

RESOLUTION NO. 2001-84

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING
AN AGREEMENT FOR ADVANCED FUNDING AND REIMBURSEMENT OF CITY OF
ELK GROVE COSTS PERTAINING TO THE
EAST FRANKLIN SPECIFIC PLAN FINANCING PLAN**


BE IT RESOLVED AND ORDERED that the Mayor of the City of Elk Grove be and is hereby authorized and directed to execute the Agreement for Advanced Funding and Reimbursement of City of Elk Grove costs pertaining to the East Franklin Specific Plan Financing Plan in the form hereto attached, on behalf of the CITY OF ELK GROVE, a political subdivision of the State of California, with those persons signatory thereto, and to do and perform everything necessary to carry out the purpose of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Elk Grove on October 3, 2001.


MICHAEL P. LEARY, MAYOR
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:


PEGGY JACKSON, CITY CLERK
CITY OF ELK GROVE


ANTHONY MANZANETTI,
CITY ATTORNEY

AYES: Leary, Scherman,
Briggs, Soares
NOES: None
ABSTAIN: None
ABSENT: Cooper

AGREEMENT FOR ADVANCE OF FUNDS
(Reimbursement Agreement for Staff Processing)

Changes and additions appear in redline/strikeout.

File Number _____

Work Order Number _____

Project Name: **Public Facilities Financing Plan for the East Franklin Specific Plan Area**

East Franklin Implementation Group, LLC, a California limited liability company ("Developer") hereby agrees, upon execution of this Agreement, to advance to the City of Elk Grove, a public entity ("the City") the sum of \$50,000.00 (fifty thousand dollars) (the "Funds"), which Funds shall be used to reimburse the City for the costs incurred in managing and processing the creation and implementation of a Public Facilities Financing Plan (the "Plan") for the East Franklin Specific Plan Area (the "SPA") and the application submitted by Developer in connection with the formation of the Plan.

1. The advance of Funds shall be made to the City upon execution of this Agreement for Advance of Funds (hereinafter "this Agreement").

2. If, after completion of the Application Process as determined by the City in the City's sole discretion ("Application Process"), any portion of the Funds that have not been expended or committed for expenditure in the formation of the Plan or Application Process shall be returned to Developer by the City.

3. The Developer fully understands and agrees to each of the following:

a. Developer acknowledges that the Funds paid herewith may not be adequate to fully reimburse the City for costs incurred in connection with the formation of the Plan, and that periodically, as the need arises, Developer may be called upon to make further deposits of Funds ("Additional Funds"). Once received the Additional Funds shall become a part of the Funds. Developer agrees that there shall always remain on deposit with the City sufficient Funds to cover the anticipated costs to be incurred with the Application Process for a period of thirty (30) business days. In the event, for any reason, a City request for a deposit of Additional Funds from Developer is not fully satisfied, within thirty (30) business days the City may, in City's discretion, cease the Application Process and cease processing of the Plan and may, in City's discretion, cancel same, and if the Plan processing is ceased or canceled, City shall record the failure to make the requested deposit of Additional Funds as the Developer's request to cease the Application Process and the processing the Plan and to cancel processing of same.

b. Prior to the date of any City Council hearing for the project, the City may notify Developer in writing of the amounts owed, or that will be owed, if any to the City by the Developer as of the date of such hearing. Developer agrees to pay to the City and the City shall receive the full payment of the amount stated owed in the above notification within ten (10) business days of receiving such written notification or by the date of the hearing, which ever is sooner. Developer shall pay the charges estimated by the City for work to be performed through the public hearing date.

c. The Funds shall be deposited and maintained in a segregated account and the unexpended balance of the Funds shall bear interest at the City treasury pool rate established by the City Treasurer for the benefit of Developer. The Funds shall be used, in the sole discretion of the City, to fund or aid in the funding of services, studies, activities, supplies and other costs incurred by the City in processing and implementing the Plan.

