



REPORT TO COUNCIL

City of Sacramento

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STAFF REPORT
November 22, 2005

Honorable Mayor and
Members of the City Council

Subject: City/CADA Memorandum of Understanding Regarding CADA Projects

Location/Council District: District 1

Recommendation:

Staff recommends that the City Council: 1) consider information on the proposed Memorandum of Understanding (MOU) between the City and Capital Area Development Authority (CADA) and 2) adopt the Resolution directing staff to review proposed MOU with the Design Review and Preservation Board and Planning Commission and to present the MOU to the CADA Board for approval and return for City Council adoption.

Contacts: Lucinda Willcox, Infill Coordinator, 808-5052; Bridgette Williams, Process Manager, 808-8053

Presenters: Bridgette Williams, Process Manager

Department: Development Services Department

Division: Process Management

Organization No: 4814

Summary:

This MOU is intended to formalize and make minor amendments to the City processing protocols for CADA projects. The intent of the MOU is to: 1) clarify roles and relationships between the City of Sacramento and CADA relative to CADA's development activities and legislative mandate; 2) update the planning and development procedures between CADA and the City of Sacramento for CADA projects; and 3) memorialize procedures and processes between the City and CADA for CADA development projects.

Committee/Commission Action:

None.

Background Information:

The Capitol Area Development Authority (CADA) operates as a joint City/State redevelopment agency empowered by a 1978 Joint Powers Agreement "JPA" authorized by the State Legislature and the City, described in Government Code Section 8160 et seq. CADA operates under a five-member Board of Directors, with two members appointed by the City, two by the State, and one member appointed by the CADA Board. CADA derives its authority from the State Department of General Services.

The primary mission of CADA is to promote residential and neighborhood commercial land uses within the Capitol Area in order to meet the objectives set forth in the Capitol Area Plan (CAP) approved on March 15, 1977 and updated in 1997. The CAP was approved by State Legislature as the master redevelopment plan for development of 42 blocks of State owned and controlled properties in the Capitol Area. This area encompasses a major portion of property south and west of the State Capitol, including the R Street corridor (Attachment 1). The CAP was endorsed by the City of Sacramento, businesses and neighborhood and community groups.

The "JPA" provides that CADA, as an extension of both the City and the State, can exercise its powers subject only to the restrictions as would be placed upon the City and the State under similar circumstances. As a rule, the City and the State are exempt from local regulations and processes. Under this authority and existing protocols, CADA works independent of, but in cooperation with the City, except for matters where it consents to abide by local regulation.

CADA Development Review Process

Under existing protocols informally established in 1982 between the City and CADA, the City has agreed to processes for planning and design review, building plan review, and payment of certain processing and impact fees.

Under existing protocols, during the planning and design review phase, CADA's development applications are processed by planning staff and forwarded for review and comment by the Design Review and Preservation Board and Planning Commission. As a State entity, projects are not required to comply with local zoning and subdivision ordinances. Some CADA projects have elected to go through the City's subdivision process and some have not. CADA prepares its own environmental documents and review processes, and the CADA Board ultimately approves projects.

Most State projects are reviewed and approved by the Office of the State Architect. Under established protocols, CADA submits construction drawings to the City to obtain all City building permits and constructs the project in accordance with the California Uniform Building Code.

As a general rule, State agencies are exempted from local fees. Under existing protocols, CADA has paid for building permit and review and impact fees. It has not been subject to certain taxes and service fees that are typically required of private development. A list of fees that CADA projects have paid and have been exempt from is included in Attachment 2.

Memorandum of Understanding

To formalize operating protocols, and to ensure CADA can negotiate projects with greater certainty, City and CADA staff are proposing a MOU and have agreed on some minor changes to operating protocols.

The proposed MOU will formalize protocols and clarify each party's rights and responsibilities concerning the review process and procedures and fees collected for CADA development projects. The MOU will take effect on the date when the last party authorizes the execution of the MOU. See Attachment 3.

In summary, the MOU exempts CADA projects from City development plans, ordinances, policies and procedures that are currently in effect or that are enacted after the effective date of this MOU.

