



CITY OF SACRAMENTO

DEPARTMENT OF PUBLIC WORKS

ENGINEERING DIVISION

THOMAS M. FINLEY
Engineering Division Manager

May 20, 1986

Transportation and Community Development Committee
Sacramento, California

Honorable Members In Session:

SUBJECT: Enabling Ordinance - South Natomas Facility Benefit Assessment
(FBA)

SUMMARY

It is recommended that the Transportation and Community Development Committee review the attached FBA ordinance and forward it to the full City Council for their approval.

BACKGROUND

On October 30, 1985 the City Council directed staff to develop a Facilities Benefit Assessment Ordinance to fund development mitigation measures in the South Natomas Community. Staff, along with City Bond Counsel, has developed the attached new ordinance based on a similar ordinance developed in San Diego. Approval of this enabling ordinance will allow future formation of FBA's in specific areas of the City.

Staff anticipates the first FBA will be formed for the South Natomas Community. A report will be presented later which identifies the cost of major roadway improvements, a library and a fire station in the South Natomas Community. The report will also project the cash flow required to complete the projects and a refined cost estimate per square foot of gross building area and per single family unit.

This new ordinance has been circulated to members of the development community for their comments. These comments have been considered by the City Attorney and the Department of Public Works. Staff is of the opinion the comments received would be more appropriately addressed at the time specific areas of benefit are identified.

FINANCIAL

Additional Public Works staff will be required to administer specific FBA's when they are established. Approval of this new ordinance does not create any new City cost.

RECOMMENDATION

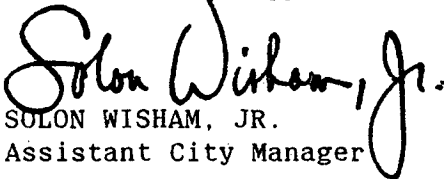
It is recommended that the Transportation and Community Development Committee review and recommend this ordinance to City Council for publication.

Respectfully submitted,



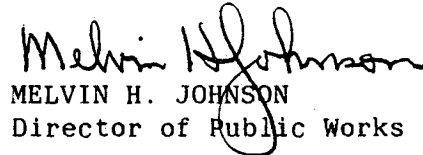
THOMAS M. FINLEY
Engineering Division Manager

Recommendation Approved:



SOLON WISHAM, JR.
Assistant City Manager

Approved:



MELVIN H. JOHNSON
Director of Public Works

DC:vr
DC503Td5
05.0186

May 20, 1986

Attachment

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE SACRAMENTO CITY
CODE BY ADDING CHAPTER 39 RELATING TO THE
DESIGNATION OF AREAS OF BENEFIT TO BE
ASSESSED THE COST OF PUBLIC FACILITIES

BE IT ENACTED, by the Council of the City of Sacramento, as

follows:

Section 1. The Sacramento City Code, be, and the same is hereby,

amended by adding Chapter 39 to read as follows:

CHAPTER 39

PROCEDURAL ORDINANCE FOR FINANCING OF PUBLIC
FACILITIES IN PLANNED URBANIZING AREAS

SEC. 39.1 Purpose.

(a) The City of Sacramento, pursuant to the home rule provisions of Article XI, Section 5, of the California Constitution, may make and enforce all ordinances and regulations with respect to municipal affairs.

(b) The City of Sacramento, pursuant to Article XI, Section 7 of the California Constitution, may make and enforce all local ordinances not in conflict with general laws.

(c) The purpose of this ordinance is to provide, in part, for future development in the City and for the acquisition, construction and improvement of public facilities, including the financing thereof, in developing areas and areas undergoing rehabilitation in the City.

(d) This Chapter is intended to provide an alternative method of financing certain public capital facilities by providing for the designation of real property within developing areas and areas undergoing rehabilitation which will receive special benefits from the acquisition, construction and improvement of certain public facilities and the imposition of special assessments upon such real property in proportion to the benefits to be received.

SEC. 39.2 Areas of Benefit Authorized.

