

APPROVED  
BY THE CITY COUNCIL

NOV 18 1997

OFFICE OF THE  
CITY CLERK



1.6

AG97-177

NEIGHBORHOODS, PLANNING AND  
DEVELOPMENT SERVICES DEPT.

**CITY OF SACRAMENTO**  
CALIFORNIA

1231 I STREET  
ROOM 300  
SACRAMENTO, CA  
95814-2904

PLANNING  
TEL 916-264-5381  
FAX 916-264-8329

November 12, 1997

City Council  
Sacramento, California

Honorable Members In Session:

**SUBJECT: GATEWAY OAKS PHASE IV OFFICE BUILDINGS (P97-073)**

**A. Agreement for payment of Fees. APN: 274-0320-032.**

**LOCATION:** East of Venture Oaks Way and West of Interstate 5.  
APN: 274-0320-032, South Natomas Community Plan, Council District 1.  
Grant Joint Union School District & Del Paso Elementary

**RECOMMENDATION:**

Planning Staff recommends, that the City Council adopt the Resolution approving the agreement to pay SNCIF fees in lieu of FBA fees for an 84,000 square foot Office Building.

**CONTACT PERSON:**

Scot Mende, Senior Planner 264-5894  
Taiwo Jaiyeoba, Assistant Planner 264-8287

**FOR CITY COUNCIL MEETING OF: November 18, 1997.**

**SUMMARY:** This is a request to implement a condition of approval of the Special permit for the construction of an Office building on a 5.0 acre parcel located east of Venture Oaks Way and West of Interstate 5 in the Gateway Center Office Building PUD (OB-PUD) zone in South Natomas.

**BACKGROUND:** On 23 July, 1997 the Applicant submitted an application for a Special Permit to construct a 4-story office building totalling 84,000 sqft. on 5.0 vacant acres west of Interstate 5 in the Gateway Center Office Building PUD. The proposed use is compatible with the General Plan and Community Plan designations of the site as well as the existing office uses adjacent to the site. The proposal does not increase the square footage of office buildings in the PUD.

**VOTE OF THE PLANNING COMMISSION:** On October 9, 1997, the City Planning Commission voted 8 to 0 to approve the entitlement allowing the Office building.

**ENVIRONMENTAL REVIEW:** A Negative Declaration was prepared for the Special Permit. The agreement to pay fees is not a project under CEQA Guidelines.

**FINANCIAL CONSIDERATIONS:** As a condition of the Special Permit, the applicant has agreed to pay into the South Natomas Community Infrastructure Fund in lieu of the Facilities Benefit Assessment District. The attached Resolution directs the City manager to execute this agreement.

**POLICY CONSIDERATIONS:** The agreement to pay SNCIF fees is consistent with city practice for projects in South Natomas formerly under development agreement.

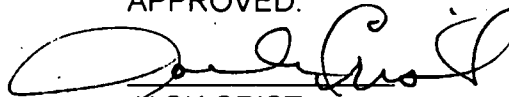
**MBE/WBE EFFORTS:** None.

Respectfully submitted,



GARY L. STONEHOUSE  
Planning Director.

APPROVED:



JACK CRIST  
Deputy City Manager,  
Neighborhoods, Planning & Development  
Services Department.

FOR CITY COUNCIL INFORMATION:  
WILLIAM H. EDGAR  
CITY MANAGER

Page Attachments

- 3 Resolution for Agreement for Payment of SNCIF fees (4 pages).
- 5 Site Plan and Building Elevations (2 pages).

**APPROVED**  
BY THE CITY COUNCIL

**NOV 18 1997**

OFFICE OF THE  
CITY CLERK

**RESOLUTION NO. 97-634**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**A RESOLUTION RELATING TO THE APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF SACRAMENTO AND SPIEKER PROPERTIES, LP AND SACRAMENTO PROPERTIES HOLDING COMPANY TO ACCEPT PAYMENT OF SOUTH NATOMAS COMMUNITY INFRASTRUCTURE FUND FEES IN-LIEU OF A REQUIREMENT FOR ANNEXATION TO THE SOUTH NATOMAS FACILITIES BENEFIT ASSESSMENT DISTRICT FOR PROPERTY LOCATED EAST OF VENTURE OAKS WAY AND WEST OF INTERSTATE 5, KNOWN AS "GATEWAY OAKS PHASE IV OFFICE BUILDING" (P97-073)APN: 274-0320-032**

