, 8, 11, 12, 15 & 16
Residential with supporting uses
2-4 stories



1801 L Street
Sacramento, CA
Urban Capitol Partners
Vrilakas Architects

Tanner Place Condos
Portland, OR



Plaza Julian
San Jose, CA

Pearl Townhouses
Portland, OR

Fremont Mews
Sacramento, CA
CADA

Figure 8 - Building Prototypes - Live-work/Townhouse Area

2.4 *Riverfront Area*

The Riverfront Area encompasses the parcels adjacent to the American River. This is the most unique district because of the visual and physical access to the River. The grade within this district will be elevated to meet the top of the existing levee, thereby eliminating the barrier normally created by a levee. This will benefit users of the Two Rivers Trail by providing access and improved safety while also creating much needed open space and recreational opportunities for residents of Township 9 and the citizens of Sacramento. Riverfront Drive (as prescribed by the Richards Boulevard Specific Plan) is incorporated into this district as a meandering roadway with open space along the north edge and a tree-lined pedestrian walkway and active ground floor buildings to the south (Figure 9).

Buildings in the Riverfront District are primarily high density multi-family residential with ground floor retail. Buildings along Riverfront Drive are limited to 4 stories with front facades and major entrances oriented towards the river to accentuate the prominence of this unique adjacency.

Buildings shall be oriented to minimize the visual impact from the river view while also allowing views of the river and parkway from individual buildings.

To minimize the visual impact of buildings from the river the following guidelines shall be incorporated into each parcel along Riverfront Drive.

- Buildings in this district must adhere to setback standards as defined in Section 3 of this document.
- Street trees shall be planted along Riverfront Drive per the streetscape guidelines in Section 4.7 of this document.
- Building facades visible from the river shall conform to the architectural guidelines in Section 4.2 of this document.
- Building bulk, massing and towers shall conform to the architectural guidelines in Section 3.6 & 3.7 of this document.

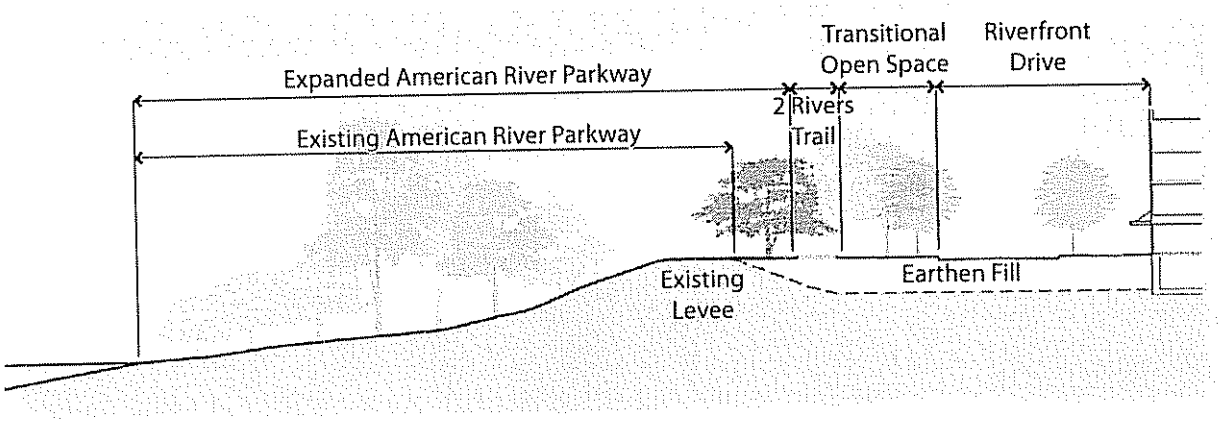
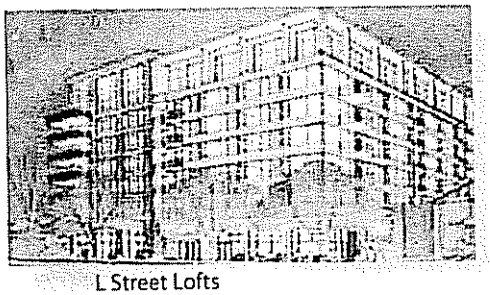