In order that the cost and expenses of the acquisition, construction and improvement of public facilities may be borne by all of the lands benefited thereby, Areas of Benefit may be designated and Facilities Benefit Assessment(s), as defined in

Section 39.3, chargeable to and against such real property may be imposed in accordance with procedures set forth in this Chapter.

SEC. 39.3 Definitions.

Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this Chapter:

(a) "Advance" means amounts expended by the City or other governmental entity toward the cost of a Public Facilities Project within or for the benefit of an Area of Benefit and for which the City or other governmental entity shall be reimbursed from Facilities Benefit Assessments to be imposed in accordance with procedures set forth in this Chapter;

(b) "Area(s) of Benefit" means lands which are designated as receiving special benefits from the construction, acquisition, and improvement of Public Facilities Project(s) as established by Resolution adopted by the City Council in accordance with procedures set forth in this Chapter;

(c) "Building Permit" means the permit issued or required

for the construction of any structure pursuant to and as defined by the Sacramento City Building Code;

(d) "Capital Improvement Program" means a plan for the implementation and financing of Public Facilities Projects including, but not limited to, a schedule for the commencement of construction, the estimated cost of construction and the payment of Facilities Benefit Assessments;

(e) "Construction" means design, acquisition of property, administration of construction contracts, actual construction and incidental costs in connection therewith;

(f) "Contribution" means amounts expended by the City or other governmental entity toward the cost of a Public Facilities Project in proportion to the general benefit to be received by the City or other governmental entity from construction of the Public Facilities Project;

(g) "Costs" mean any and all amounts spent or authorized to be spent in connection with the planning, financing, acquisition and development of a Public Facilities Project including, but not

limited to, the costs of land, acquisition, construction and improvement, engineering, administration, and legal and financial consulting fees;

(h) "Development" means the division or subdivision of land, grading or original construction of an improvement to real property, which division or subdivision of land, grading, or construction is of the type normally associated with urban development as opposed to agricultural activity;

(i) "Facilities Benefit Assessment(s)" means the amounts collected or to be collected under the provisions of this Chapter to provide funds for Public Facilities Project(s) which will benefit designated Areas of Benefit;

(j) "Public Facilities Project" means any and all public improvements the need for which is directly or indirectly generated by development, including but not limited to the following:

(1) The grading or regarding, the paving or repaving, the planking or replanking, the macadamizing or

remacadamizing, the graveling or regravelling, the oiling or reoiling of streets, places, public ways, property, easements or rights-of-way owned by the City.

(2) The construction or reconstruction of sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, parks and parkways, recreation areas, including all structures, buildings, and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended, culverts, bridges, curbs, gutters, tunnels, subways or viaducts.

(3) Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels or other appurtenances.

(4) Drains, tunnels, sewers, conduits, culverts and channels for drainage purposes; with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks,

disposal plants, connecting sewers, ditches, drains, conduits, channels and appurtenances.

(5) Poles, posts, wires, pipes, conduits, tunnels, lamps and other suitable or necessary appliances for the purpose of lighting streets, places or public ways of the City or property or rights-of-way owned by the City, or for the purpose of furnishing electricity and electric service or telephone service to property within the City.

(6) Pipes, hydrants and appliances for fire protection.

(7) Breakwaters, levees, bulkheads, groins and walls of rock or other material to protect the streets, places, public ways and other property from overflow by water, or to prevent beach erosion or to promote accretion to beaches.

(8) Wells, pumps, dams, reservoirs, storage tanks, channels, tunnels, conduits, pipes, hydrants, meters or other appurtenances for supplying or distributing a domestic or industrial water supply.

(9) Mains, services, pipes, fittings, valves,

regulators, governors, meters, drips, drains, tanks, ditches, tunnels, conduits, channels, or other appurtenances for supplying or distributing a domestic or industrial gas supply.

(10) Retaining walls, embankments, buildings and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.