d. The deposit of the Additional Funds shall not be contingent on the hiring of any specific employee or consultant. The City reserves absolute discretion as to the selection, hiring, assignment, supervision and evaluation of any and all employees, contractors, or consultants that may be necessary to assist the City in completing the Application Process. The City shall have the sole discretion to establish the amount of compensation paid to the employees and the amount of fees paid to the consultants or the consultants' firms that are hired by the City to review and process the Plan .

e. The deposit of the Additional Funds shall not be dependent upon the City's approval or disapproval of the Developer's application, or upon the result of any action, and shall in no way influence the Application Process. Neither Developer nor any other person providing funding for the Plan shall, as a result of such funding, have any expectation as to the results of the Application Process or the selection of an alternative favorable to or benefiting Developer.

f. Developer is expressly prohibited from directly or indirectly exercising any supervision or control over any employee, agent or consultant of the City engaged in the Plan. Violation of this provision is cause for the City to cease processing the Plan and/or to cancel the Application Process, either of which may be done at the sole and exclusive direction of City. This prohibition shall not be construed to preclude Developer, its agents or representatives, from consulting with City regarding formation and implementation of the Plan nor from providing information to the City or any employee, agent or consultant of the City for incorporation into the Plan, or from seeking information from the City, or any employee, agent or consultant of the City with respect to the Plan.

g. Developer, or any successor in interest, shall be reimbursed, by proceeds received from implementation of the Plan and not the City of Elk Grove(see paragraph 8, below), all amounts advanced under this Agreement in accordance with the provisions of the Plan when all of the following conditions are met:

- (i) The Plan is approved by the City Council of City;
- (ii) Proceeds equal to the Funds and Additional Funds advanced under this Agreement are received as a result of the implementation of the financing mechanism or mechanisms outlined in the Plan; and
- (iii) All legal challenges to the implementation of the Plan, if any, are concluded without preventing or invalidating such reimbursement.

4. Each party acknowledges that this Agreement sets forth all covenants, promises, conditions and understandings between the parties regarding the advance of funds and the uses thereof, and there are no promises, conditions or understandings either oral or in writing between the parties other than as set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties unless reduced to writing and signed by a principal of each party. No course of conduct shall be binding upon the City and waiver of one or more provisions or violations shall not be construed as a course of conduct to be relied upon and may not be the basis for any expectation of future waiver or estoppel.

5. This Agreement shall be a public record of the City.

6. This Agreement is made under, and shall in all respects be interpreted, enforced, and governed by, the laws of the State of California. In the event of a dispute concerning the terms of this Agreement, the venue for any legal action shall be with the appropriate court in the County of Sacramento, State of California.

7. Should legal proceedings of any type arise out of this Agreement, the prevailing party shall be entitled to costs, attorney's fees, and legal expenses, including but not limited to expert fees.

8. The obligation arising from the Agreement to repay Developer under Section 3.g of this Agreement is not a debt of the City. Developer, by execution of this Agreement, acknowledges that reimbursement is payable solely from proceeds received from implementation of the Plan and that City has no obligation to reimburse Developer for the funds advanced under this Agreement if no or insufficient monies are received following the implementation of the Plan.

CITY OF ELK GROVE

Dated: _____

By: _____
Stanley Grady, Interim City Manager

FULL LEGAL NAME OF DEVELOPER(S)

Dated: _____

By: _____
(full name of individual & title)

FULL LEGAL NAME OF DEVELOPER(S)

Dated: _____

By: _____
(full name of individual & title)

FULL LEGAL NAME OF DEVELOPER(S)

Dated: _____

By: _____
(full name of individual & title)

FULL LEGAL NAME OF DEVELOPER(S)

Dated: _____

By: _____
(full name of individual & title)

**City of Elk Grove
Special Assessment and Mello-Roos District
Financing Program Application**

Instructions:

1. Please complete the following Sections in the spaces provided.
2. Attach additional sheets if necessary.
3. Attach \$10,000 non-refundable application fee. If application is approved, any unexpended portion can be applied to the District formation deposit amount.

