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APPROVED
BY THE CITY COUNCIL

SEP 2 1997

OFFICE OF THE
CITY CLERK

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**CITY OF SACRAMENTO
CALIFORNIA**

OFFICE OF THE CITY MANAGER
OFFICE OF ECONOMIC DEVELOPMENT

August 26, 1997

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: NATOMAS BASIN HABITAT CONSERVATION PLAN –
RESOLUTION ESTABLISHING THE AMOUNT OF HABITAT CONSERVATION FEE

LOCATION AND COUNCIL DISTRICT: North and South Natomas - District 1

STAFF RECOMMENDATION:

This report recommends that the City Council adopt the attached Resolution establishing the amount of the Habitat Conservation Fee relating to the mitigation of development impacts on North and South Natomas plant and animal species and habitat.

CONTACT PERSON: Terence W. Moore, Special Projects Manager, 264-5530

FOR COUNCIL MEETING OF: September 2, 1997

SUMMARY:

On August 7, 1997, the City Council adopted Ordinance 97-046 establishing the Natomas Basin Habitat Conservation Plan. The Ordinance provides for the creation of a mitigation fee, and directs the City Council, by Resolution, to set the amount of said fee. Adoption of the attached Resolution will set the fee.

Notice of this hearing was sent to affected landowners and developers.

COMMITTEE/COMMISSION ACTION: None

BACKGROUND:

On August 7, 1997, Council adopted the Natomas Basin Habitat Conservation Plan (NBHCP). At the hearing, staff discussed the mitigation fee, and how it has increased since the Council's application for permits to the United States Fish and Wildlife Service and the California Department of Fish and Game. The proposed fee is \$2656 per developed acre. Exhibit A attached shows the components of the fee.

It is anticipated that City staff will collect the fee at the grading permit stage of construction and then transfer the fee to the Natomas Basin Conservancy. The Conservancy will deposit the fees in its respective special funds as shown in Exhibit A. Moneys within such funds may be used solely for the purposes indicated in the economic analysis prepared for and included as part of the NBHCP.

However, where expressly authorized by the Conservancy, loans among the different funds are allowed. These loans, to assure adequate cash flow for the acquisition of land, restoration or other activities, may be made so long as such interfund loans do not unreasonably delay activities under the lending fund.

FINANCIAL CONSIDERATIONS:

City construction activities, in areas subject to the permits, will be subject to the proposed fee. Therefore, the fee amount must be included as a capital cost for future City-funded improvements.

ENVIRONMENTAL CONSIDERATIONS:

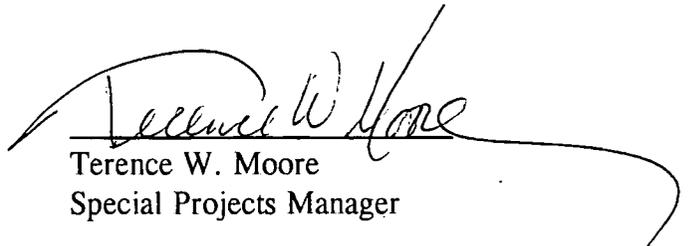
The action of the City Council in approving the proposed fee is not a project for purposes of CEQA, inasmuch as the adoption of the fees can have no conceivable adverse effect upon the environment, and the proposed fees are solely for the purpose of creating a financial mechanism.

POLICY CONSIDERATIONS:

Adoption of the proposed fee (\$2656) will supersede the interim fee (\$2240) adopted by Council March 25, 1997, Resolution 97-155.

MBE/WBE: Not applicable to this report.

Respectfully submitted,


Terence W. Moore
Special Projects Manager

Recommendation Approved:

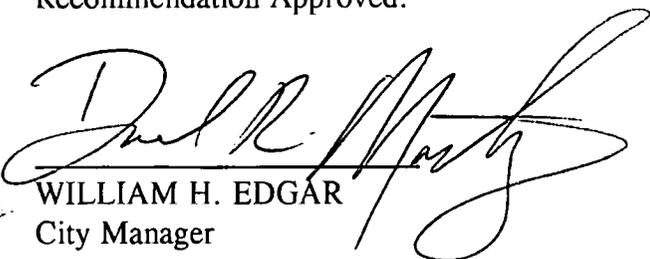
to a: 
WILLIAM H. EDGAR
City Manager

EXHIBIT A
EXPLANATION OF PROPOSED FEE INCREASE
DUE TO COMMENTS RECEIVED DURING THE REVIEW PERIOD

A. Mitigation Fee pursuant to City application to U.S. Fish and Wildlife Service and State Department of Fish and Game:

Land Acquisition	\$1829	
Restoration/Enhancement	142	
Administration/O&M	150	
O&M Endowment Fund	75	
	\$2196	
Fee Collection Administration (2%)	44	
 Total Fee	 \$2240	 per developed acre

B. Proposed Fee based on Plan Review:

Land Acquisition	\$1829	
Restoration Enhancement	200	(1)
Administration/O&M	475	(2)
O&M Endowment Fund	100	(2)
	2604	
Fee Collection Administration (2%)	52	
	\$2656	per developed acre

Notes:

- (1) Per correspondence from FWS and F&G dated May 15, 1997, cost of restoration increased from \$284 per acre to \$400 per acre. Fee increased \$58 to offset cost increase.
- (2) U.S. Department of Transportation (FAA) Advisory Circular dated May 1, 1997 prohibits hunting within 5 miles of airport. Fee adjusted \$325 (Admin/O&M) and \$25 (Endowment) to offset revenue loss. Fee adjustments per letter from Economic and Planning Systems dated July 28, 1997.