(11) The planting of trees, shrubs or other ornamental vegetation.

(12) The construction, repairing, or improving of public mooring places for watercraft, the building, repairing and improving of wharves, piers, docks, slips, quays, moles, or other utilities, structures and appliances necessary or convenient for the promotion or accommodation of commerce, navigation and the protection of lands within the City, and for aiding and securing access to the waters of said lands to the people of the State of California, in the exercise of their rights to fish, or for the extension of public streets

or places.

(13) Compaction of land, change of grade or contours, construction of caissons, retaining walls, drains and other structures suitable for the purpose of stabilizing land.

(14) All other works which may be deemed necessary to improve the whole or any portion of streets, places, public ways, property, easements or rights-of-way owned by the City.

(15) All other work auxiliary to any of the above, which may be required to carry out the same.

(16) Any works, utility, or appliances necessary or convenient for providing any other public service.

(17) Works, systems or facilities for the transportation of people, including rolling stock and other equipment appurtenant thereto.

(18) All other work auxiliary to that described in subparagraph (17) which may be required to carry out that work, including terminal and intermediate stations, structures, platforms or other facilities which may be

necessary for, incidental to, or convenient for the loading of people into and unloading of people from such transportation facilities.

(19) Acquisition, construction, improvement and equipping of library buildings.

(20) Acquisition, construction, improvement and equipping of fire stations.

(21) Acquisition, construction, improvement and equipping of temporary and permanent school buildings.

(22) Acquisition, construction, improvement and equipping of police stations.

(23) Acquisition, construction and installation of traffic signs, signals, lights and lighting.

(24) Public works maintenance facilities.

(25) Any works, utility or appliances necessary or convenient for providing any other public service.

(26) All other work auxiliary to any of the above which may be required to carry out that work including but not

limited to the maintenance of Public Facilities Projects and administrative, engineering, architectural and legal work performed in connection with establishing, implementing and monitoring Public Facilities Projects.

(27) Acquisition of any and all property, easements and rights-of-way which may be required to carry out the purposes of the project.

SEC. 39.4 Description by Reference.

Any resolution, notice, report, diagram or assessment which is required to contain a description of the improvements, the boundaries of the district or the lines and dimensions of any parcel of land, may, for a full detailed description thereof, refer to any plan or map which is on file with the City Clerk, the County Auditor or the County Assessor and which is open to public inspection.

SEC. 39.5 Initiation of Proceedings.

Upon the receipt of an application by a landowner or his designated agent, or on its own motion, the City Council may

initiate proceedings for the designation of an Area of Benefit by adopting a resolution stating its intention to do so. The City Council shall refer the proposed Public Facilities Project to the City Manager and shall direct said City Manager, with the assistance of city agencies and departments, and, where appropriate, interested landowners to make and file with the City Clerk a report in writing which shall contain:

(a) (i) An implementation program for future development and/or (ii) a financing plan with respect to the proposed Public Facilities Project(s).

(b) A general description of the proposed Public Facilities Project(s).

(c) An estimate of the total cost of the Public Facilities Project(s) based upon the projected time for commencement and completion thereof in accordance with the Capital Improvement Program.

(d) A Capital Improvement Program establishing a schedule for the timing of construction of the Public Facilities

Project(s) and the estimated costs therefor.

(e) A diagram showing the Area of Benefit to be designated and the boundaries and dimensions of the subdivisions of land within the Area of Benefit. Each subdivision, including each separate condominium interest as defined in Section 783 of the Civil Code of the State of California shall be given a separate number upon the diagram. The diagram may refer to the County Assessors' maps for a detailed description of the boundaries and dimensions of any parcels.

(f) Preliminary information concerning the method pursuant to which the costs are proposed to be apportioned among the parcels within the Area of Benefit in proportion to the estimated benefits to be received by those parcels and a preliminary estimate of the amount of the Facilities Benefit Assessments which will be imposed upon each such parcel.