TO BE COMPLETED BY CITY

City/District Accounting No.

Date Application Fee Received

Applicant Information

Applicant Name: East Franklin Implementation Group, LLC

Relationship to Landowner: Property Owners Implementation Group

Mailing Address: 2150 Professional Drive, Suite 150
Roseville, CA 95661

Contact: Kent MacDiarmid (The MacDiarmid Company)

Title: Development Coordinator

Phone: (916) 772-3680 FAX No.: (916) 772-1285

Email: kmacdiarmid@rcsis.com

Preferred Proceedings (check)

Improvement Act of 1911	_____
Municipal Improvement Act of 1913	_____
Improvement Bond Act of 1915	_____
Mello-Roos Community Facilities Act	<u> X </u>
Facilities Plan Area Fee District	_____
Undecided	_____

Explanation: _____

Name of Project

Provide map identifying zoning title or ordinance no.

East Franklin CFD

Name of Civil Engineer for Project to Date

Name: Murray, Smith & Associates

Contact: Rick Hansen

Address: 3110 Gold Canal Drive
Rancho Cordova, CA 95670

Phone: 916-635-1511x25

Landowner Name

Mailing Address: _____

Contact: Kent MacDiarmid (The MacDiarmid Company)

Title: Development Coordinator

Phone: (916) 772-3680 (916) 772-1285

Email: kmacdiarmid@rcsis.com

Project Land Use Summary (i.e., number of units/acres by land use category)

See attached Financing Plan

2-100

Additional Project Information

- A. City planning approvals (subdivision approvals received to date including processing numbers, dates of approval, current processing status and development agreement reference, if any).

See p. 8 of the Financing Plan for Planning Approval. Details forthcoming.

- B. Previous names under which this project has been known or processed by the City (list names and dates).

East Franklin Specific Plan

- C. Improvements or facilities proposed for assessment district or community facilities district financing. (If available, provide a cost breakdown, map and construction timetable for each facility or improvement proposed.)

Phase 1 - Roads, sewer, water, drainage, advanced impact fees.

See Financing Plan p. 35 for Phase 1 Facilities and p. 43 for estimate of CFD Bonds

- D. All existing and proposed taxes, assessments, liens or other secured interests on all property within the proposed district. (Provide a copy of recent property tax bill and preliminary title report.)

Forthcoming. Will be delivered within 30 days.

- E. Estimated property value documented by letter from MAI appraiser or other qualified party, if available.

Forthcoming.

- F. Prior experience developer/landowner has had with assessment and/or community facilities district financing.

Forthcoming.

- G. All other land development ventures by landowner and/or developer where public debt financings were used (include location, land use summary, period of construction, etc.)

Forthcoming.

Other District Formation/Financing Information

- A. Project's need for assessment and/or community facilities district financing.

See Financing Plan

- B. Public entities anticipated to own, operate or maintain facilities or improvements proposed.

See Financing Plan City of Elk Grove, CSD-1, Regional San, Zone 40 Water

- C. Identify the percentage of total acreage owned by the applicant in the proposed district. (Attach a map identifying their property locations, affected facilities, and evidence indicating support for the proposed district financing).

<u>Developments with Rezone and Tentative Map Application</u>	<u>Units</u>	<u>% of Units</u>	(May Change)
Franklin Meadows	814	20.0%	
Laguna Creek South	1043	25.7%	
Jungkeit Dairy	406	10.0%	
Laguna Meadows	743	18.3%	
Elk Grove Meadows	141	3.5%	
Subtotal	3,147	77.5%	
<u>Development with Conceptual Maps</u>	<u>Units</u>	<u>% of Units</u>	
JAS Development	228	5.6%	
Elk Grove 82	323	8.0%	
Franklin 51	243	6.0%	
Elk Grove Meadows	120	3.0%	
Subtotal	914	22.5%	
TOTAL	4,061	100.0%	

- D. Have you, or anyone else, filed a petition with another public agency (e.g., school or water district) to form an Assessment / Mello-Roos district on the property?