The MOU alters the planning review process, authorizing the City Planning Director to review and comment on CADA projects and, at his or her discretion, submit the project to the Design Review Board and/or City Planning Commission for review and comment. Specific time frames for processing review and comments by the City are established in the agreement. CADA will be required to provide to the City all supporting documents associated with the project, including environmental and disposition agreements.

The MOU states that CADA projects will be submitted to the City for building permits and will be constructed in conformance with the California Uniform Building Standard Code and any adopted amendments. At the time of permit issuance, fees will be collected as described in the MOU.

While not required as a State agency, the MOU also provides that CADA, at its discretion, may submit an application to the City for a tentative map, subdivision map, final map, or parcel map, lot line adjustment, or parcel merger/adjustment. All applicable City processing fees would be required and the City would process the application according to its procedures. Other fees not related to processing costs (e.g., park dedication in-lieu fees or Quimby fees) would not be applicable. CADA would be required to submit a public improvement agreement in accordance to the City's standard agreement and secure all off-site construction.

Upon the City's request, CADA and the City may meet and negotiate in good faith amendments to the MOU in response to changes made by the City relative to processing, procedures and fees.

Next Steps

After direction from the City Council, staff proposes to bring forward the draft MOU to the CADA Board and return to City Council for final action of the MOU in December 2005.

Under the proposed MOU, City planning staff will provide review and comment on design and layout of proposed CADA projects at no cost. With an average of one project per year, this will have a minimal impact on overall department costs. There may also be reduced costs by eliminating the requirement for items to be heard by the Design Review and Preservation Board and Planning Commission, unless deemed appropriate by the Planning Director.

CADA will continue to pay for building permit and impact fees associated with projects, which are normally the subject of negotiation for state-owned properties. Compared with a private development project, there are some taxes and services fees that will not be collected. When CADA transfers land to private ownership, it will be subject to local property taxes. This practice is already in place and doesn't affect current revenues.

Financial Considerations:

Under the proposed MOU, City planning staff will provide review and comment on design and layout of proposed CADA projects at no cost. With an average of one project per year, this will have a minimal impact on overall department costs. There may also be reduced costs by eliminating the requirement for items to be heard by the Design Review and Preservation Board and Planning Commission, unless deemed appropriate by the Planning Director.

CADA will continue to pay for building permit and impact fees associated with projects, which are normally the subject of negotiation for state-owned properties. Compared with a private development project, there are some taxes and services fees that will not be collected. When CADA transfers land to private ownership, it will be subject to local property taxes.

Environmental Considerations:

The proposed MOU is an administrative document which would not be considered a project. Pursuant to CEQA Guidelines Section 15378, "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Policy Considerations:

The MOU agreement by and between the City of Sacramento and the Capitol Area Development Authority relating to CADA development projects is consistent with City policies. The City supports CADA's mission to implement affordable residential and neighborhood commercial development within the central city to meet the objectives of the Capitol Area Plan (CAP). The MOU is also consistent with the City's Strategic Plan.

Emerging Small Business Development (ESBD):

No goods or services are proposed to be purchased through this effort.