(g) The amount of the contribution or advance, if any, which the City or other governmental entity will make toward the total cost of the Public Facilities Project(s).

SEC. 39.6 Resolution of Intention.

Upon receipt of the Report described in Section 39.5, the City Council may declare its intention to designate an Area of Benefit by adopting a Resolution of Intention which shall include the following:

(a) A definitive description of the specific Public Facilities Project(s), the cost of which is proposed to be imposed upon the properties within the Area of Benefit;

(b) A Capital Improvement Program with respect to the Public Facilities Project(s);

(c) The proposed boundaries of the Area of Benefit;

(d) Information concerning the method pursuant to which the costs are proposed to be apportioned among the parcels within the Area of Benefit in proportion to the estimated benefits to be received by those parcels and an estimate of the amount of the Facilities Benefit Assessments which will be imposed upon each such parcel;

(e) The basis and methodology by which automatic annual

increases in the Facilities Benefit Assessment will be computed, assessed and levied, without the necessity for further proceeding pursuant to Section 39.14, if, in the discretion of the City Council, such automatic annual increases are determined to be necessary;

(f) The amount of the contribution or advance, if any, which the City or other governmental entity will make toward the total cost; and

(g) The date, time and place at which the City Council will hold a hearing to consider the matter of designating the Area of Benefit.

SEC. 39.7 Notice of Hearing.

After passage of the Resolution of Intention, the City Clerk shall cause notice of the hearing to be given by mailing a copy thereof, postage prepaid, to the owners of the properties within the proposed Area of Benefit at the addresses as shown on the last equalized assessment roll or as otherwise known to the City Clerk; to be published once in a newspaper of general

circulation; and to be posted on or near the Council Chamber door or any bulletin board in or adjacent to the City Hall. Said mailing, publication and posting shall be completed not less than ten (10) days prior to such hearing.

SEC. 39.8 Protests.

At any time not later than the close of the public hearing, any owner of property within the proposed Area of Benefit may object to the proposed Public Facilities Project(s), or to the extent of the area to be included within the Area of Benefit, or to the Facilities Benefit Assessment(s) proposed to be imposed upon the properties within the Area of Benefit or to any or all of the foregoing. Such protest must be in writing, signed by the protester, and must contain a description of the property in which each signer thereof is interested sufficient to identify the same. If the signers are not shown on the last equalized assessment roll as the owner of that property, the protest must contain or be accompanied by written evidence that such signers are the owners of such property. All such protests shall be

delivered to the City Clerk, and no other protests or objections shall be considered. Any protest may be withdrawn by the owners' requesting the same, in writing, at any time prior to the conclusion of the public hearing. Any protest not made at the time and in the manner provided shall be deemed to be waived voluntarily by any person who might have made such protest and such person shall be deemed to have consented to the proposed Public Facilities Project(s), the extent of the area to be included within the Area of Benefit, the Facilities Benefit Assessment(s) proposed to be imposed upon the properties within the Area of Benefit and any other act, determination, or proceeding on which protest could be made.

SEC. 39.9 Hearing.

At the time and place established in the Resolution of Intention, the City Council shall hear and consider protests filed against the proposed Public Facilities Project(s), the extent of the area to be included within the Area of Benefit, the amount of the Facilities Benefit Assessment(s) proposed to be

levied within the Area of Benefit, or any or all of the foregoing. The hearing may be continued from time to time. If within the time within which protests may be filed, there is filed with the City Clerk a written protest by the owners of more than one-half of the area of the property proposed to be included within the Area of Benefit, and if protests are not withdrawn so as to reduce the area represented to less than one-half, then the proposed proceedings shall be abandoned unless the protests are overruled by an affirmative vote of four-fifths of the members of the City Council. The City Council shall not overrule a majority protest unless it finds that the public health, safety or general welfare require that provision be made for the installation of the proposed Public Facilities Project(s). In the event a majority protest is not withdrawn or overruled, as herein provided, the City Council shall not, for a period of one year from the date of the decision of the City Council on the hearing, commence or carry on any further proceedings for the same Public Facilities Project(s) under the provisions of this Chapter. If

