



REPORT TO COUNCIL

City of Sacramento

14

915 I Street, Sacramento, CA 95814-2671
www. CityofSacramento.org

CONSENT

July 21, 2005

Honorable Mayor and
Members of the City Council

Subject: Strawberry Field Development Agreement Time Extension (P03-134)

Location/Council District: South of Arena Boulevard, west of Airport Road at
Endeavor Way

Recommendation:

Staff recommends that the City Council adopt the attached ordinance, as an emergency measure, to add an additional 90 days to the effective date of the Development Agreement approved by City Council with the Strawberry Field project entitlements on March 22, 2005 requires 2/3rd vote.

Contact: Stacia Cosgrove, Associate Planner, 808-7110
David Kwong, Principal Planner, 808-2691

Presenters: Stacia Cosgrove, Associate Planner
David Kwong, Principal Planner

Department: Development Services Department

Division: Planning Division

Organization No: 4875

Summary:

On March 22, 2005, City Council approved the project entitlements for the Strawberry Field project, including a Development Agreement between the City of Sacramento and Towne Development of Sacramento, Inc. The definition of "Effective Date" on page 8 of the agreement provides that Towne Development must acquire title to the covered property within 90 days after the ordinance that approved the agreement takes effect. Because unanticipated environmental conditions have delayed Towne Development's acquisition of title, the parties now desire to amend the definition of "Effective Date" so that Towne Development has an additional 90 days to acquire title.

The City Manager has deemed this amendment to be non-substantive for purposes of section 18.16.130 in the Sacramento City Code.

Committee/Commission Action:

The Planning Commission heard the project at the February 10, 2005 public hearing, and unanimously recommended approval of the Development Agreement, Inclusionary Housing Plan, General Plan Amendment, Community Plan Amendment, Rezone, PUD Guidelines Amendment and PUD Schematic Amendment to the City Council. In the same action, the Planning Commission approved the Lot Line Adjustment, Tentative Map and a Special Permit to construct 145 residential units.

Background Information:

The Development Agreement approved by City Council on March 22, 2005, currently states that Towne Development of Sacramento must acquire title to the property covered by the Development Agreement within 90 days of the effective date of the ordinance. In this case, the ordinance approving the Development Agreement became effective on April 22, 2005. Ninety days from April 22, 2005 is July 22, 2005. Due to clean up efforts on the site taking longer than expected, Towne Development anticipates that it will be unable to gain title to the entire property until August 2005; therefore staff is seeking to amend the definition of the Effective Date of the ordinance from 90 days to 180 days. Staff is requesting that City Council approve the attached Ordinance as an emergency measure, thus allowing the Ordinance to take effect immediately.

The proposed amendment to the definition of Effective Date is not considered substantive for the purposes of City Code Section 18.16.130 because it does not change the terms of the development agreement or modify the provisions of the agreement dealing with the permitted uses, density or intensity of use, height or size of buildings, provisions for reservation and dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by a landowner, or any other material term or condition of the agreement.

Financial Considerations:

This project has no fiscal considerations.

Environmental Considerations:

The Strawberry Field residential development project approved on March 22, 2005, underwent a full environmental review and analysis. A Mitigated Negative Declaration was adopted by City Council at that time.

The proposed action is exempt from environmental review pursuant to State California Environmental Quality Act (CEQA) Guidelines [CEQA Section 15061(b)(3)]. Revising the definition of "Effective Date" in the Development Agreement is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Policy Considerations:

The Strawberry Field project itself is consistent with applicable City policies, including the Inclusionary Housing Policy, the City's Smart Growth Principles, and the City's Strategic Plan.

Emerging Small Business Development (ESBD):

City Council approval of the ordinance is not affected by City policy related to the ESBD Program.

Respectfully Submitted by: 
Gary Stonehouse, Planning Director
Planning

Recommendation Approved:

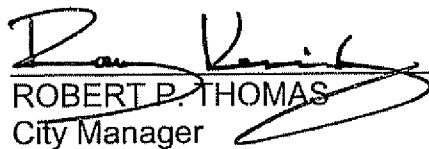

ROBERT P. THOMAS
City Manager

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No Fee Required: recording benefits the City of Sacramento, a government entity.