WHEREAS, the City Planning Commission approved a Special Permit for the Gateway Oaks Phase IV Office Building calling for the property owner to enter into an agreement with the City, in a form satisfactory to the City Attorney, which sets forth the property owner's obligations to pay, prior to issuance of any building permit, the sum of \$315,840.00, as specified in the attached Agreement for Payment of Fees to be deposited into the SNCIF fund, which payment is in lieu of a requirement that the applicant annex the 5.0 acres of property to the South Natomas FBA;

WHEREAS, the City Attorney has negotiated with the property owner and approved as to form the Agreement attached herewith.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:**

The City Manager is hereby authorized to execute and direct the City Clerk to record said Agreement on behalf of the City of Sacramento. This approval and authorization is based upon the condition of Special Permit adopted by the City Planning Commission on October 9, 1997.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK  
P97-073

**FOR CITY CLERK USE ONLY**

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

**AGREEMENT FOR PAYMENT OF FEES  
IN LIEU OF REQUIREMENT FOR  
ANNEXATION TO SOUTH NATOMAS  
FACILITIES BENEFIT ASSESSMENT DISTRICT  
(GATEWAY OAKS PHASE IV OFFICE BUILDING)**

This Agreement is entered into by and between the **City of Sacramento**, a charter municipal corporation ("City"), and **Spieker Properties, LP**, a California limited partnership ("Applicant"), and **Sacramento Properties Holding Company**, a California corporation ("Owner"), on Nov. 18<sup>th</sup>, 1997.

**RECITALS**

Whereas:

A. Owner owns the land described in Exhibit A-1 (Assessor's Parcel Number 274-0320-032), attached hereto and incorporated herein by this reference ("Property"), which land is part of the Gateway Center P.U.D., as depicted on the Schematic Plan Map attached hereto as Exhibit A-2, and incorporated herein by this reference. Applicant may acquire the Property pursuant to an Agreement of Purchase and Sale between Owner and Applicant.

B. The Property was, but no longer is, subject to a development agreement between Owner and City which expired on or about January 13, 1993. Due to the existence of that development agreement, which committed Owner to payment of South Natomas Community Improvement Fund ("SNCIF") fees, the Property was not included in the South Natomas Facilities Benefit Assessment ("FBA") district which established development fees for developing properties within the district boundary fees.

C. Because the development agreement is expired, the Property is no longer required to pay the SNCIF fees. The Property has not been annexed to the FBA.

D. Owner has filed an application for approval of certain land use entitlements for a development project ("Project") on the Property. (City reference file no. P97-073).

E. Among the entitlements required for the Project is a special permit, which the City Planning Commission approved on August 28, 1997. The special permit conditions of approval contained in the Notice of Decision and Findings of Fact include **condition 8-b**, which requires payment of fees equivalent to the FBA fees which are in the amount of \$315,840.00.

F. Owner and Applicant, with the advice of competent legal counsel, have carefully reviewed and considered the said condition 8-b, and have determined that they are both qualitatively and quantitatively reasonable and appropriate in terms of nexus, and designed to address the development impacts caused by the Project and for which the FBA fees were imposed.

City Agreement No. 97-177

G. Upon the terms and conditions set forth in this Agreement, City is willing to allow Owner to pay the fees specified for condition 8-b for the Project, in lieu of a requirement which would otherwise be imposed that Owner annex the Property to the FBA.

H. The parties intend that the said fees are for the Project only, and in the event that Owner builds other buildings, facilities or projects on land which would have been included with the FBA District, but which was not so included, such other buildings, facilities or projects will be subject to conditions which require payment of FBA fees or some equivalent thereto, together with any other fees imposed as a condition of approval.

## AGREEMENT

Now, therefore, the parties agree as follows:

1. **Payment of Fees.** Owner and Applicant agree that fees will be paid by Owner or Applicant to City as follows:

a. **Amount of fees:**

(1) the fee for purposes of condition 8-b shall be in the amount of \$315,840.00, payable in cash.

b. **Time of payment:** the fee shall be payable at the time of issuance of a City building permit to Applicant or Owner for the Project. No building permit shall issue until the fees are paid in full.

c. **Adjustment of the Fees:** the fees specified in subparagraph (a)(1) above shall be adjusted, as of the date of issuance of a City building permit, to reflect any increase in the ENR-CCI, using the December, 1996 index as a base.

2. **Purpose of Fee.** The parties agree and understand that the fee is payable in lieu of a requirement that Owner annex the Property to the FBA and is designed to address the issues and impacts addressed by the fees assessed by the FBA. Upon payment of the fees, condition 8-b shall be satisfied, and the City will not require that the Property be annexed to the FBA.