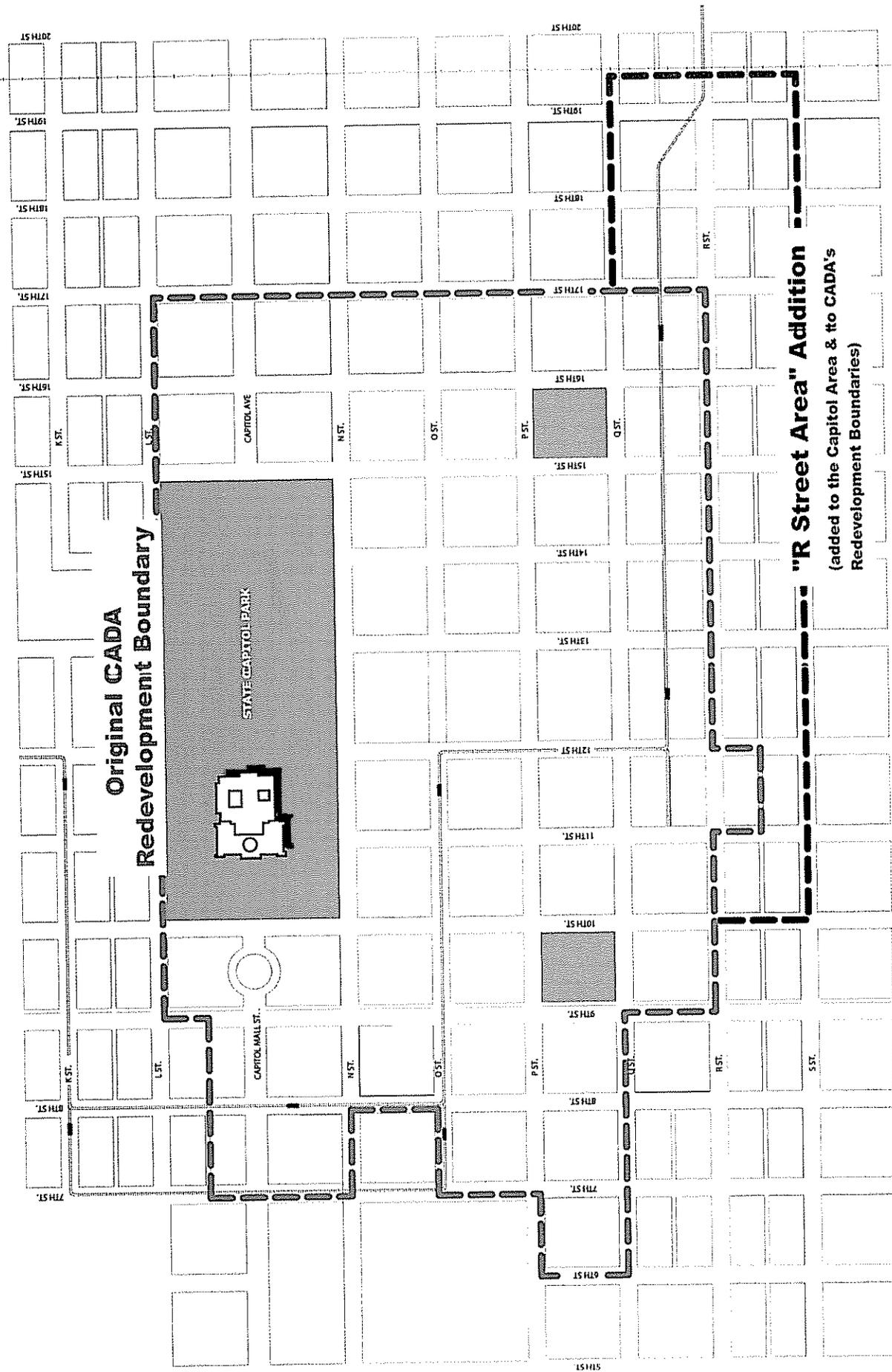
Respectfully Submitted by: Art Gee
Art Gee
Manager, Process Management Division

Recommendation Approved:

Cassandra H. B. Jennings
ROBERT P. THOMAS
City Manager

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ATTACHMENT 2

CADA REQUIRED FEES	CADA EXEMPTED FEES
Building Permit Application & Processing fees	Major Street Construction Tax
Business Operation Taxes	Bedroom Tax
Water System Development Fee	Quimby Fees (parkland dedication in-lieu fees)
Water Meter Fee	
Combined Sewer Development Fee	
Park Development Impact Fee	
Design & Improvement Charges, including Inspection Fees	

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CAPITOL AREA DEVELOPMENT AUTHORITY
AND
THE CITY OF SACRAMENTO
RELATING TO CADA DEVELOPMENT PROJECTS

This MEMORANDUM OF UNDERSTANDING ("Agreement") is made and entered into this _____ day and _____, 2005, by the CAPITOL AREA DEVELOPMENT AUTHORITY, (hereinafter "CADA"), and the CITY OF SACRAMENTO (hereinafter "City"), with reference to the following facts:

RECITALS

- A. CADA is a Joint Powers Authority between the State of California and City, created pursuant to that certain Joint Exercise of Powers Agreement (the "JPA"), dated July 1, 1978, authorized by the Department of General Services in accordance with state law, and empowered by State law to accomplish any of the purposes set forth in the Capitol Area Plan, Project Area and Capitol Area, provided for by Article I of Chapter 2.8 of Division I of Title 2 of the Government Code of the State of California, as amended, which provisions of law contain standards which apply notwithstanding any other provision of law.
- B. Pursuant to Government Code Section 8160, *et seq.*, the Capitol Area Plan, as the state master plan for development in the central city, may only be changed by a majority vote of both houses of the Legislature and as such is the mandate which the California Department of General Services and CADA must follow; the Department of General Services is designated as the single agency to whom it was found necessary to assign responsibility and authority to achieve the objectives of the Capitol Area Plan which is declared to be the redevelopment plan for the Project Area; CADA is granted those powers of a redevelopment agency which it deems appropriate from time to time and of a housing authority; as a result the City is restricted by law from adoption of a redevelopment plan with respect to the Project area.
- C. Under Government Code Sections 53090 *et seq.* as well as established common law principles recognized by judicial authorities and the California Attorney General, the State, a city or county shall not be required to comply with building, zoning, and subdivision ordinances of the city or county in which their territory is located when those ordinances would infringe or impair sovereign governmental powers.

D. Government Code section 54999 *et seq.* provides that, among other things, after July 21, 1986, the City may impose capital facilities fees on a public agency only after an agreement has been reached between the public agency and the City.

E. Since 1982, CADA and City have cooperated regarding the exercise of CADA's authority to implement the Capitol Area Plan pursuant to an informal agreement concerning the submission of CADA development projects to City for review and comment and payment by CADA to City of certain processing and impact fees.

F. City and CADA now desire to formalize this mutual understanding regarding each party's rights and responsibilities concerning implementation of CADA development projects within the City, including without limitation the application of City plans, ordinances, policies, and procedures concerning development, design, fees and review procedures for CADA development projects.

NOW, THEREFORE City and CADA for and in consideration of the mutual promises and agreements contained herein, do agree as follows:

AGREEMENT

1. Scope of the Agreement.

The provisions of this Agreement shall set forth the parties' understanding of and agreement on City's development review process of CADA Projects, as defined in section 2, below, including City ordinances concerning the use and subdivision of property, building requirements, and fees as each apply to CADA and CADA Projects within the City of Sacramento.

2. CADA Projects.

2.1 Except for CADA Repair and Rehabilitation Projects (defined below), CADA Projects are defined as works of improvement within the City of Sacramento on State and/or CADA owned or leased property which is either the subject of an agreement with, or financed, constructed or developed in whole or in part by, CADA in furtherance of the Capitol Area Plan and CADA's legislative mandates. For purposes of this Agreement and subject to the provisions of Section 5 below, any works of improvement which qualify as CADA Projects shall remain CADA Projects notwithstanding the fact that an agreement or other arrangement with CADA provides for the transfer of control or ownership of State and/or CADA owned or leased property to private parties in furtherance of the financing and construction of the improvements.

2.2 For purposes of this Agreement, "CADA Repair and Rehabilitation Projects" is defined as any repair and rehabilitation work performed by CADA, its contractors, agents, assignees, and/or transferees on State or CADA owned property. CADA Repair and Rehabilitation Projects shall not be subject to any City permits, fees,

taxes, assessments and charges except where CADA elects to secure a City building permit, in which case CADA will pay City permit fees as described on Exhibit A.

3. City Development Review Process.

3.1 Except as expressly provided otherwise in this Agreement, CADA Projects shall be exempt from City development plans, ordinances, policies and procedures that are currently in effect or that are enacted after the effective date of this Agreement. This exemption includes, without limitation, plans, ordinances, policies and procedures governing the subdivision of property, land use and zoning, building standards, public works, and parking requirements.

