

RESOLUTION NO. 2002-138

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AUTHORIZING THE EXECUTION OF AN ELK GROVE / WEST VINEYARD PUBLIC FACILITIES FINANCING PLAN REIMBURSEMENT AGREEMENT FOR THE CONSTRUCTION OF A TRAFFIC SIGNAL AT THE ELK GROVE-FLORIN ROAD / TIOGAWOODS DRIVE INTERSECTION

WHEREAS, Chapter 16.82 of the Sacramento County Code and Chapter 16.82 of the Elk Grove Municipal Code provide for the establishment of development fees and special funds; and

WHEREAS, Chapter 16.82.160 of the Sacramento County Code and Chapter 16.82.160 of the Elk Grove Municipal Code authorize the County of Sacramento, a political subdivision of the State of California (the "COUNTY") and the City of Elk Grove, a municipal corporation (the "CITY") to enter into reimbursement agreements for the design and/or construction of any roadway facilities, or portions thereof, designated in the Elk Grove / West Vineyard Public Facilities Financing Plan upon application of the property owner; and

WHEREAS, KB Home North Bay, Inc., a property owner within the Elk Grove / West Vineyard Public Facilities Financing Plan area, is constructing a traffic signal at the Elk Grove-Florin Road / Tiogawoods Drive Intersection associated with the Tamarindo 2 subdivision and has applied for reimbursement for said improvement; and

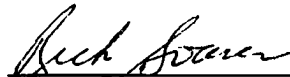
WHEREAS, the COUNTY and the CITY desire to reimburse KB Home North Bay, Inc., for said improvement.

BE IT RESOLVED AND ORDERED as follows:

1. The above recitals are true and correct and the City Council so finds and determines.

2. The City Council does hereby authorize Mayor to execute an Agreement, in the form attached hereto, on behalf of the CITY with the County of Sacramento, a political subdivision of the State of California, and KB Home North Bay, Inc., a California Corporation, for an Elk Grove / West Vineyard Public Facilities Financing Plan Reimbursement Agreement, and to do and perform everything necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Elk Grove on this 7th day of August 2002.



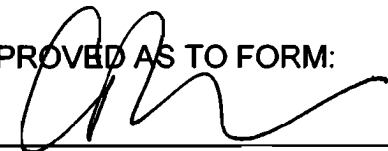
RICK SOARES, MAYOR OF THE
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

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

COUNTY OF SACRAMENTO

CITY OF ELK GROVE

ELK GROVE / WEST VINEYARD PUBLIC FACILITIES FINANCING PLAN

REIMBURSEMENT AGREEMENT FOR THE CONSTRUCTION OF A TRAFFIC SIGNAL AT THE ELK GROVE-FLORIN ROAD / TIOGAWOODS DRIVE INTERSECTION

This Agreement is made and entered into this ____ day of _____, 2002, by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California, hereinafter referred to as "COUNTY", the CITY OF ELK GROVE, a municipal corporation, hereinafter referred to as "CITY", and KB HOME NORTH BAY, INC., a California Corporation, hereinafter referred to as "PROPERTY OWNER".

WITNESSETH:

WHEREAS, Chapter 16.82 of the Sacramento County Code and Chapter 16.82 of the Elk Grove Municipal Code established development fees and special funds within the Elk Grove/West Vineyard Public Facilities Financing Plan (the "FINANCING PLAN") Area; and

WHEREAS, Chapter 16.82 of the Sacramento County Code and Chapter 16.82 of the Elk Grove Municipal Code authorize the COUNTY and CITY to enter into reimbursement agreements for the construction of any roadway facilities, or portions thereof, designated in the FINANCING PLAN upon application of the PROPERTY OWNER; and

WHEREAS, PROPERTY OWNER, is constructing, and has applied for reimbursement for, a traffic signal located at the Elk Grove-Florin Road / Tiogawoods Drive Intersection, (the "PROJECT"), in compliance with the COUNTY's Improvement Standards at the location shown on Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, the PROJECT is scheduled to be funded in fiscal year 1999/2000 in the FINANCING PLAN and is therefore eligible for reimbursement after the PROJECT is completed and accepted.

NOW, THEREFORE, in consideration of the mutual promises contained herein, COUNTY and PROPERTY OWNER hereby agree as follows:

I. PROJECT

COUNTY and CITY agree to provide reimbursement of funds to PROPERTY OWNER for the construction of the PROJECT subject to the terms of this Agreement.