No.

- E. Surrounding property owners which may be affected by or be included in the proposed district financing.

See attached map, from p. 2 of the Financing Plan.

Miscellaneous

- A. Indicate whether an application for assessment and/or community facilities district financing has ever been previously denied by the Sacramento County Board of Supervisors or the Elk Grove City Council for this property. If so, explain the circumstances and reasons.
No.
- B. Indicate whether the landowner/developer and/or joint venture participant has ever been party to an abandoned, defaulted and/or court challenged assessment or community facilities district financing in any jurisdiction. If so, state when, where, issue size, circumstances and reasons.
No.
- C. Do you foresee any unusual requirements, problems, unique opportunities, etc. that may exist in the requested financing of the project?
No.
- D. Provide recent financial statements of landowner, developer, joint venture, etc., or provide lead bank/lender references or other information demonstrating past financial performance.
Forthcoming.
- E. To minimize the possibility of the City's and prospective bond holders involvement with contaminated property, provide a Phase I site assessment of the subject property which concludes there is minimal or no possibility of contamination. If the site assessment concludes that contamination exists or further studies are warranted, the applicant shall conduct an appropriate Phase II site assessment of the property, and funding eligibility will be based on the results of the Phase II site assessment.
Forthcoming.

Declarations

The undersigned hereby declares that property taxes and assessments are current for the properties included in this Application and that the information contained in this Application is accurate and complete to the best of the undersigned's knowledge.

Submitted by

Firm: East Frankling Implementation Group, LLC

Date: August 20, 2001

Name: ~~Ron Emry~~ *Ronald G. Emry*

Title: East Franklin Implementation Group, LLC Member

Signature: *[Signature]*

ROBERT E. HOWSE

[Signature]

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Figure 6
East Franklin CFD
East Franklin Specific Plan Phase 1 Improvements

"A" LIST FACILITIES				
Item	Facility	Hard Costs	Soft Costs	Total Cost
1	Shed 'A' Offsite Channel & Railroad Bridge	543,950	76,153	620,103
2	Shed 'A' Onsite Channel - No Landscaping	282,150	135,501	417,651
3	Shed 'A' Franklin Blvd Bridge	1,047,618	146,667	1,194,285
4	Shed 'A' 6 Street Bridge	724,900	101,486	826,386
	Shed 'A' Subtotal =	2,598,618	459,807	3,058,425
5	Shed 'B' Contribution to Shed 'B' Channel Construction	1,853,860	0	1,853,860
6	Shed 'B' Easement Acquisition Fee	1,685,280	0	1,685,280
7	Poppy Ridge Road Offsite Drainage	509,300	71,302	580,602
	Shed 'B' Subtotal =	4,048,440	71,302	4,119,742
8	Elk Grove Blvd Soundwall	80,520	11,273	91,793
9	Jungkeit House Restoration	200,000	0	200,000
10	Poppy Ridge Road Extension w/Signal	1,500,950	210,133	1,711,083
11	Poppy Ridge Road Sewer Extension	248,050	34,727	282,777
12	Complete Tmain Loop in Southwest Quadrant	693,275	90,126	783,401
13	EFIG Group & Consultant Coordination for Phase 'A' & Phase 1 Design	0	800,000	800,000
14	Acquisition of Phase 'A' Facilities	5,499,160	0	5,499,160
15	Reimburse EGUSD Sewer Pump & Force Main	4,000,000	240,000	4,240,000
	Remainder Subtotal =	12,221,955	1,386,259	13,608,214
	Shed 'A' Responsibility =	8,765,015	1,159,222	9,924,236
	Shed 'B' Responsibility =	10,103,998	758,145	10,862,144
	"A" List Bonds Total =	18,869,013	1,917,367	20,786,380
"B" LIST FACILITIES				
16	Complete 'B' Shed Channel (No NPDES or Landscape)	6,354,425	4,805,821	11,160,246
17	Bruceville Road West Half plus Poppy Ridge Road Signal	2,004,261	280,596	2,284,857
18	Franklin Boulevard East Half	1,653,245	231,454	1,884,699
19	Elk Grove Blvd South Half w/ Street 6 & Foulkes Ranch Signals	2,031,219	284,371	2,315,589
20	Shed 'A' Channel Landscaping	891,990	124,879	1,016,869
21	Shed 'B' Channel Landscaping	1,787,610	250,265	2,037,875
	"B" List Bonds Total =	14,722,749	5,977,386	20,700,135
	Total "A" and "B" List Bonds =	33,591,762	7,894,753	41,486,515