3.2 *Notwithstanding the exemption in subsection 3.1, CADA agrees to the following review and comment procedure for CADA Projects:*

3.2.1 *CADA shall submit the schematic designs of CADA Projects to the City Planning Director for review and comment, but not approval, no later than ninety (90) days prior to consideration by the CADA Board of the Project's environmental document prepared in compliance with the California Environmental Quality Act, schematic design, and budget. The Planning Director, in his or her sole discretion, may submit the Project's schematic design to the Design Review and Preservation Board and/or Planning Commission for review and comment. The Planning Director shall submit all of the City's comments on the Project's schematic design to CADA within sixty (60) days of his or her original receipt of the schematic design.*

3.2.2 *The City shall not collect a fee for review and comment on CADA Projects under this section.*

3.2.3 *CADA agrees to consider any City comments in the ultimate development and approval of CADA projects.*

3.2.3 *CADA shall give no less than three (3) days prior written notice to the Planning Director of each CADA Board meeting at which a CADA Project shall be discussed or acted upon.*

3.2.4 *Upon approval of a CADA Project, CADA shall submit to City a copy of the development and disposition or similar agreement relating to the development of the Project and setting forth the terms and conditions of development, and a copy of the certification of the environmental document prepared in compliance with the California Environmental Quality Act and the mitigation monitoring plan, if any.*

3.3 Notwithstanding the exemption in subsection 3.1, CADA agrees to provide City with the following notices and consultations under the California Environmental Quality Act, as applicable to CADA Projects:

3.3.1 For CADA Projects for which a negative declaration or mitigated negative declaration is to be prepared, CADA shall provide to City the Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration and Notice of Determination on a Project for which a Proposed Negative Declaration or Mitigated Negative Declaration Has Been Approved pursuant to 14 California Code of Regulations sections 15072 and 15075;

3.3.2 For CADA Projects for which an Environmental Impact Report is to be prepared, CADA shall provide to City the Notice of Preparation, Early Public Consultation, Notice of Completion, and Consultation Concerning the Draft EIR pursuant to 14 California Code of Regulations sections 15082, 15083, 15085, and 15086.

3.4 Notwithstanding the exemption in subsection 3.1, CADA Projects will be built in accordance with the State Building Standards Code as the standards may be adopted, amended, or modified from time to time by the City. CADA will submit CADA Projects to the City Building Department for building permit review and approval. For CADA Projects submitted to the City Building Department for review and approval, CADA shall pay or cause to be paid to City the City taxes, fees, assessments, and charges described on Exhibit A. Payment shall be made at the same time and in the same manner as for an equivalent private development project.

3.5 CADA, in its sole discretion as it determines to be necessary or convenient for any CADA Project, may submit an application to City for a tentative subdivision map, final map, or parcel map, lot line adjustment, or parcel merger. CADA shall pay all application processing fees for the application. City shall accept, process, notice and conduct a hearing, and take action on the application in the same manner as for a private development project, except that approval of the application shall not be conditioned on the payment of any taxes, fees, assessments, or charges except those contained in Exhibit A.

3.6 Upon CADA's written request, CADA and City shall meet and negotiate in good faith a public improvement agreement containing the terms and conditions of connection, construction, *provision of performance, payment, and warranty security*, and payment of any off site public improvements, including without limitation any street and frontage improvements, sewer, water, grading, landscaping, survey monumentation, engineering, material testing and street light design.

4. City Taxes, Fees, Assessments, and Charges Applicable to CADA Projects.

4.1 Notwithstanding any other provision of this Agreement, for each CADA Project for which CADA applies to City for a building permit, CADA shall pay or cause to be paid to City the taxes, fees, assessments, and charges set forth on Exhibit A attached hereto and incorporated herein, at the same time and in the same manner as for an equivalent private development project. The taxes, fees, assessments, and

charges shall not in any case exceed amounts charged to private property owners for an equivalent development project. CADA Projects shall be exempt from all other city taxes, fees, assessments, and charges of any nature not listed on Exhibit A.

4.2 From time to time the City will review, update, amend, and enact new taxes, fees, assessments, and charges to address development impacts and the cost of development application processing. Upon City's written request, CADA and City shall meet and negotiate in good faith on amendments to Exhibit A in response changes made by City to the taxes, fees, assessments, and charges listed on Exhibit A and the enactment of new development-related taxes, fees, assessments, and charges.