3. **Miscellaneous:**

a. **Owner Agreements:** Owner and Applicant agree and understand that: (i) the fees payable under this Agreement are not intended to satisfy any obligation of Owner to pay other or different fees, assessments, taxes or charges which may be imposed by City as a condition of development of the Project, whether those fees, assessments, taxes or charges are generally applicable to development projects within and/or outside the South Natomas Community Plan area, or are Project-related and designed to address Project specific impacts; (ii) the fees payable under this Agreement are for the specific Project only, are not

intended to satisfy any obligation of Owner or Applicant to pay similar fees for development of any other project or building on any part of the Property, or other property owned by Owner or Applicant, and nothing in this Agreement shall be construed to limit City's ability to impose fee conditions upon any building, facility or project, other than the Project, constructed on the Property in the future; (iii) the fees payable under this Agreement are appropriate and reasonable quantitatively and qualitatively in terms of nexus, and are legally valid as a matter of constitutional law and pursuant to Government Code Section 66000, et seq.; (iv) Owner will be required to pay all normal and applicable application processing fees associated with land use entitlements sought by Owner for the Project; and (v) nothing in this Agreement shall be construed to require City to accept fees in lieu of annexation of other portions of the Property, or other property owned by Owner, to the FBA, in the event that Owner seeks land use entitlements with respect thereto.

b. **No Development Agreement.** Nothing in this Agreement shall be construed in a manner which would create a development agreement relationship between Owner and City; other than with respect to the Project, City reserves all of its authority with respect to approval, approval with conditions, or denial of land use entitlements for the Property, and to alter, amend or otherwise change its standards and/or requirements applicable to entitlements to the maximum extent allowed by law.

c. **Recitals Accurate.** Each and every statement set forth in the recitals of this Agreement is true and accurate, and is specifically made a part of the terms and conditions of this Agreement.

d. **Satisfaction of Condition.** This Agreement is intended to satisfy the requirements of the condition of approval for the special permit, as set forth in recital E, but not the requirement of actual payment of the fee which must occur at the time of issuance of a City building permit to Applicant or Owner for the Project.

e. **Indemnity.** Owner, for itself and its successors and assigns, agrees to fully indemnify, defend and hold City and all of its officers, employees, agents and contractors harmless from any and all claims, damages, costs (including attorney fees for legal counsel paid for by city, or legal services provided by the City Attorney) or other forms of liability arising out of or in any way related to this Agreement, the fees required to be paid hereunder, or any of its terms or conditions, including but not limited to issues relating to the constitutional and/or statutory validity of the said fees.

f. **Attorney Fees.** In the event of litigation arising out of or related to this Agreement, or any of its terms and/or conditions, the prevailing party in such litigation shall be entitled to reasonable attorney fees.

g. **Successors.** This Agreement, and all of its terms and/or conditions, shall bind and inure to the benefit of the respective successors and assigns of each of the parties.

h. **Entire Agreement; Amendment.** This Agreement embodies all of the agreements between the parties on the subjects covered by its terms and conditions. All prior written documents and correspondence, and all oral communications, statements or representations are superceded by this Agreement, and are of no force and effect for any purpose. This Agreement may be amended by mutual consent, in writing executed by both parties.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the date first set forth above.

**CITY OF SACRAMENTO, a  
Charter Municipal Corporation**

ATTEST:

Valerie A. Benbowes  
City Clerk

By: William H. Edgar  
City Manager

APPROVED AS TO FORM:

[Signature]  
Assistant City Attorney

**Spieker Properties, LP, a  
California Limited Partnership**

By: [Signature]  
Name: Peter C. Thompson  
Title: Vice President

**Sacramento Properties Holding Company,  
a California Corporation**

By: [Signature]  
Name: DAVID J. BUGATTO  
Title: SR. VICE PRESIDENT

**RESOLUTION NO. 97-634**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

NOV 21 1997  
DATE CERTIFIED *Valerie Q. Burrowes*  
CITY CLERK CITY OF SACRAMENTO

NOV 18 1997

ON DATE OF \_\_\_\_\_

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JOE SERNA, JR.