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Source: Murray Smith and Associates

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Figure 7
East Franklin CFD
Summary of Land Use

Land Use	Drainage Shed "A"		Drainage Shed "B"		Total CFD	
	Acres	Units	Acres	Units	Acres	Units
Single Family Residential						
RD 4	-	-	51.3	154	51.3	154
RD 5	333.5	1,597	247.8	1,031	581.3	2,628
RD 7	71.4	402	149.6	855	221.0	1,257
Subtotal Single Family	404.9	1,999	448.7	2,040	853.6	4,039
Multi-Family Residential	14.1	282	10.0	200	24.1	482
Total Residential	419.0	2,281	458.7	2,240	877.7	4,521
Non-Residential	-	n/a	9.0	n/a	9.0	n/a
Other						
Open Space	9.5	n/a	19.7	n/a	29.2	n/a
Drainage Parkway	-	n/a	-	n/a	-	n/a
Landscape Corridors	6.6	n/a	20.5	n/a	27.1	n/a
Sewer Corridor	19.9	n/a	32.7	n/a	52.6	n/a
Park	-	n/a	-	n/a	-	n/a
Parkway	20.0	n/a	10.0	n/a	30.0	n/a
Elementary School	-	n/a	-	n/a	-	n/a
Streets	-	n/a	-	n/a	-	n/a
Subtotal Other	56.0	n/a	82.9	n/a	138.9	-
Total	475.0	2,281	550.6	2,240	1,025.6	4,521

"lu_sum"

Source: Murray Smith Engineering

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Figure 9
East Franklin CFD
Estimated CFD Bonding Capacity by Drainage Shed

Estimated Bonds	Drainage SHED "A"	Drainage SHED "B"	Total
<u>Bond Proceeds</u>	\$14,709,000	\$15,175,000	\$29,884,000
Reserve Fund	\$1,545,000	\$1,594,000	\$3,139,000
Capitalized Interest (12 MONTHS)	\$1,243,000	\$1,283,000	\$2,526,000
Issuance Costs and Underwriting	\$921,000	\$950,000	\$1,871,000
Total Bonds	\$18,418,000	\$19,002,000	\$37,420,000
<u>Maximum Special Taxes</u>			
Annual Debt Service	\$1,545,000	\$1,594,000	\$3,139,000
Delinquency Coverage	\$155,000	\$159,000	\$314,000
City Administration	\$39,000	\$40,000	\$79,000
Maximum Annual Special Tax	\$1,738,000	\$1,793,000	\$3,531,000
<u>Major Assumptions</u>			
Bond Interest Rate	6.75%	6.75%	
Bond Term	25	25	
Months of Capitalized Interest	12	12	
Reserve Fund (1 yr of debt service)	1 year	1 year	
City Administration	2.50%	2.50%	
Issuance Cost and Underwriting	5.00%	5.00%	
Delinquency Coverage	10.00%	10.00%	
Bond Factor	125.22%	125.22%	