4.3 Upon CADA's written request, CADA and City shall meet and negotiate in good faith on credits against the taxes, fees, assessments, and charges applicable to a CADA Project under this Agreement for public park and other infrastructure improvements constructed, or to be constructed, in conjunction with a CADA Project and financed by and/or in conjunction with a CADA agreement for development.

5. Application of Agreement.

This Agreement shall not apply to privately owned property which was developed as a CADA Project after it has been accepted as complete by CADA pursuant to a written agreement for the development and disposition of the property.

6. Incorporation of Recitals.

The foregoing Recitals are hereby incorporated into this Agreement by reference.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement the date and year first above written.

CADA:
CAPITOL AREA DEVELOPMENT AUTHORITY

By
Paul Schmidt, Executive Director

CITY:

CITY OF SACRAMENTO

By: _____

Its: _____

MEMORANDUM OF UNDERSTANDING BETWEEN THE
CAPITOL AREA DEVELOPMENT AUTHORITY AND
THE CITY OF SACRAMENTO RELATING TO CADA DEVELOPMENT PROJECTS

Date:

APPROVED AS TO FORM:

Attorney for CADA

Attorney for City

DRAFT #4 091205

Exhibit A

CITY TAXES, FEES, ASSESSMENTS, AND CHARGES
APPLICABLE TO CADA PROJECTS

- A. Building permit application and processing fees, including without limitation building inspection fees, plan check fees, strong motion instrumentation fee (earthquake), fire review and inspection fees, and technology surcharges (Sacramento City Code Title 15).
- B. Business operations tax (Sacramento City Code Chapter 3.08).
- C. Water system development fee (Sacramento City Code Chapter 13.04 Article X).
- D. Water meter fee (Sacramento City Code Chapter 13.04 Article III).
- E. Combined sewer development fee (Sacramento City Code Chapter 13.08 Article V).
- F. Park development impact fee (Sacramento City Code Chapter 18.44).
- G. Design and improvement charges, *including inspection fees*, for street improvements, utilities, water, drainage, and sanitary facilities, and other charges for design and improvement services rendered by the City and directly applicable to CADA Projects pursuant to a Public Improvement Agreement.
- H. The City shall collect or confirm payment of the following fees on behalf of the indicated local government agency imposing the fee in the same manner as for an equivalent private development project:
 - 1. School impact fee on behalf of the Sacramento Unified School District;
 - 2. Regional sewer fee on behalf of Sacramento Regional County Sanitation District (unless otherwise negotiated through infill incentives).

RESOLUTION NO.

Adopted by the Sacramento City Council

DATE

DIRECTING STAFF TO BRING THE MOU TO CADA BOARD FOR ACTION AND RETURN TO CITY COUNCIL FOR ADOPTION OF THE RESOLUTION

BACKGROUND

- A. The City and CADA, in partnership, will formalize processing protocols for CADA projects
- B. The MOU will: 1) clarify roles and the Memorandum of Understanding will: 1) clarify roles and relationships between the City and CADA relative to CADA's development activities and legislative mandate; 2) update the planning and development procedures between CADA and the City of Sacramento for CADA projects; and 3) memorialize procedures and processes between the City and CADA; and
- C. The primary mission of CADA is to promote residential and neighborhood commercial land uses within the Capitol Area (central city) in order to meet the objectives set forth in the Capitol Area Plan (CAP) approved on March 15, 1977 and updated in 1997; and
- D. CADA, as an extension of both the City and the State, as a general rule is exempt from local regulations and processes and under this authority and existing protocols, CADA works independent of, but in cooperation with the City,
- E. In cooperation with both parties, the MOU will formalize protocols and clarify each party's rights and responsibilities concerning the review process and procedures and fees collected for CADA development projects.
- F. Upon the City's request, CADA and the City may meet and negotiate in good faith amendments to the MOU in response to changes made by the City relative to processing, procedures and fees and both parties agree to work cooperatively and concur with the terms and conditions set forth in the Memorandum of Understanding.

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

- Section 1 The City Council directs staff to bring the MOU to the Design Review and Preservation Board and Planning commission for information and comment.

Section 2 The City Council directs staff to bring the MOU to the CADA board for adoption.

Section 3 The City Council directs staff to return to the City Council for adoption of the resolution.