



REPORT TO COUNCIL

City of Sacramento

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

Consent
September 14, 2010

Honorable Mayor and
Members of the City Council

Title: Donahue Schriber Transportation Management Plan (TMP) Settlement Agreement and North Natomas Bicycle Connectivity Project Supplemental Funds (K15115000)

Location/Council District: North Natomas (District 1)

Recommendation: Adopt a **Resolution:** 1) authorizing the City Manager to execute a Settlement agreement with the Donahue Schriber Realty Group and the North Natomas Transportation Management Association; 2) appropriating \$120,000 from the proceeds of the Settlement Agreement to the North Natomas Bicycle Connectivity Project (K15115000).

Contact: Scot Mende, New Growth & Infill Manager (916) 808-4756; Ryan Moore, Supervising Engineer (916) 808-8279

Presenters: None

Department: Community Development and Transportation

Division: Planning and Funding & Project Development

Organization No: 21001211 and 15001141

Description/Analysis

Issue: In order to resolve a dispute with a commercial property manager in North Natomas, staff proposes the attached Agreement. The Settlement Agreement provides that an additional \$120,000 be appropriated for pedestrian and bicycle improvements in North Natomas.

Policy Considerations: This project is in accordance with the City Operating Principles of promoting safety and enhancing livability.

Environmental Considerations:

California Environmental Quality Act (CEQA): The execution of an agreement and appropriation of funds are not subject to the provisions of

CEQA. Under CEQA general rule 15061-B-3, CEQA applies only to projects which have the potential for causing a significant effect on the environment. These actions will have no effect on the environment, thus are not subject to CEQA.

Sustainability Considerations: This project is consistent with Sustainability Master Plan goals to help to enhance the pedestrian and bicycle facilities in the public right-of-way and to reduce dependence on automobiles by encouraging bicycle trips and providing an array of transportation choices.

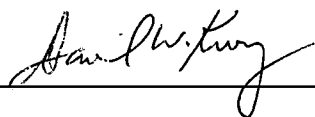
Other: Not applicable.

Commission/Committee Action: On March 9, 2010 the North Natomas Bicycle Connectivity Project and proposed expenditures (originally \$330,000) were presented for review and comment and were acceptable to the Bicycle Advisory Committee.

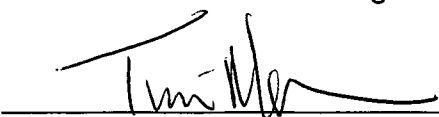
Rationale for Recommendation: The City has a goal of providing bicycle improvements to enhance and fix bike paths and to increase access. The execution of an agreement, and appropriation of funds is necessary to pursue the next phase of this project.

Financial Considerations: The original budget for the North Natomas Bicycle Connectivity Project (K15115000) of \$330,000 is sufficient for the originally scoped projects. Funding for the North Natomas Bicycle Connectivity Project (K15115000) was provided through NNTMA funds in the amount of \$165,000; in addition, the Department of Parks and Recreation provided \$165,000 in Transportation Development Act funds (Fund 2013) from a Bike Trail Repair Project (K19000200). These Settlement funds of \$120,000 will be used to complete other NNTMA requests and to cover any extraneous costs related to the current project. There are no General Funds planned or allocated for this project.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: 

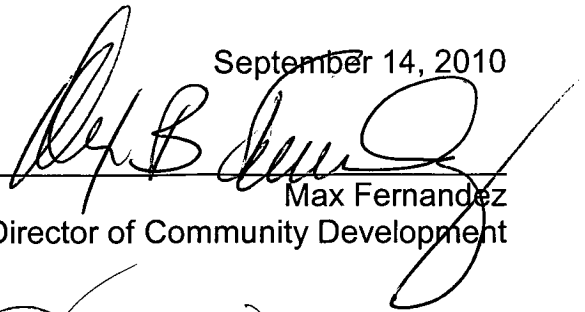
David Kwong
Planning Director



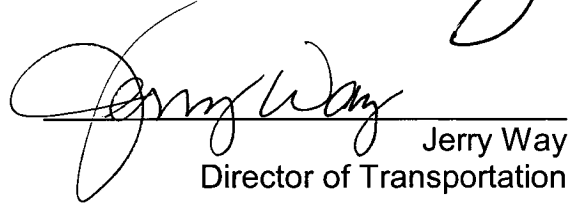
Nicholas Theocharides
Engineering Manager