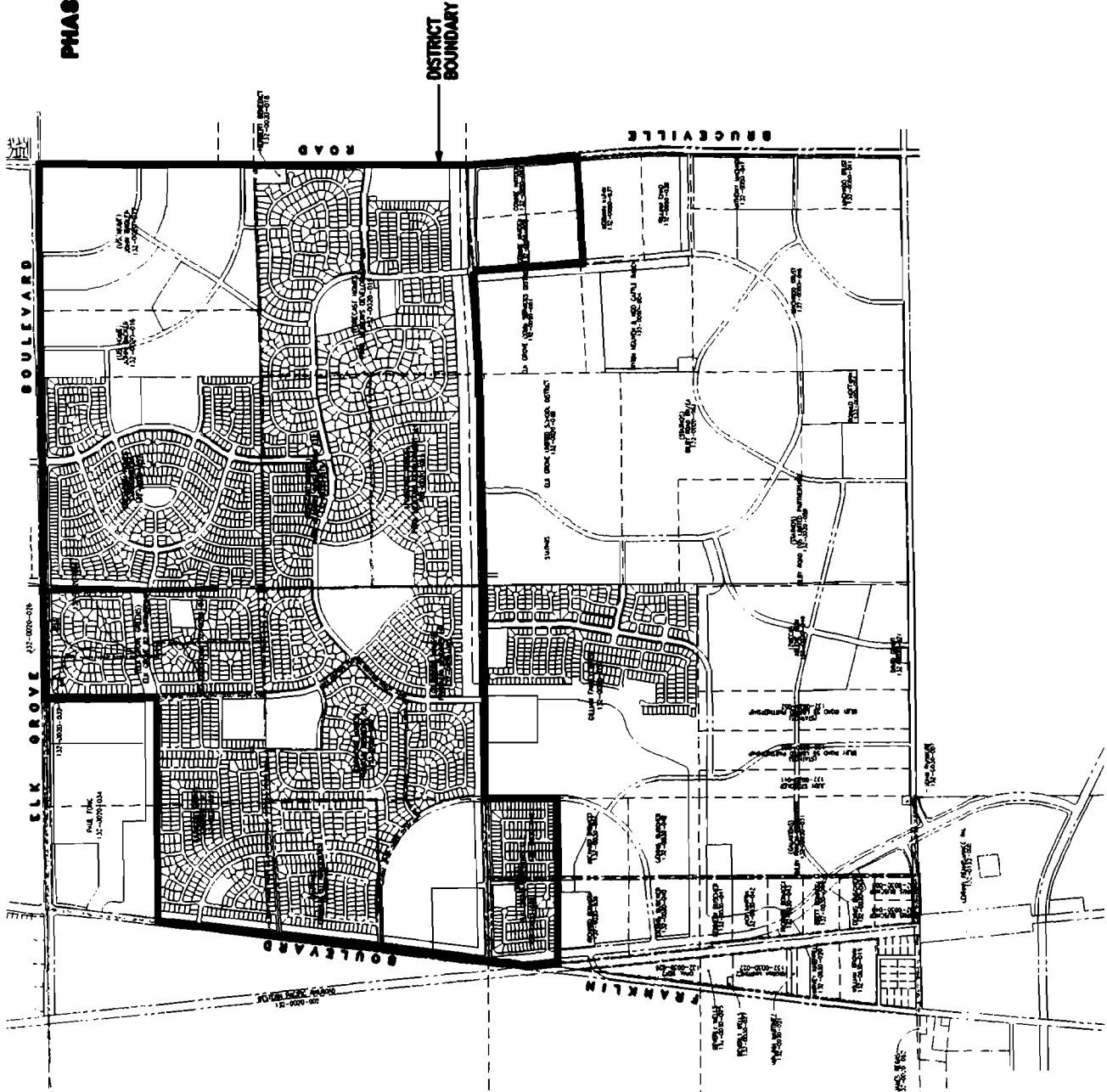
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PHASE 1 COMMUNITY FACILITIES DISTRICT

EXHIBIT 101

EAST FRANKLIN

Sacramento County, California



SCALE: 1"=400'