any majority protest which is not withdrawn or overruled, as herein provided, is directed against only a portion of the Public Facilities Project(s), then all further proceedings under the provisions of this Chapter to acquire, construct or improve that portion of the Public Facilities Project(s) so protested against shall be barred for a period of one year, but the City Council shall not be barred from commencing new proceedings not including any part of the Public Facilities Project(s) so protested against. Nothing in this section shall prohibit the City Council, within said one-year period, from commencing and carrying on new proceedings for the acquisition, construction or improvement of a portion of the Public Facilities Project(s) so protested against if it finds, by the affirmative vote of four-fifths of its members, that the owners of more than one-half of the area of the property to be benefited are in favor of going forward with such portion of the Public Facilities Project(s).

SEC. 39.10 Resolution Designating Area of Benefit.

At the conclusion of the hearing, and provided there is no

majority protest or a majority protest is overruled, the City Council may adopt a Resolution ordering designation of the Area of Benefit and the establishment of the amount of the Facilities Benefit Assessment(s) to be imposed upon each parcel of property within the Area of Benefit. The resolution shall include the following:

(a) A definitive description of the Public Facilities Project(s), the cost of which is to be imposed upon the properties within the Area of Benefit;

(b) A Capital Improvement Program with respect to the Public Facilities Project(s);

(c) The boundaries of the Area of Benefit;

(d) The method pursuant to which the costs are to be apportioned among the parcels within the Area of Benefit in proportion to the benefits to be received by those parcels, and the amount of the Facilities Benefit Assessments which will be imposed upon each such parcel;

(e) The basis and methodology by which automatic annual

increases in the Facilities Benefit Assessment will be computed, assessed and levied, without the necessity for further proceeding pursuant to Section 39.14, if, in the discretion of the City Council, such automatic annual increases are determined to be necessary;

(f) The amount of the contribution or advance, if any, which the City or other governmental entity will make toward the total cost.

SEC. 39.11 Filing of Map and Recording of Notice of Assessment as Lien.

(a) After the adoption by the City Council of a Resolution ordering designation of the Area of Benefit and the establishment of the amount of the Facilities Benefit Assessment(s) to be imposed upon each parcel of property within the Area of Benefit as provided in Section 39.10, the City Manager shall cause a map of the boundaries of the Area of Benefit based on said Resolution to be prepared and filed with the City Clerk. The map shall be labeled substantially as follows: (here insert the name or

number of Area of Benefit) Area of Benefit, City of Sacramento,
Sacramento County, State of California. The map shall also
contain legends reading substantially as follows:

(1) Filed in the office of the City Clerk this _____
day of _____, 19__.

City Clerk, City of Sacramento

(2) Facilities Benefit Assessments were levied by the
City Council on the lots, pieces and parcels of land shown on
this diagram. Said assessments were levied on _____
(month) (day)
19__; the diagram and the assessment roll were recorded in
the office of the City Clerk of said City on _____,
(month) (day)
19__. Reference is made to the assessment roll recorded in
the office of the City Clerk for the exact amount of each
Facilities Benefit Assessment levied against each parcel of
property shown on this diagram.

City Clerk, City of Sacramento

(3) Filed on _____, 19__, at _____ o'clock
(month) (day)

__m. in Book _____ of Maps of Assessment Districts in the office of the County Recorder of the County of Sacramento, State of California.

County Recorder,
County of Sacramento

The City Clerk shall cause a copy of the diagram referred to in this subparagraph to be filed in the office of the County Recorder of the County of Sacramento upon payment of the filing fee.