September 14, 2010

Approved by:



Max Fernandez
Director of Community Development



Jerry Way
Director of Transportation

Recommendation Approved:



Gus Vina
Interim City Manager

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Attachment 1**Background**

On May 11, 2010, the City of Sacramento issued an "Order Imposing Administrative Penalty" (and an Amended Order on May 24, 2010) against Donahue Schriber in the amount of \$292,000. The order was premised upon Donahue Schriber's failure to provide a low- or zero-emissions shuttle for the Natomas Marketplace, Park Place, Westlake Village, and Natomas Park developments in violation of the operative Transportation Management Plans (TMPs) for those properties. Prior to 2008, Donahue Schriber had contracted with the North Natomas Transportation Management Association to run the shuttle.

The Parties (Donahue Schriber Realty Group, North Natomas Transportation Management Association, and City of Sacramento) wish to resolve their various claims, and have therefore, based upon their negotiations, agreed to the settlement attached hereto.

The settlement provides for a total of \$120,000 to be paid by Donahue Schriber to the City. The full amount of the payment will be transferred to the North Natomas Bicycle Connectivity Project. In addition, the agreement calls for the prompt review of amended TMPs for the same four properties at issue in the City's administrative action.

In December 2008, the NNTMA coordinated with the Department of Transportation to identify about 50 projects that would improve bicycle access in North Natomas by removing barriers at key locations. These projects include the completion of existing and new paths, new curb cuts, signage, and the removal of bollards, cables and gates.

On June 15, 2010, the City Council adopted Contract 2010-0474 and Resolution 2010-336 which established the North Natomas Bicycle Connectivity Project (K15115000), appropriated \$165,000 from the North Natomas Transportation Management Association (NNTMA) and transferred \$165,000 from the Bike Trail Repair Project (K19000200) into the North Natomas Bicycle Connectivity Project (K15115000).

The additional \$120,000 will supplement the available funding and will be used for other NNTMA requested improvements and to cover extraneous costs of the current project.

Attachment 2

RESOLUTION NO. 2010-

Adopted by the Sacramento City Council

September 14, 2010

**EXECUTING A SETTLEMENT AGREEMENT AND GENERAL RELEASE AND
APPROPRIATION OF FUNDS TO THE
NORTH NATOMAS BICYCLE CONNECTIVITY PROJECT (K15115000)**

BACKGROUND

- A. On May 11, 2010, the City of Sacramento issued an "Order Imposing Administrative Penalty" (and an Amended Order on May 24, 2010) against Donahue Schriber in the amount of \$292,000 for Donahue Schriber's alleged violations of the Transportation Management Plans (TMPs) for the Natomas Marketplace, Park Place, Westlake Village, and Natomas Park developments.
- B. The settlement of that administrative proceeding provides for a total of \$120,000 to be paid by Donahue Schriber to the City. The full amount of the payment will be appropriated to the North Natomas Bicycle Connectivity Project (K15115000).
- C. On June 15, 2010, the City Council adopted Contract 2010-0474 and Resolution 2010-336 which established the North Natomas Bicycle Connectivity Project (K15115000), appropriated \$165,000 from the North Natomas Transportation Management Association (NNTMA) and transferred \$165,000 from the Bike Trail Repair Project (K19000200) into the North Natomas Bicycle Connectivity Project.

