

RESOLUTION NO. 2004-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE TRANSFER OF THE CASH IN-LIEU/FAIR SHARE PAYMENTS BETWEEN THE COUNTY OF SACRAMENTO AND THE CITY OF ELK GROVE

WHEREAS, the incorporation of the City became effective July 1, 2000; and

WHEREAS, the Cash In-Lieu/Fair Share Payments Plan, relating to zoning conditions of approval placed on various development projects to pay a fair share amount of transportation improvements related to the subject development projects to mitigate traffic impacts ("Cash In-Lieu Plan") was established by the County prior to the City's incorporation; and

WHEREAS, as a result of the City's incorporation, some funds received by the County for projects located solely within the jurisdiction of the City may be transferred to the City so that such funds may be used to complete the transportation improvements for which such funds were slated; and

WHEREAS, the City and the County have negotiated a fair and equitable distribution of the existing Cash In-Lieu Plan fund balance and to create an arrangement under which the City will assume responsibility for administering that portion of the funds slated for transportation improvements that are located within the City's corporate limits and the County will continue to administer the remainder of the Cash In-Lieu Plan funds transportation improvements that remain within the boundaries of the unincorporated area of the County; and

WHEREAS, the "Agreement for Transfer of the Cash In-Lieu/Fair Share Payments Between the County of Sacramento and the City of Elk Grove", which has been submitted to the City Council, is intended to memorialize the terms and conditions under which the City will assume responsibility for the future administration of the Cash In-Lieu plan funds received for transportation improvements that lie within its boundaries.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove that:

1. **Recitals.** Each of the above recitals is incorporated herein and is true and correct.

2. **Authorization of Officers to Execute and Deliver Agreement.** The City Council hereby authorizes and directs the Mayor and the City Clerk, and each of them individually (the "Designated Officers"), for and in the name of and on behalf of the City, to execute and deliver the Agreement as presented at this meeting, which Agreement is hereby approved. The execution of the Agreement by a Designated Officer or Officers

of the City shall constitute conclusive evidence of such officer's or officers' and the City Council's approval of the Agreement.

3. **General Authorization**. The Designated Officers and other officers of the City, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the City, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to effect the purposes of this resolution. All actions heretofore taken by officers, employees, and agents of this City that are in conformity with the purposes and intent of this resolution are hereby approved, confirmed, and ratified.

4. **Effective Date**. This resolution shall take effect immediately upon its adoption.

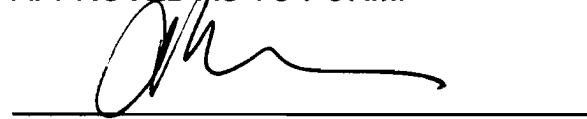
PASSED AND ADOPTED by the City Council of the City of Elk Grove this 3rd day of March 2004.


SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

AGREEMENT FOR TRANSFER OF THE CASH IN-LIEU/FAIR SHARE PAYMENTS BETWEEN THE COUNTY OF SACRAMENTO AND THE CITY OF ELK GROVE

This Agreement is made and entered into this _____ day of _____, 2004, by and between the County of Sacramento, a political subdivision of the State of California ("County"), and the City of Elk Grove, a municipal corporation organized and existing under the laws of the State of California ("City").

RECITALS:

WHEREAS, the incorporation of the City became effective July 1, 2000; and

WHEREAS, the Cash In-Lieu/Fair Share Payments Plan, relating to zoning conditions placed on various development projects to pay a fair share amount of transportation improvements related to the subject development projects to mitigate traffic impacts ("Cash In-Lieu Plan") was established by the County prior to the City's incorporation; and

WHEREAS, as a result of the City's incorporation, some funds received by the County for projects located solely within the jurisdiction of the City may be transferred to the City so that such funds may be used to complete the transportation improvements for which such funds were slated; and

WHEREAS, the City and the County have negotiated a fair and equitable distribution of the existing Cash In-Lieu Plan fund balance and to create an arrangement under which the City will assume responsibility for administering that portion of the funds slated for transportation improvements that are located within the City's corporate limits and the County will continue to administer the remainder of the Cash In-Lieu Plan funds transportation improvements that remain within the boundaries of the unincorporated area of the County; and

WHEREAS, this Agreement is intended to memorialize the terms and conditions under which the City will assume responsibility for the future administration of the Cash In-Lieu plan funds received for transportation improvements that lie within its boundaries.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and covenants hereinafter set forth, the City and the County hereby agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are hereby incorporated by reference, however, the recitals create no enforceable obligation(s) and should there be a conflict between a recital and any language in the following paragraphs, the language in the following paragraphs shall control.

2. Assumption of Administrative Responsibilities. As of the effective date of this Agreement, the City shall assume full and complete responsibility for the future administration and management of the funds received from the County's Cash In-Lieu Plan for transportation improvements/projects that are located within the corporate limits of the City. The County shall continue to be fully and completely responsible for administering that portion of the funds received for transportation improvements/projects that are located within the unincorporated area of the County.