\_\_\_\_\_  
MAYOR

ATTEST:

VALERIE BURROWES

\_\_\_\_\_  
CITY CLERK  
P97-073

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 97-634

DATE ADOPTED: NOV 18 1997

City Agreement No. 97-177



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Charter Municipal Corporation**

ATTEST:

By: \_\_\_\_\_  
William H. Edgar  
City Manager

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant City Attorney

**Spieker Properties, LP, a  
California Limited Partnership**

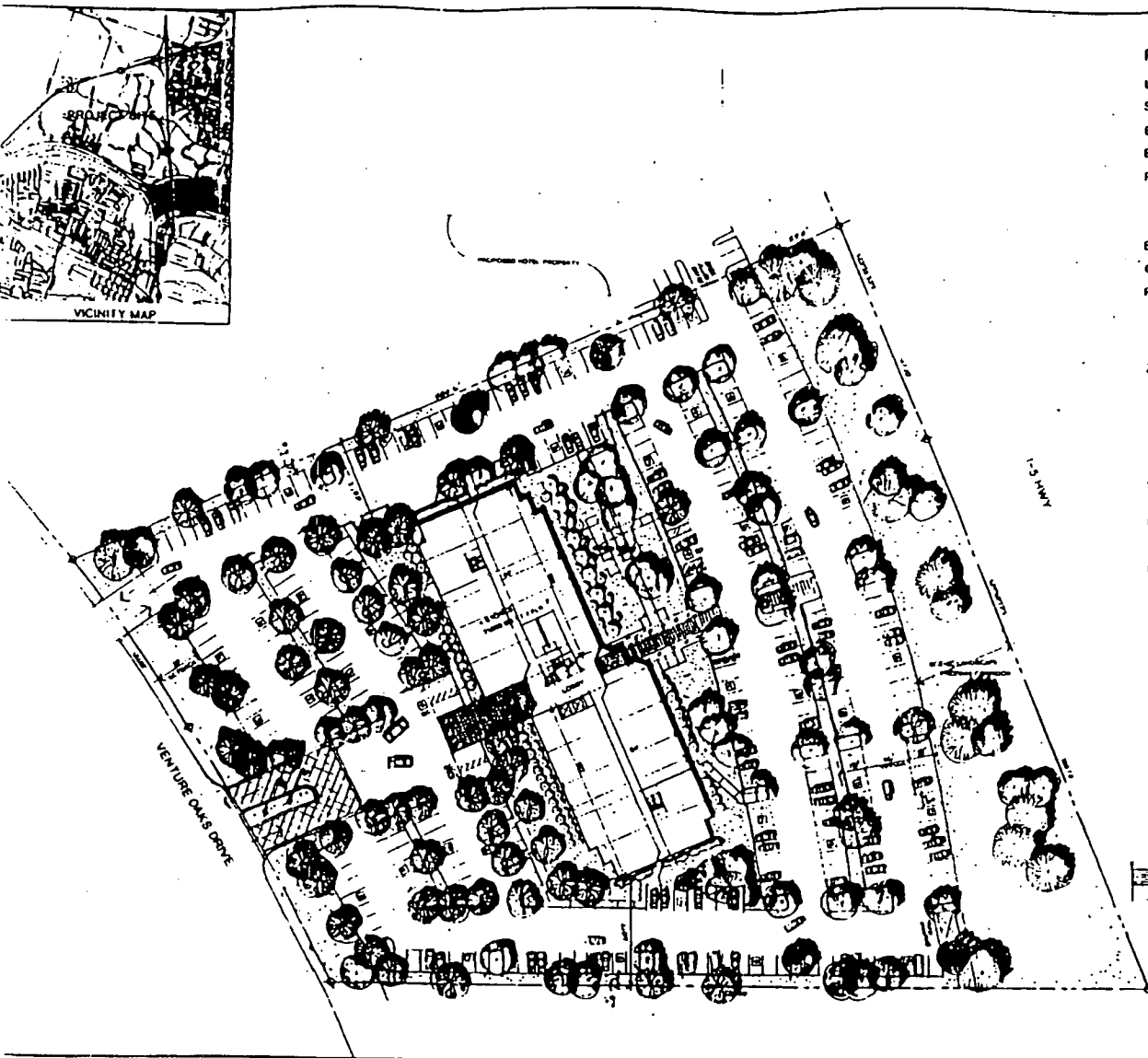
By: \_\_\_\_\_  
Name: Peter Thompson  
Title: Vice President

**Sacramento Properties Holding Company,  
a California Corporation**

By: \_\_\_\_\_  
Name: DAVID J. BUGATTO  
Title: SENIOR VICE PRESIDENT

EXHIBIT 3-B

Site Plan



PROJECT DATA

USE	PROFESSIONAL OFFICE
SITE AREA	217,800 SQ. FT. (5 ACRES ±)
BLDG. AREA	84,000 SQ. FT. GROSS
BLDG. HEIGHT	4 FLOORS & MECH. SCREEN
PARKING	384/1000 : 306 SPACES (INCLUDES 8 HC)

