

RESOLUTION NO. 2003-145

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF MAR 25 2003

A RESOLUTION SETTING THE AMOUNT OF THE REFUNDABLE SUPPLEMENTAL DRAINAGE FEE AND THE BUY-IN FEE IN CONNECTION WITH ISSUANCE OF THE NORTH NATOMAS DRAINAGE COMMUNITY FACILITIES DISTRICT 97-01 SUBORDINATED SPECIAL TAX BONDS, SERIES C

WHEREAS:

- A. The City Council has heretofore adopted an ordinance ("Ordinance") establishing the Refundable Supplemental Drainage Fee ("Drainage Fee") and the Buy-in Fee in connection with the issuance of the North Natomas Comprehensive Drainage Community Facilities District 97-01 ("CFD 97-01") Subordinated Special Tax Bonds, Series C.
- B. The Ordinance was adopted as an emergency ordinance, to take effect immediately.
- C. The Ordinance authorized the City Council to set by resolution the amount of the Drainage Fee and the Buy-in Fee.
- D. A study to determine the proper amount of the fee to be paid by various developing land use categories has been conducted, and has been presented to the City Council with the staff reports supporting this resolution.
- E. The City Council has approved agreements entitled "Investment Agreement" with three landowners who, along with the city, have agreed to purchase the subordinated bonds in order to provide funding to complete the essential third phase of the drainage improvements to be constructed through CFD 97-01 funding. Unless that third phase of improvements is completed, further development in North Natomas cannot proceed.
- F. The Investment Agreements provide that as a precondition to the obligation of the landowners to purchase the subordinated bonds, the city will enact a refundable supplemental drainage fee and a buy-in fee. Those agreements

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RESOLUTION NO.: 2003-145
DATE ADOPTED: MAR 25 2003

specify that the subordinated bonds will be refunded in 2006 through refunding bonds issued in CFD 97-01; that interest will be paid on the landowners' investment until refunding; and that the Drainage Fee and Buy-in Fee funds will be used by the city to purchase subordinated bonds from the participating landowners and transfer those bonds to the fee payors, thereby spreading the burden of the interim financing solution across those lands benefiting from the completion of the third phase of CFD 97-01 improvements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO, AS FOLLOWS:

SECTION 1. The recitals and findings contained in Ordinance No. _____, adopted by the City Council on _____, 2003, are incorporated in full in this resolution as if fully set forth herein.

SECTION 2. The Drainage Fee amounts, payable at the time of issuance of a building permit, are established as follows:

Single family residential unit.....	\$851.00
Multifamily residential unit.....	\$403.00
Commercial/office/industrial.....	\$5,178.00 per net acre

SECTION 3. The Buy-in Fee amount, payable as specified in the Investment Agreements, is established at \$1,000,000.00.

SECTION 4. The proceeds of the Drainage Fee and the Buy-in Fee shall be applied by the city in accordance with the provisions of the Investment Agreements. The City Treasurer and the City Manager shall develop and implement fair and equitable standards, consistent with the Investment Agreements, for administration of the provisions of the Investment Agreements relative to use and application of those proceeds, and for refunds to the fee payors, which standards shall be reviewed and approved by the City Attorney. Each payor of the Drainage Fee and Buy-in Fee shall, within sixty (60) days following payment of the fee, execute an Investment Agreement in a form approved by the City Attorney, together with such other documents as may be required by the City Treasurer. In the event that the payor fails to execute the Investment Agreement and other required documents within the sixty (60) day period, the payor's right to refund shall be waived without the need for further notice from the City Treasurer or other city official.

SECTION 5. The City Council finds and determines that the Drainage Fee and the Buy-in Fee are necessary in order to preserve the public health, safety and welfare,

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2003-145

DATE ADOPTED: MAR 25 2003

in that it is essential to implement the requirements of the North Natomas Comprehensive Drainage Plan immediately so that planned North Natomas development can proceed, thereby avoiding significant economic detriment both to the landowners with remaining undeveloped land in the North Natomas Community Plan Area and to the city itself. The remaining improvements are necessary to prevent flooding in that area, and to preserve the current FEMA floodplain designation for lands within that area. That designation was obtained from FEMA on the basis of timely completion of the phased improvements specified in the Comprehensive Drainage Plan. For the reasons specified in the Ordinance, it is necessary that the Drainage Fee and the Buy-in Fee become effective immediately upon enactment of this resolution.

SECTION 6. While this resolution is adopted based upon the general police powers of the City of Sacramento, and is not based upon the provisions of Government Code Sections 66000, et seq., the City Council nevertheless makes the following findings:

- (a) The City Council hereby finds as follows:
 - (i) The recitals set forth above and in the Ordinance are true and correct and are incorporated herein by reference as findings.
 - (ii) The City Council approved the report attached to the staff report for this resolution, following a public hearing on the matter, and the contents of said report are incorporated herein.
- (b) As to the Drainage Fee and the Buy-in Fee (collectively, "Fees"), the City Council makes the following additional findings:
 - (i) The purpose of the Fees is to meet the flood control needs of people living and employed in the North Natomas Finance Plan ("NNFP") Area now and in the future, and to reduce the impacts on drainage infrastructure caused by development in that area.
 - (ii) The Fees shall be used only for the purposes specified in the Investment Agreements, and shall be administered and refunded in accordance with the standards adopted as required by this resolution. Because the Fee payors will be repaid in full, with interest, the Fees are fair, equitable, and just, and constitute a reasonable exaction for the right to develop in the North Natomas Community Plan Area (NNCP).
 - (iii) The various types of development in the NNFP Area generate a need for the drainage facilities to be constructed, that are required for consistency with the City's General Plan and the

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2003-145

DATE ADOPTED: MAR 25 2003

NNCP, and to protect the public's health, safety and general welfare.

- (iv) The record, including all of the material and testimony submitted in support of this resolution, together with all other reports, documents, and oral testimony regarding the Comprehensive Drainage Plan and its implementation and financing, establishes a reasonable relationship between the need for the drainage improvements to be constructed, and the impacts of the various types of development contemplated in the NNFP Area.
- (v) There is a reasonable relationship between the specified use of the Fees and the type of development (including the impacts caused thereby) for which the fee is charged, as described in the record, including, without limitation, the staff report and materials.
- (vi) The cost estimates are reasonable cost estimates for construction of the drainage improvements, and the Fees imposed on new development will not exceed the total of these estimated costs.
- (vii) The Fees are consistent with the City's General Plan and the North Natomas Community Plan, and the City Council has considered the effects of the Fees with respect to the City's housing needs and the regional housing needs.

SECTION 7. Construction of Resolution

The provisions of this resolution are subject and subordinate to the provisions of the Sacramento City Charter and the Constitutions of the United States and California, as they relate to the police powers of the City of Sacramento.

SECTION 8. 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 9. Effective Date.

This resolution shall be effective immediately upon its adoption.

SECTION 10. Severability.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2003-145

DATE ADOPTED: MAR 25 2003

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.

Heather Foy
MAYOR

ATTEST

Devin C. Burrows
CITY CLERK

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RESOLUTION NO.: 2003-145
DATE ADOPTED: MAR 25 2003