3. Levy, Collection and Disbursement of Fees. The Cash In-lieu Plan fees are levied, collected and expended within the City and the unincorporated area of the County. As of the effective date of this Agreement and into the future, the respective duties and responsibilities of the City and the County with regard to the levy, collection and disbursement of the fees described above shall be as follows:

(a) As of the effective date of this Agreement, the City shall be fully and completely responsible for the future management and disbursement of all Cash In-Lieu Plan fees designated on Exhibit A, "City of Elk Grove Cash In-Lieu/Fair Share Payment List," which is attached hereto and incorporated herein as if fully set forth. The funds collected by the County and transferred to the City by this Agreement shall only be used for the transportation improvements designated on Exhibit A, and described in the supporting documentation referred to by documentation number on Exhibit A as discussed in Section 6 of this Agreement.

(b) As of the effective date of this Agreement, the City shall be fully and completely responsible for the future levy, collection and disbursement of all Cash In-Lieu Plan fees, if any, within the corporate limits of the City ("City Cash In-Lieu Plan fees"). The City absolves the County of any future responsibility with respect to the levy, collection and disbursement of such City Plan fees as of the effective date of this Agreement and into the future. The City absolves the County of any future responsibility with respect to the levy, collection, management and disbursement of such fees from the effective date of this Agreement and in the future.

(c) No later than thirty (30) days after the effective date of this Agreement, the County shall transfer all monies identified in Exhibit A, in the amount of \$598,932.00 to the City. This payment shall satisfy the entire obligation of the County to transfer Cash In-Lieu funds to the City, unless additional funds are identified after the execution of this Agreement that are specifically for transportation improvements within the City of Elk Grove, and have already been collected and are part of the County's existing Cash In-Lieu Plan Fund as of the date of the execution of this Agreement.

(d) The County shall retain full and complete responsibility for the levy, collection and disbursement of all Cash In-Lieu Plan fees within the unincorporated area of the County ("County Cash In-Lieu Plan fees").

4. Apportionment of Balance of Cash In-Lieu/Fair Share Payments Plan.

(a) The amount to be transferred by the County to the City from the Cash In-Lieu Plan is \$598,932.00. This amount represents the payment of funds from the Cash In-Lieu Plan that is owed to the City.

(b) The funds must be used by the City for the projects identified in Exhibit A or the funds must be reimbursed to the individual project contributors who originally made the payments to the County.

5. Effective Date. This Agreement shall be effective as of the date first entered above.

6. Future County Services for Management of City Cash In-Lieu Plan. The County shall provide the City with copies of all documents, analysis, and agreements created and related to the City's Cash in-Lieu Plan it has in its possession no later than ninety (90) days after execution of this Agreement. Once those copies in full have been received by the City, the County shall have no obligation to provide any services to the City relating to the City's Cash In-Lieu Plan after the effective date of this Agreement absent a specific contract for any such services.

7. Assignment. Neither party hereto shall assign, subcontract, or transfer any interest in this Agreement, or any duty hereunder.

8. Amendments. This Agreement may be modified or amended, or any of its provisions waived, only by a subsequent written agreement executed by each of the parties hereto.

9. Entire Agreement. This Agreement and any attachments hereto constitute the sole, final, complete, exclusive and integrated expression and statement of the terms and conditions of this Agreement among the parties hereto concerning the division of the fund balance and administration, and supersedes all prior negotiations, representations or agreements, oral or written, that may be related to the division of the fund balance and administration.

10. Construction and Interpretation. It is agreed and acknowledged by the parties hereto that the provisions of this Agreement have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, any rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

11. Waiver. The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or other matter.

12. Successors and Assigns. This Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto, if any there be.

13. Notices. Any notice, demand, request, consent, or approval that either party hereto may, or is required to, give the other shall be in writing and shall be deemed to have been served on the date deposited, and received three (3) days after being deposited, in the United States mail, first class postage prepaid, and addressed as follows:

TO COUNTY:

Director, Department of Transportation
County of Sacramento
906 G Street, Suite 510
Sacramento, CA 95814

TO CITY:

City Manager
City of Elk Grove
8400 Laguna Palms Way
Elk Grove, CA 95758

Either party hereto shall have the right to serve any notice by personal delivery, and change the address at which it will receive such communications by giving fifteen (15) days advance notice to the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day of the year first written above.