(b) After the filing of the assessment and diagram in the office of the City Clerk, as herein provided, the City Clerk shall execute and record a Notice of Assessment in the office of the County Recorder of the County of Sacramento. Such Notice of Assessment shall be in substantially the following form:

NOTICE OF ASSESSMENT

Pursuant to the requirements of Section 39.11 of the Sacramento City Code, the undersigned City Clerk of the City of Sacramento, State of California, hereby gives notice that

a diagram and assessment were recorded in his office as provided for in said section, and relating to the following described property:

(The real property in the Area of Benefit may be described by: (a) stating its exterior boundaries; (b) giving its description according to any official or recorded map or (c) referring to the diagram filed in accordance with paragraph (a) of this section and the book and page number in the office of the County Recorder of the filed plat or map.)

Notice is further given that upon the recording of this notice in the office of the County Recorder of the County of Sacramento, the several Facilities Benefit Assessments assessed on the lots, pieces and parcels shown on the filed diagram shall become a lien upon the lots or portions of lots assessed, respectively.

Reference is made to the diagram and assessment roll recorded in the office of the City Clerk of the City of Sacramento.

Dated: _____

City Clerk, City of Sacramento

(c) From the date of the recording of the Notice of Assessment in accordance with the provisions of paragraph (b) of this section, all persons shall be deemed to have notice of the contents of such assessment. Immediately upon such recording in the office of the County Recorder each of the Facilities Benefit Assessments shall thereupon be a lien upon the property against which it is made.

(d) In its discretion, and for good cause shown, the City Council may, upon terms and conditions prescribed by the City Council in its Resolution ordering designation of the Area of Benefit and the establishment of the amount of the Facilities Benefit Assessment(s) as provided in Section 39.10 or thereafter, allow the lien of the Facilities Benefit Assessment to become junior and subordinate to the lien of deed(s) of trust executed by landowners to secure loans to finance the construction of improvements on the property within the Area of Benefit.

SEC. 39.12 Payment of Benefits Assessments.

After the adoption by the City Council of its Resolution ordering designation of the Area of Benefit and the establishment of the amount of the Facilities Benefit Assessment(s) as provided in Section 39.10, no building permits shall be issued for development on any land included within the Area of Benefit unless and until the Facilities Benefit Assessments established by said Resolution for such lands have been paid. The Facilities Benefit Assessment shall be paid upon the issuance of building permit(s) for development or at such time as the Capital Improvement Program for the Area of Benefit in which the assessed land is located calls for the commencement of construction of the Public Facilities Project. In the event that a landowner desires to proceed with development of a portion of the landowner's property, based on a phased development program, which is subject to a lien for the total amount of Facilities Benefit Assessments as provided in this Chapter, the landowner may obtain building permits for the development phase after paying a portion of the

Facilities Benefit Assessments and making provision for payment of the remainder of the Facilities Benefit Assessments to the satisfaction of the City Manager. Money received by the City as payment of the Facilities Benefit Assessments shall be deposited in a special fund established for the Area of Benefit and shall thereafter be expended solely for the purpose for which it was assessed and levied. Upon payment of the Facilities Benefit Assessments as provided in this Chapter, the lien which attaches pursuant to Section 39.11 shall be discharged. In the event the partial payment is made based on a phased construction program, the City shall release the portion of the property for which building permits have been issued from the lien of the Facilities Benefit Assessment.

SEC. 39.13 Recordation of Notice of Pendency of Sale or Foreclosure.

Where there is a delinquency in payment of the Facilities Benefit Assessments as required by Section 39.12, the City may initiate foreclosure proceedings in accordance with the

procedures set forth in this section and in any and all applicable state and local laws. If a sale or foreclosure is commenced, notice of the pendency of such sale or foreclosure shall be recorded with the County Recorder of Sacramento County not later than ten (10) days after commencing any action or proceeding in any court to foreclose the lien of such assessment. The notice of pendency shall state that the City of Sacramento has commenced a sale or foreclosure, as the case may be, and shall refer to and identify such sale or foreclosure and shall describe the property affected thereby. The City shall be entitled to recover the cost of recordation of any such notice of pendency in any sale or foreclosure resulting from such delinquency and provision therefor shall be made in any notice, order or judgment authorizing or providing for such sale or foreclosure.