Figure 9 - American River Parkway & Riverfront Park Cross Section

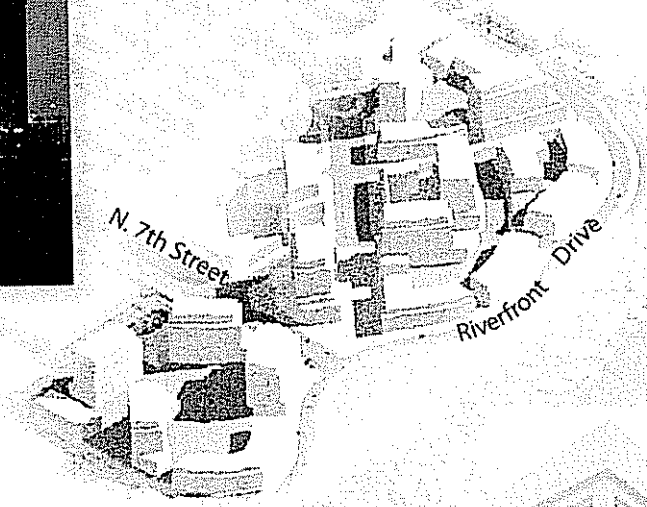
Riverfront Area

Lots 1, 3, 4, 5, 6 & Portion of Lot 10
4-12 stories
12 story towers set back from river 400'
Residential with ground floor retail

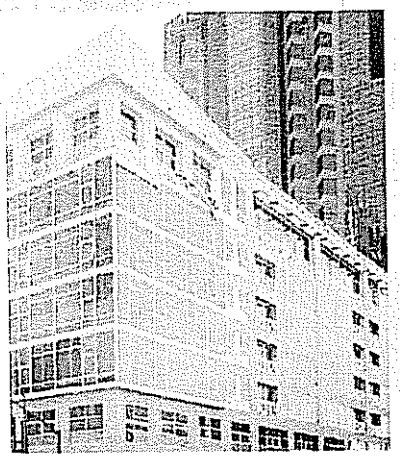


L Street Lofts
7-story mixed use
Sacramento, CA
SKK Development
Ankrom Moisan, Architect

Pinnacle Lofts
Portland, OR



4-story building
Santa Cruz, CA



Plaza Lofts
7-story mixed use
Sacramento, CA
CIM Group
LPA Architects

8-story residential
RTKL, architects

Figure 10 - Building Prototypes - Riverfront Area

Section 3: Development Standards

3.1 Land Use and Zoning

Purpose & Intent: Provide zoning that allows mixed-use development within the PUD. Encourage active ground floor uses within the mixed-use buildings.

The Tentative Map of Township 9 consists of multiple parcels on 65 acres of land, and it is anticipated that multiple final maps will be recorded and further subdivision of the property will occur in the future. The land uses for the development parcels are a combination or residential, retail, office and commercial. There are also several open space parcels to accommodate parks and public spaces. The PUD incorporates flexibility in uses on individual parcels to facilitate changes in market conditions and to encourage creativity in development. Many parcels have a range of potential uses and most are encouraged to have ground floor retail. The specific land uses and zoning by parcel are shown in the following plan and table.