BLDG. FOOTPRINT	9.6 %
OPEN SPACE	38.4 %
PARKING	62 %

ZONE OBR1/D

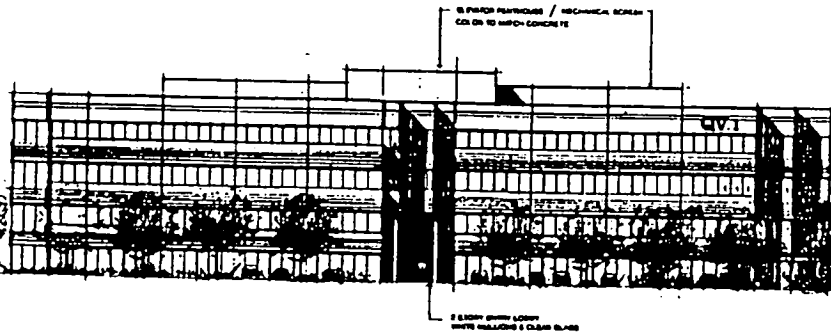
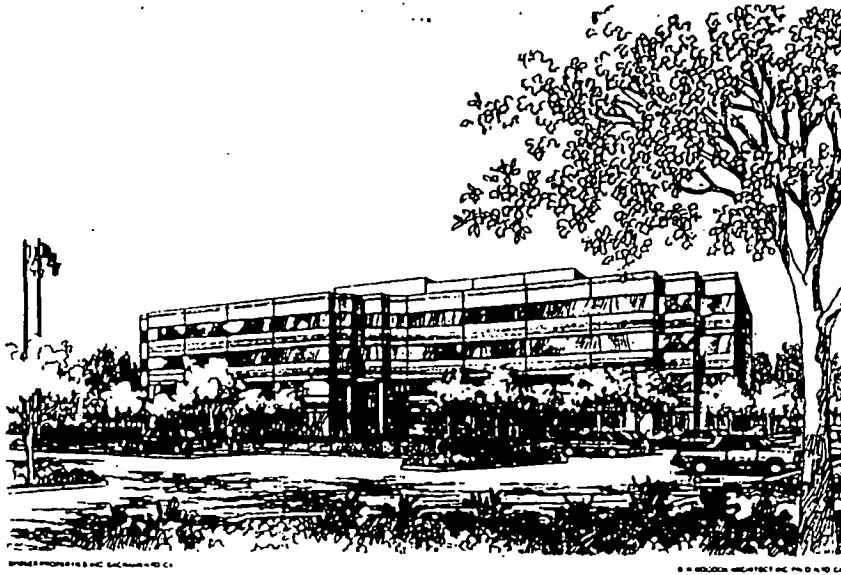
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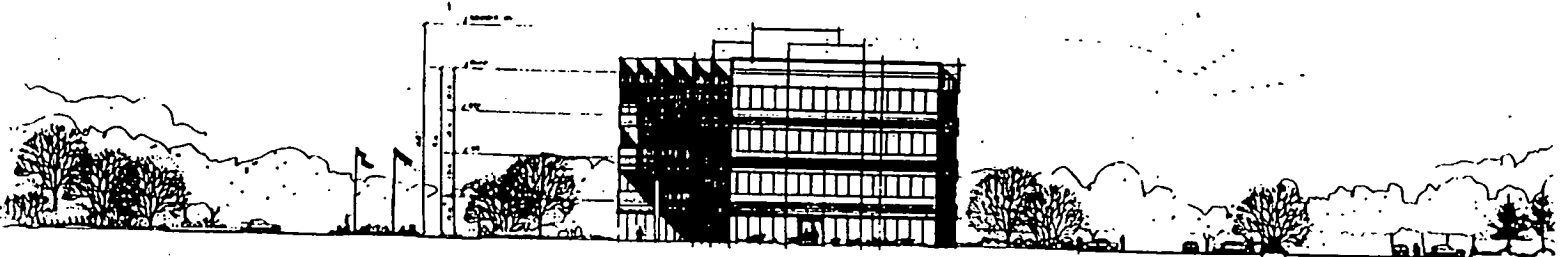


EXHIBIT 3-C

Elevations



WEST ELEVATION (East same)



NORTH ELEVATION (South same)

9