



REPORT TO COUNCIL

City of Sacramento

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915 I Street, Sacramento, CA 95814-2604
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CONSENT
October 25, 2005

Honorable Mayor and
Members of the City Council:

Subject: Amendment to Non-Gateway Project Reimbursement/Credit Agreement for Construction of North Natomas Infrastructure (Promenade at Natomas)

Location/Council District: Promenade Project, Gateway West Boulevard and Truxel Road, (District 1)

Recommendation:

Adopt a Resolution authorizing the City Manager to enter into an agreement with Opus West Corporation amending City Manager Agreement No. 2005-0975, "Non-Gateway Project Reimbursement/Credit Agreement for Construction of North Natomas Infrastructure (Promenade at Natomas)", to allow an advance of North Natomas Public Facility Fee Credits secured by an irrevocable letter of credit.

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

Presenter: None

Department: Development Services

Division: Development Engineering and Finance

Organization No: 4815

Summary: Under the North Natomas Financing Plan, developers who construct Financing Plan approved public improvements are entitled to credits for use against impact fees at the time building permits are issued. A City Manger Agreement specifies the improvements, credits, and the timing of the use of credits. Because of development timing, permits are sometimes required before the completion of the improvements, which creates a limited opportunity for a landowner to receive and use credits issued according to the provisions of the City Manager Agreement. To address this problem in the case of Opus West Corporation, this reports recommends that Council amend City Manager Agreement 2005-0975 to authorize an advance of credits secured with an irrevocable letter of credit.

Committee/Commission Action: None.

Background Information: On August 2, 2005 Council approved an update to the North Natomas Financing Plan that incorporated the Opus Promenade project and a specific set of public improvements associated with the project. Opus West Corporation ("Opus") and the City have entered into a "Non-Gateway Project Reimbursement/Credit Agreement for Construction of North Natomas Infrastructure (Promenade at Natomas)" (City Manager Agreement 2005-0975) under which Opus will construct the specified improvements and receive Public Facility Fee Credits ("PFF Credits") when the improvements are completed. The improvements include Gateway Park Boulevard, North Freeway Boulevard and five signalized intersections.

The City Manager Agreement allows issuance of PFF Credits upon full completion of the facilities. In the case of Opus, permits have been required before the completion of improvements, presenting a limited opportunity for Opus to receive and use PFF Credits issued according to the provisions of the City Manager Agreement.

To address the logistical problem, staff is recommending an amendment to the City Manager Agreement with Opus to allow the advance of credits with an irrevocable letter of credit as security. This approach has been used before in North Natomas for developers in similar situations.

The total amount of credits that can be earned by Opus is \$4.2 million. With approval of the amendment to the City Manager Agreement, Opus will be able to use \$1.7 million in credits for Public Facility Fees on permits. Opus will have a balance of \$2.4 million in credits that can be sold to other developers or landowners or held for cash reimbursement at the conclusion of development in the North Natomas Financing Plan area. The Letter of Credit will be released after the public improvements are constructed and the costs verified.

Financial Considerations: There is no impact on the General Fund. The credit program of the North Natomas Financing Plan supports the reimbursement of developer costs for building approved public improvements. An advance of credits secured by an irrevocable Letter of Credit insures that the facilities will be built, and built at a cost approved in the Plan. A demand on the letter of credit will occur if the facilities are not built or if credits are issued in excess of approved costs.

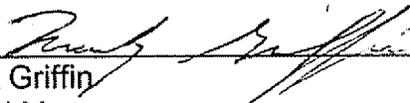
Environmental Considerations: The City Council's action in approving this resolution is solely for the purpose of modifying the method by which credits can be issued and is, therefore, not a project for the purposes of the California Environmental Quality Act.

Policy Considerations: Adoption of the resolution is consistent with the intention of the North Natomas Financing Plan to construct or acquire public infrastructure in a timely

manner and to promote fairness and equity. Adoption is also consistent with the City's Strategic Plan goals to enhance and preserve the neighborhoods, improve and diversify the transportation system and support economic development.

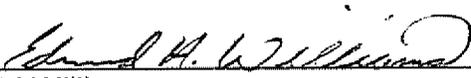
Emerging Small Business Development (ESBD): Not applicable to this report.

Respectfully submitted:



Mark Griffin
Fiscal Manger

Approved:



Ed Williams
Development Engineering and Finance Manager

RECOMMENDATION APPROVED:



For ROBERT P. THOMAS
City Manager

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RESOLUTION NO.

**Adopted by the Sacramento City Council
October 25, 2005**

AMENDMENT TO NON-GATEWAY PROJECT REIMBURSEMENT/CREDIT AGREEMENT FOR CONSTRUCTION OF NORTH NATOMAS INFRASTRUCTURE (Promenade at Natomas)

BACKGROUND

- A. Landowner and City have previously entered into a "Non-Gateway Project Reimbursement/Credit Agreement of Construction of North Natomas Infrastructure (Promenade at Natomas)" dated October 18, 2005, and designated as City Manager Agreement No. 2005-0975 ("City Manager Agreement"). The City Manager Agreement provides that Landowner will construct specified public facilities subject to receipt of credits against and/or reimbursement from the North Natomas Public Facilities Fee ("PFF").
- B. The City Manager Agreement permits issuance of credits ("PFF Credits") upon full completion of the facilities. City and Landowner recognize that because of the development status of Landowner's property, there exists a limited opportunity for Landowner to receive and use PFF Credits issued according to the provisions of the City Manager Agreement.
- C. Therefore, City and Landowner desire to amend the provisions of the City Manager Agreement No. 2005-0975 that relate to the issuance of PFF Credits and the timing of issuance, so as to enable Landowner to use PFF Credits that otherwise would be unavailable until after completion of the facilities specified in the City Manager Agreement. It is the intent of City and Landowner that only the provisions of the City Manager Agreement that relate to the issuance of PFF Credits and the timing of issuance are amended by this Agreement. All other provisions of the City Manager Agreement remain in full effect.

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

SECTION 1: The City Council hereby finds that the recitals set forth above are true and correct and are incorporated herein by reference as findings.

SECTION 2: The City Manager is hereby authorized to execute an amendment to City Manager Agreement 2005-0975 to provide for the issuance of PFF Credits under an irrevocable letter of credit.