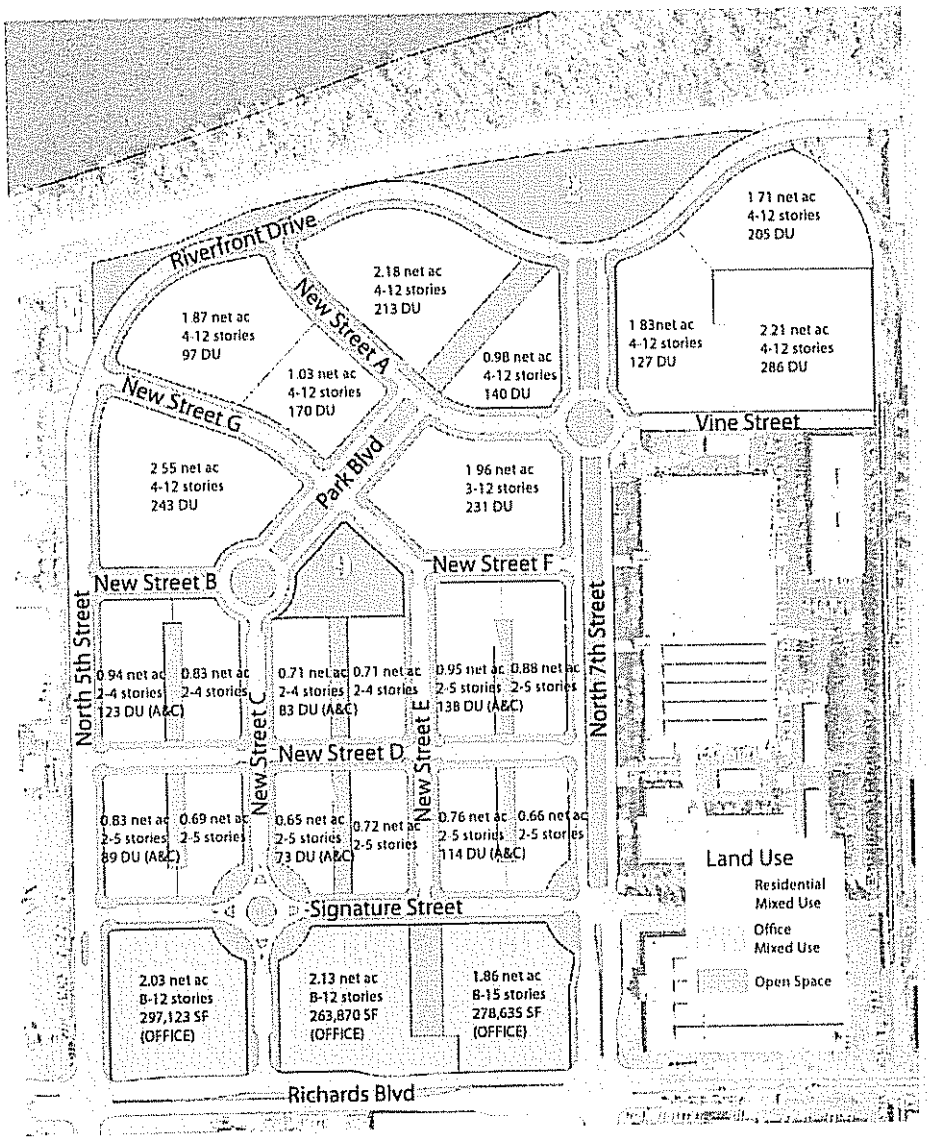


Figure 11 - Land Use Plan

Table 1 - Land Use and Zoning by Parcel

Parcel	Land Use	Zoning		Parcel	Land Use	Zoning
1A	Residential Mixed Use	RMX-PUD		11B	Open Space	A-OS-PUD
1B	Residential Mixed Use	RMX-PUD		11C	Residential Mixed Use	RMX-PUD
1C	Residential Mixed Use	RMX-PUD		12A	Residential Mixed Use	RMX-PUD
2	Open Space	A-OS-PUD & ARP-F-SPD		12B	Open Space	A-OS-PUD
3	Residential Mixed Use	RMX-PUD		12C	Residential Mixed Use	RMX-PUD
4	Residential Mixed Use	RMX-PUD		13	Residential Mixed Use/ Office Mixed Use	OB-PUD
5A	Residential Mixed Use	RMX-PUD		14	Residential Mixed Use/ Office Mixed Use	OB-PUD
5B	Residential Mixed Use	RMX-PUD		15A	Residential Mixed Use	RMX-PUD
6	Residential Mixed Use	RMX-PUD		15B	Open Space	A-OS-PUD
7A	Residential Mixed Use	RMX-PUD		15C	Residential Mixed Use	RMX-PUD
7B	Open Space	A-OS-PUD		16A	Residential Mixed Use	RMX-PUD
7C	Residential Mixed Use	RMX-PUD		16B	Open Space	A-OS-PUD
8A	Residential Mixed Use	RMX-PUD		16C	Residential Mixed Use	RMX-PUD
8B	Open Space	A-OS-PUD		17	Residential Mixed Use/ Office Mixed Use	OB-PUD
8C	Residential Mixed Use	RMX-PUD		18	Open Space	A-OS-PUD
9	Open Space	A-OS-PUD		19	Open Space	A-OS-PUD
10	Residential Mixed Use	RMX-PUD		20	Open Space	A-OS-PUD
11A	Residential Mixed Use	RMX-PUD		21	Open Space	A-OS-PUD

3.2 *Allowable Development*

Purpose & Intent: Provide mixed-use development with maximum flexibility to transfer uses and density within the PUD.