APPROVED
BY THE CITY COUNCIL

SEP 2 1997

OFFICE OF THE
CITY CLERK

RESOLUTION NO. 97-508

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF SEPTEMBER 2, 1997

A RESOLUTION ESTABLISHING THE AMOUNT OF THE HABITAT CONSERVATION FEE

WHEREAS,

- A. By separate resolutions referenced below, the City Council adopted and approved the following items:
 - (1) The North Natomas Community Plan, by resolution number 94-259, dated May 3, 1994.
 - (2) The North Natomas Financing Plan, by resolution number 94-495, dated August 9, 1994.
 - (3) The South Natomas Community Plan, by resolution number 88-1018, dated November 29, 1988.
 - (4) The addition of the South Natomas Community Plan Area, or portions thereof, to the Permit Area, by resolution number 97-155, dated MARCH 25, 1997.

- B. On August 7, 1997, the City Council of the City of Sacramento adopted Ordinance No. 97-046 (the "Ordinance") creating and establishing the authority for the Habitat Conservation Fee, based upon the findings and other matters specified in the Ordinance. The Ordinance directs the City Council, by resolution, to set the specific amounts of the fee and the manner in which the fee is to be paid.

- C. A public hearing on adoption of this Resolution was heretofore noticed and set as part of a regularly scheduled meeting for September 2, 1997, at 7:00 p.m., in the Council Chamber located at City Hall, 915 I Street, Second Floor, Sacramento, California 95814.

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RESOLUTION NO. _____

DATE ADOPTED: _____

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NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO, CALIFORNIA, AS FOLLOWS:

SECTION 1. Findings.

The City Council hereby finds as follows (capitalized terms used in this resolution and not otherwise defined herein shall have the same meaning as corresponding terms defined in the Ordinance):

- (a) All provisions set forth above are true and correct and are hereby incorporated herein by reference as findings for purposes of this resolution. In addition, those findings and other provisions specified in the Ordinance are incorporated herein by reference as findings for purposes of this resolution.
- (b) The Habitat Conservation Fee ("Fee") is one of several alternatives specified in the Natomas Basin Habitat Conservation Plan ("Plan") which a landowner may select in the landowner's sole discretion to satisfy obligations imposed by the federal and state endangered species acts, the Mitigation Monitoring Programs, and the SAFCA Permit. The Plan itself is designed to serve a number of purposes, including but not limited to satisfaction of the Mitigation Monitoring Program requirements specified in the North Natomas Community Plan, and requirements of the SAFCA Permit, relating to direct, indirect and cumulative biological impacts associated with Urban Development in the Permit Area.
- (c) Because the Fee is only one of the available options for a landowner seeking to satisfy its obligations relating to direct, indirect and cumulative biological impacts of Urban Development in the Permit Area, the Fee is voluntary in nature, and is not a mandatory imposition. It is therefore not legally required to demonstrate satisfaction of the various nexus tests set forth in Government Code Sections 66000 et seq. Nevertheless: (i) the amount of the Fee has been set based upon an updated economic study conducted under contract with Economic and Planning Systems, which study was adopted as part of the approvals related to the Plan; and (ii) the relationship between the Fee and the adverse environmental impacts it is designed to mitigate are clearly established in numerous environmental impact reports, including but not limited to those relating to the North Natomas Community Plan and the Comprehensive Drainage Plan for North Natomas, all of which are incorporated herein by this reference as part of the findings supporting this resolution.

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- (d) The amount of the Fee is consistent with the City's General Plan, the South and North Natomas Community Plans, the North Natomas Financing Plan, the Mitigation Monitoring Programs and the SAFCA Permit.

SECTION 2. Amount of Fee.

The amount of the Fee, which a landowner may voluntarily select as the landowner's preferred alternative for satisfaction of its legal obligations to mitigate for the adverse impacts of Urban Development on biological resources, for property located within the Permit Area is hereby set at the rate of \$2656.00 per acre of land converted to Urban Development.

SECTION 3. Construction of Resolution.

The provisions of this resolution are subject and subordinate to the provisions of the Ordinance and shall at all times be construed and applied consistent therewith as the same presently exist or may from time to time hereafter be amended.

SECTION 4. Judicial Action to Challenge This Resolution.

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

SECTION 5. Effective Date.

This Resolution shall take effect immediately upon its adoption.

SECTION 6. Severability.

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

MAYOR

ATTEST:

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DATE ADOPTED: _____

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