SEC. 39.14 Annual Adjustment of Facilities Benefit Assessments.

The City Council may, annually after the adoption of the Resolution ordering designation of the Area of Benefit and the

establishment of the amount of the Facilities Benefit

Assessment(s) as provided in Section 39.10 and subject to the

requirements set forth in Sections 39.5 through 39.11, cause an

adjustment to be made in the Facilities Benefit Assessments

established by the Resolution. The adjustments may reflect

increases or decreases in the actual cost of the Public

Facilities Project or if the Public Facilities Project has not

yet been constructed then the estimated cost of the proposed

capital improvements as reflected in changes in the scope of the

Public Facilities Project or any other indices as the City

Council may deem appropriate for this purpose. The modifications

may also reflect changes in the improvements proposed to be

constructed as well as the availability, or lack thereof of other

funds with which to construct the capital improvements.

SEC. 39.15 Consideration in Lieu of Assessment.

The provisions of Section 39.12 to the contrary

notwithstanding, upon application by the landowner or his

authorized agent, the City Council may accept consideration in

lieu of the Facilities Benefit Assessments required pursuant to this Chapter, provided the City Council, upon recommendation of the City Manager, finds that the substitute consideration proposed: (1) has a value equal to or greater than such Facilities Benefit Assessments, (2) is in a form acceptable to the City Council and (3) is within the scope of the Public Facilities Project. The City Council may accept consideration in lieu of the Facilities Benefit Assessments required pursuant to this Chapter where the City Council finds that the substitute consideration proposed is less than the value of such Facilities Benefit Assessment after payment of an amount equal to the difference between the value of the substitute consideration as determined by the City Council and the amount of such Facilities Benefit Assessments.

SEC. 39.16 Termination of Area of Benefit.

Upon the receipt of an application by a landowner or his designated agent, or on its own motion, the City Council may initiate proceedings for the termination of an Area of Benefit by

adopting a resolution stating its intention. The Resolution of Intention shall state the time and place at which the City Council will hold a hearing to consider such termination. If, at the conclusion of such hearing, the City Council finds and determines that the Public Facilities Project for which the area was originally formed will not be required in the reasonably foreseeable future, or that the installation of said Public Facilities Project may be financed more effectively by another method, the City Council may adopt a resolution declaring the Area of Benefit terminated.

SEC. 39.17 Reimbursement and Refund.

(a) In the event of an annual adjustment of assessment as provided by Section 39.14, which reduces the Facilities Benefit Assessment, amounts in the special fund which are no longer required shall be refunded to the current owner(s) of the property as shown on the last equalized assessment roll in proportion to the amount of the original payments.

(b) In the event the City Council agrees to accept

consideration in lieu of Facilities Benefit Assessments as provided by Section 39.15, the value of which the City Council finds is greater than the amount of the otherwise applicable Facilities Benefit Assessments, the Council may enter into an agreement with a developer pursuant to which said developer may be reimbursed for the amount of the otherwise applicable Facilities Benefit Assessments. The agreement shall set forth the amount to be reimbursed, and the time and manner in which payments shall be made only from revenues paid into the special fund created for the Area of Benefit.

(c) Upon termination of an Area of Benefit as provided by Section 39.16, any money remaining in the special fund established in connection therewith shall be refunded to the current owner(s) of the property as shown on the last equalized assessment roll in proportion to the amount of the original payments.

SEC. 39.18 Alternative Method.

This Chapter is intended to establish an alternative method

for the spreading of the costs of certain public improvements against the lands which will be benefited thereby; and the provisions of this Chapter shall not be construed to limit the power of the City Council to utilize any other method for accomplishing this purpose but shall be in addition to any other requirements which the City Council is authorized to impose as a condition to approving new development pursuant to state and local laws.

Section 2. If any section, subsection, sentence, clause or phrase of this ordinance be for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared to be unconstitutional.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.