The specific allowable development area by parcel is shown in the following table. Transfers of density and uses are permitted within the PUD provided the total density and square footage does not exceed the totals shown in the table.

Table 2 - Development Area by Parcel

		Retail	Offices	Residential				
Lot	Net Ac	Retail GSF	Ofc. GSF	Res. GSF	Total DU's	DU/ac	Stories	Total GSF
1A	1.71	4,956	0	273,695	205	120	4-12	281,651
1B	2.21	0	0	380,280	286	129	4-12	380,280
1C	1.83	6,083	0	168,680	127	69	4-12	174,880
3	2.18	13,380	0	282,753	213	98	4-12	295,610
4	0.98	10,200	0	186,445	140	143	4-12	200,100
5A	1.03	0	0	238,210	188	183	4-12	238,210
5B	1.87	7,352	0	128,757	97	52	4-12	140,980
6	2.55	5,570	0	324,155	243	96	4-12	330,480
7(A&C)	1.77	5,840	0	168,760	123	69	2-4	174,600
8(A&C)	1.42	3,232	0	119,208	83	59	2-4	122,440
10	1.96	8,005	0	307,160	231	118	3-12	314,860
11(A&C)	1.83	7,200	0	167,100	138	75	2-5	171,900
12(A&C)	1.42	12,554	0	137,096	114	80	2-5	149,650
13	1.86	17,405	278,635	0	0	0	8-15	335,790
14	2.13	17,670	263,870	0	0	0	8-12	255,320
15(A&C)	1.37	12,170	0	106,480	73	53	2-5	118,650
16(A&C)	1.52	7,640	0	126,560	89	59	2-5	134,200
17	2.03	6,937	297,123	0	0	0	8-12	287,760
Grand Total	**31.7**	**146,194**	**839,628**	**3,115,338**	**2,350**	**74**		**4,107,361**

Notes: 1) Open space lots are not shown in table 2.
2) Net acreage in PUD assumes ROW is at back of walk (EIR is based on previous criteria for ROW).

3.3 Permitted Uses

Purpose & Intent: Promote a dynamic mix of uses within the PUD that serves the daily needs of local residents while also creating destination oriented retail and commercial uses. Maximize the potential of the transit station access through TOD oriented retail and commercial uses. Note that area boundaries do not necessarily correspond with parcel boundaries.

Transit Area Permitted Uses

Buildings and sites in the Transit Area (parcels 13, 14 and 17) may be used for the following:

- Office
- Multi-Family Residential
- Child Care Facilities
- Ground floor commercial, retail or service uses as follows:
  - Art gallery
  - Bank, savings and loan
  - Barber, beauty shop
  - Book, stationary store
  - Cleaners, laundry agency
  - Clothing store
  - Florist
  - Food store, bakery, delicatessen
  - Gym
  - Laundromat
  - Restaurant, café
  - Retail
  - Photography studio
  - Martial arts training
  - Video rental store
- Education
- Hotels
- Parking, general and parking structure
- Open space
- Transit stations and rail facilities
- Other uses as approved by the Planning Director

Central Mixed Use Area Permitted Uses

Buildings and sites in the Central Mixed Use Area (parcels 6, 7, 8, 10, 11, 12, 15 and 16) may be used for the following:

- Office
- Multi-Family Residential
- Child Care Facilities
- Ground floor commercial, retail or service uses as follows:
  - Art gallery
  - Bank, savings and loan
  - Barber, beauty shop
  - Book, stationary store
  - Cleaners, laundry agency
  - Clothing store
  - Florist
  - Food store, bakery, delicatessen
  - Gym
  - Laundromat
  - Restaurant, café
  - Retail
  - Photography studio
  - Martial arts training
  - Video rental store
- Parking, general and parking structure
- Open space
- Other uses as approved by the Planning Director