Recording requested by, and when recorded return to, the—

City Clerk
City of Sacramento
915 "I" Street
Historic Building, First Floor
Sacramento, CA 95814

Agreement to Amend North Natomas Development Agreement

**Strawberry Field (P03-134)
Towne Development of Sacramento, Inc.**

1. **Parties.** In this agreement, "the City" means the City of Sacramento, a municipal corporation; and "Landowner" means Towne Development of Sacramento, Inc., a California corporation.
2. **Background.** On March 22, 2005, the City Council approved project entitlements for the Strawberry Field project, including a development agreement between the City and Landowner. The definition of *Effective Date* in article I of the agreement provides (on page 8) that Landowner must acquire title to the covered property within 90 days after the ordinance that approves the agreement takes effect. Because unanticipated environmental conditions have delayed Landowner's acquisition of title, the parties now desire to amend the definition of *Effective Date* so that Landowner has an additional 90 days to acquire title. The City Manager has deemed this amendment to be non-substantive for purposes of section 16.16.130 in the Sacramento City Code, and, on July 21, 2005, the City Council enacted an ordinance approving this amendment.
3. **Amended Definition.** The definition of *Effective Date* in article I of the development agreement between the City and Landowner is amended to read in its entirety as follows:

Effective Date: the date on which the ordinance approving this Agreement becomes effective, but only if LANDOWNER holds fee title to the Property on that date. If LANDOWNER acquires fee title to the Property after the date the approving ordinance becomes effective, then the Effective Date will be the date LANDOWNER acquires fee title, subject to the following: this Agreement will be void and unenforceable if LANDOWNER does not acquire fee title within **180 days** after the approving ordinance becomes effective.
4. **Recording.** This amendatory agreement is to be recorded with the Sacramento County Recorder. The parties authorize and request the City Clerk to record a copy of this amendatory agreement within 10 days after the City has signed it.
5. **Entire Agreement.** This amendatory agreement sets forth the parties' entire understanding regarding the matters set forth above. It supersedes all prior or contemporaneous agreements, representations, and negotiations regarding those

matters—whether written, oral, express, or implied—and may be modified only by another written agreement signed by both parties.

6. **Effective Date.** The effective date of this amendatory agreement is July 21, 2005.

City of Sacramento
a California municipal corporation

Towne Development of Sacramento, Inc.
a California corporation

By _____
Heather Fargo
Mayor

By: _____
Jeffrey M. Pemstein
General Manager

Attest:

By _____
City Clerk

Approved for Legal Form:

By _____
Senior Deputy City Attorney

ORDINANCE NO. 2005-XXXX

Enacted as an Emergency Measure
by the Sacramento City Council

**AN ORDINANCE POSTPONING THE EFFECTIVE DATE OF A
DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SACRAMENTO
AND TOWNE DEVELOPMENT OF SACRAMENTO, INC.**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. The City Council enacts this ordinance against the following background:

- A. On March 22, 2005, the City Council approved project entitlements for the Strawberry Field project, including a development agreement between the City of Sacramento and Towne Development of Sacramento, Inc. The definition of Effective Date on page 8 of the agreement provides that Towne Development must acquire title to the covered property within 90 days after the ordinance that approved the agreement takes effect. The approving ordinance took effect on March 22, 2005, so the 90-day period for acquiring title expires on July 22, 2005.
- B. Unanticipated environmental conditions on the property will delay Towne Development's acquisition of title until sometime in August 2005. This is beyond the July 22, 2005, deadline, however. So unless the definition of Effective Date is changed before the deadline to give Towne Development additional time, the agreement will become unenforceable, an outcome neither the City nor Towne Development desires. Accordingly, they want to amend the definition of Effective Date so that Towne Development has an additional 90 days to acquire title.
- C. The City Manager has deemed this amendment to be non-substantive for purposes of section 18.16.130 in the Sacramento City Code.

Section 2. The definition of Effective Date, found on page 8 of the Strawberry Field Development Agreement, is amended to read in its entirety as follows:

Effective Date: the date on which the ordinance approving this agreement becomes effective, but only if LANDOWNER holds fee title to the Property on that date. If LANDOWNER acquires fee title to the Property after the date the approving ordinance becomes effective, then the Effective Date will be the date LANDOWNER acquires fee title, subject to the following: this Agreement will be void and unenforceable if LANDOWNER does not acquire fee title within 180 days after the approving ordinance becomes effective.

Section 3. The Mayor is authorized to execute on behalf of the City of Sacramento all documents required to implement the amendment.

Section 4. This ordinance is declared to be an emergency ordinance that becomes effective immediately upon adoption. The facts constituting the emergency are set forth in Section 1 above.

Adopted by the City of Sacramento City Council on July 21, 2005, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Mayor Heather Fargo

Attest:

Shirley Concolino, City Clerk