II. REIMBURSEMENT

COUNTY and CITY agree to reimburse PROPERTY OWNER for construction of the PROJECT an amount not to exceed \$151,594.00, unless said amounts are increased pursuant to Paragraph IV of this Agreement, subject to the following conditions:

- (A) The design and construction of the PROJECT shall be done in accordance with the applicable sections of California law, including but not limited to the California Public Contracts Code and Labor Code.
- (B) The construction of the PROJECT must be accepted by the Construction Management Division of the COUNTY Public Works Agency prior to reimbursement being made.
- (C) Reimbursement shall be made on the basis of the unit quantities and prices contained in Exhibit "B", attached hereto and incorporated herein, and shall not exceed the amounts per line item contained in Exhibit "B". The contingency identified in Exhibit B is at the discretion of the Director of County Engineering and Administration and is only eligible for reimbursement if OWNER provides evidence of unanticipated or increased costs.
- (D) Reimbursement shall be made within sixty (60) days following PROPERTY OWNER providing evidence to the COUNTY that the construction of the PROJECT is complete and accepted by the COUNTY and after all conditions set forth in this Section are met.

III. LIMITATIONS

(A) Neither the General Funds of the COUNTY or CITY, nor any other fund of COUNTY or CITY, except the Elk Grove/West Vineyard Elk Grove Roadway Fund (“FUND”) designated by this Agreement, shall be liable for payment of any obligations arising from this Agreement. The credit or taxing power of the COUNTY and CITY is not pledged for the payment of any obligations arising from this Agreement. PROPERTY OWNER shall not compel the exercise of COUNTY’S or CITY’S taxing power or police power, or the forfeiture of any COUNTY or CITY property to satisfy any obligations arising from this Agreement. The obligations arising from this Agreement are not a debt of the COUNTY or CITY, nor a legal or equitable pledge, charge, lien, or encumbrance, upon any of its property, or upon any of its income, receipts, or revenues, and is payable only from the revenues of the Elk Grove/West Vineyard Elk Grove Roadway Fund arising from the fees or charges transferred to the FUND.

(B) No reimbursement shall be made for any cost not listed in Exhibit "B" except for any additional cost agreed by the parties pursuant to Paragraph IV.

IV. AMENDMENTS

Amendments or modifications to this agreement shall be in writing and executed by all parties.

V. TERMINATION UPON REIMBURSEMENT

This Agreement shall terminate when the COUNTY and CITY have fully reimbursed PROPERTY OWNER. PROPERTY OWNER shall then provide COUNTY with receipt acknowledging full payment.

VI. MISCELLANEOUS PROVISIONS

(A) Reimbursement payments, correspondence, demands, notice, or other communication between parties shall be sufficiently given if dispatched by postage prepaid first class as follows:

COUNTY: County of Sacramento
Department of County Engineering and Administration
Attn: Robert Davison, Senior Civil Engineer
827 - 7th Street, Room 304
Sacramento, CA 95814

CITY: City of Elk Grove
Public Works Department
Attn: Public Works Director
8400 Laguna Palms Way
Elk Grove, CA 95758

PROPERTY OWNER: "KB Home North Bay, Inc."
c/o Robert Wilson
KB Home
611 Orange Drive
Vacaville, CA 95687

If a change of address occurs, or the rights herein are assigned, the transferee shall give notice to the other parties of any such change.

(B) This Agreement, Exhibit "A", and Exhibit "B" constitute the entire Agreement and understanding between the COUNTY, CITY and PROPERTY OWNER concerning the subject matter hereof.

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IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed as of the day and year first written above.

COUNTY: COUNTY OF SACRAMENTO, a political subdivision of the State of California

By: _____
Warren H. Harada, Administrator
Public Works Agency

APPROVED AS TO FORM:

Holly Gilchrist
Deputy County Counsel

CITY: CITY OF ELK GROVE, a municipal corporation

By: _____
Rick Soares, Mayor of the City of Elk Grove

APPROVED AS TO FORM:

Anthony B. Manzanetti
City Attorney

PROPERTY OWNER: KB HOME NORTH BAY, INC.,
a California Corporation

By: _____

Name: _____

Title: _____

EXHIBIT A

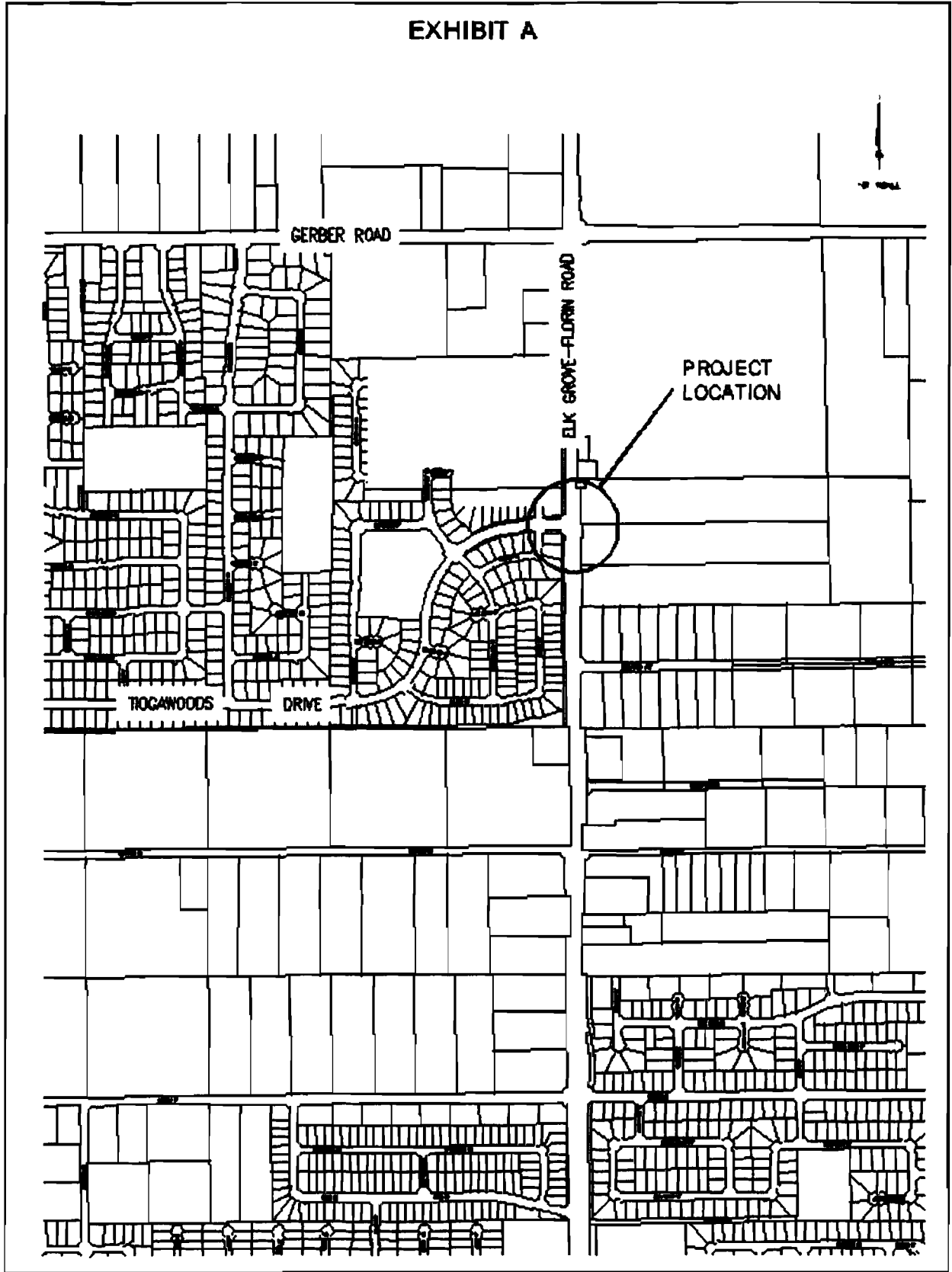


EXHIBIT "B"

ELK GROVE / WEST VINEYARD
PUBLIC FACILITIES FINANCING PLAN ROADWAY CAPITAL IMPROVEMENT PROGRAM

CONSTRUCTION REIMBURSEMENT WORKSHEET

For Tamarindo Unit No. 2

Elk Grove-Florin / Tiogawoods Drive Traffic Signal

C.I.P. BUDGET YEAR:	<u>1999/2000</u>	REVISED BY:	<u>Bob Davison</u>
SUBMITTED BY:	<u>KB Home Northern, Inc.</u>		
SUBDIV. / PROJ. NAME	<u>Tamarindo Unit No. 2</u>	REVISED:	<u>07/17/02</u>
ROADWAY PROJECT :	<u>Elk Grove-Florin / Tiogawoods Drive Traffic Signal</u>	PRINTED:	<u>07/17/02</u>
		PROJECT ID:	<u>Project C9</u>

CONSTRUCTION COST:

DESCRIPTION	LENGTH	WIDTH	QUANTITY	UNIT	UNIT PRICE	COST
1 Traffic Signal				EA	\$115,500.00	\$115,500.00
SUBTOTAL						\$115,500.00
ENGINEERING (25 %)(Note 1)						\$144,375.00
TOTAL CONSTRUCTION COST						\$144,375.00
Contingency (5%) (Note 2)						\$7,219.00
NOT TO EXCEED AMOUNT						\$151,594.00

- 1 25% ENGINEERING COST INCLUDES: INSPECTION, MATERIALS TESTING, ENGINEERING DESIGN & CONSTRUCTION SURVEY.
- 2 UP TO 5% IN CONTINGENCY MAY BE REIMBURSED AT THE DISCRETION OF THE ADMINISTRATOR OF THE PUBLIC WORKS AGENCY PROVIDED THAT EVIDENCE IS SUBMITTED SUPPORTING THE CONTINGENCY.