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

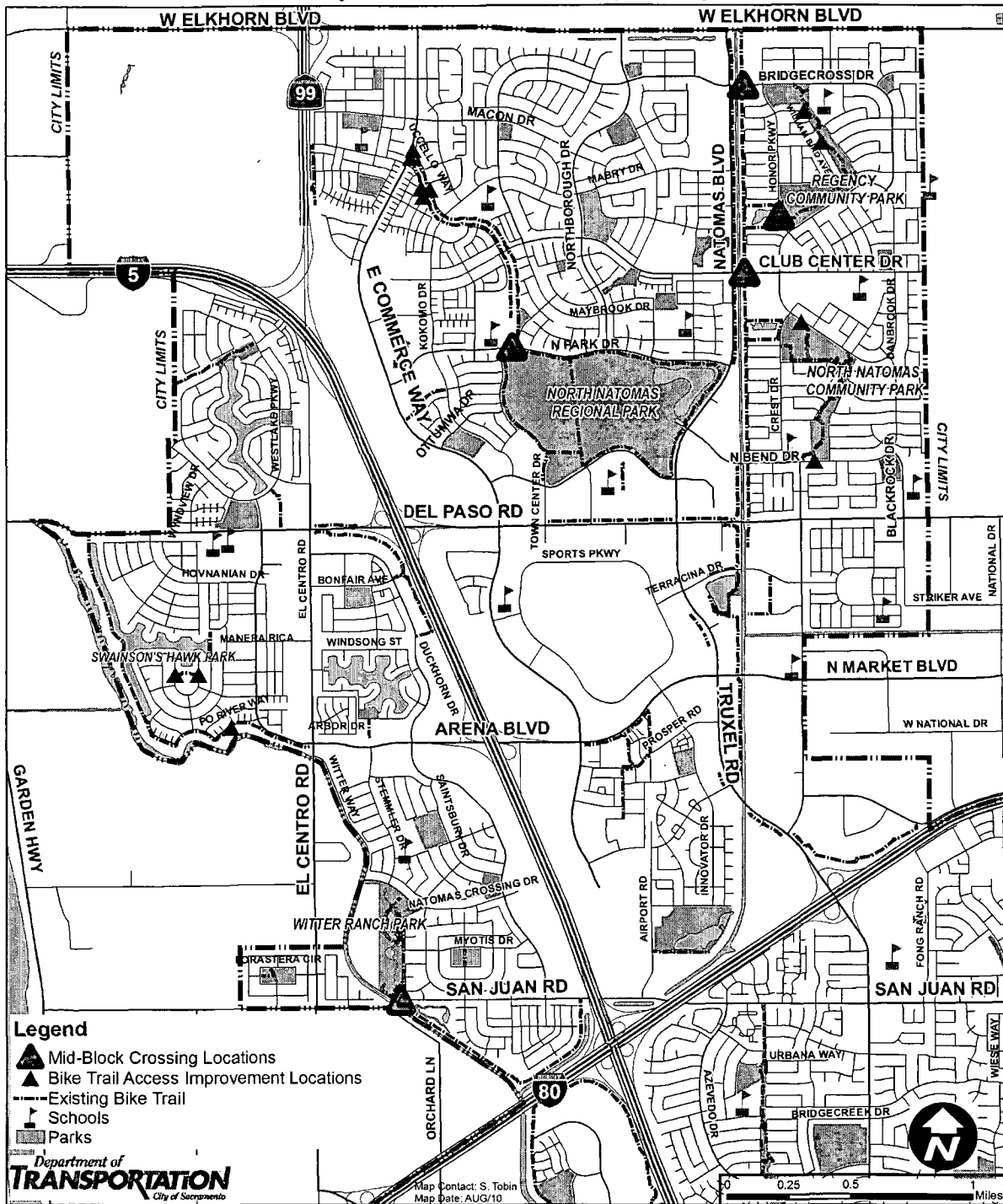
- Section 1. The City Manager is authorized to execute a Settlement Agreement and General Release between the City of Sacramento, North Natomas Transportation Management Association and Donahue Schriber Realty Group.
- Section 2. The revenue and expenditure budgets for the North Natomas Bicycle Connectivity Project (K15115000) are amended as necessary by accepting \$120,000 in supplemental funding from Donahue Schriber Realty Group.

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Exhibit A: Map of North Natomas Bicycle Connectivity Project

Exhibit B: Settlement Agreement and General Release

EXHIBIT A Location Map for North Natomas Bicycle Connectivity Project (K15115000)



**ATTACH
FINAL SIGNED
SETTLEMENT AGREEMENT**