Dated: _____

CITY OF ELK GROVE, a municipal corporation

By: _____
Sophia Scherman, Mayor, City of Elk Grove

(SEAL)

APPROVED AS TO FORM:

Attest: _____
Peggy Jackson, City Clerk

By:  _____
Anthony Manzanetti, City Attorney

Dated: _____

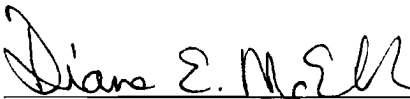
COUNTY OF SACRAMENTO, a political
subdivision of the State of California

By: _____
Chairperson, Board of Supervisors

(SEAL)

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

By: 
Diane E. McElhern, Deputy County Counsel

City of Elk Grove
Cash-In-Lieu/Fair Share Payment Record List

Document Number	Date	Project Name	Description of Improvements	Amount Received	Received From
152	6/28/1993	Perry Ranch 1A 93-0714 121-0180-001	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$30,600	Winncrest Homes
154	8/06/1993	Sheldon Passage 93-0684 116-0030-027	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$29,600	John Mourier Construction
155	8/12/93	Sheldon Road Fair Share Contribution ZMA 5052	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$17,800	Kaufman & Broad
157	9/09/1993	Sheldon Highlands #1	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$18,000	Dunmore Homes
163	12/13/1993	Glen Cairn unit #2	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$16,200	Kaufman & Broad
164	7/28/1993	Sheldon Park Estates 83-0293/87-0698/87-0699 123-0170-024	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$3,000	Heart of California Corporation
168	3/28/1994	Sheldon Park Estates 123-0170-047 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	
170	5/06/1994	Perry Ranch 1B and Perry Ranch 2B 94-0506	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$32,200	Winncrest Homes
175	6/15/1994	Sheldon Park Estates 123-0160-025 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	
176	6/22/1994	Sheldon Park Estates 123-0170-017 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	Charles Murphy
179	9/22/1994	Strawberry Glen #1	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$8,400	McBail Company

City of Elk Grove
Cash-In-Lieu/Fair Share Payment Record List

Document Number	Date	Project Name	Description of Improvements	Amount Received	Received From
180	9/30/1994	The Seasons Unit #1	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$15,800	Beazer Homes of California Inc.
182	2/4/1994	Sheldon Park Estates 123-0170-043 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	Bruce Carty
183	3/28/1995	Sheldon Park Estates 123-0170-045 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	Richard Hardest
184	6/20/1995	The Seasons #3	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$16,400	Beazer Homes California Inc.
188	7/28/1995	Sheldon Highlands #2	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$22,000	Enlow Ose & Associates
189	7/31/1995	The Seasons Unit #2A	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$10,000	Beazer Homes California Inc.
204	5/13/1997	Strawberry Glen #4	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$7,800	Beazer Homes Holdings Corporation
207	10/31/1995	The Seasons unit #4A	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$10,400	Beazer Homes California Inc.
209	5/28/1996	Perry Ranch #3	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$9,400	Winncrest Homes
211	6/27/1996	The Seasons 2B and 4B	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$20,600	Beazer Homes California Inc.
212	1/13/1997	Sheldon Park Estates 123-0170-036 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	Mathew Hunter

City of Elk Grove
Cash-In-Lieu/Fair Share Payment Record List

Document Number	Date	Project Name	Description of Improvements	Amount Received	Received From
214	5/27/1997	Sheldon Park Estates 123-0160-024 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	David Froman
215	9/06/1995	Sheldon Park Estates 123-0170-028 Agreement No. 4778	Roadway and Intersection Improvements per Agreement No. 4778	\$3,000	Helms Weber
216	7/15/1997	Perry Ranch #4	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$10,600	Winncrest Homes
217	8/14/1997	Strawberry Glen #4A	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$11,200	Beazer Homes
218	9/23/1997	Perry Ranch #4	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$9,800	Winncrest Homes
226	3/11/1998	Strawberry Glen Unit #2	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$9,400	Beazer Homes Holdings Corporation
228	4/24/98	East Stockton Blvd. at Grant Line Road	New Traffic Signal at East Stockton Bl. & Grant Line Rd.	\$21,450	Fillner Construction, Inc.
233	8/21/1998	Sheldon Passage #3	Widening of Sheldon Road to 32 feet of pavement from SR99 to Elk Grove-Florin Rd.	\$20,600	John Mourier Construction Inc.
236	11/04/1998	9607 Bond Road Fire Station #73 127-0030-060	Frontage Improvements along 9607 Bond Road	\$40,000	Elk Grove Community Services District
256	03/18/02	8939 East Stockton Blvd.	Frontage Improvements along 8939 East Stockton Blvd. (To be constructed with Sheldon/99 Interchange)	\$115,512	First Baptist Church

City of Elk Grove
Cash-In-Lieu/Fair Share Payment Record List

Document Number	Date	Project Name	Description of Improvements	Amount Received	Received From
257	03/18/02	Arcadian Village 2	Frontage Improvements on South Side Calvine Road, Sta. 87+00 to 90+98.97	\$35,040	Northwest Properties, LLC
272	05/16/00	10597 Brangus Court 123-0170-041 Fee Card No. 43750XA	Frontage Improvements along 10597 Brangus Court	\$3,000	Sid Highley
273	09/10/01	8629 Brahma Way 123-0170-039 Fee Card No. 49690A	Frontage Improvements along 8629 Brahma Way	\$3,000	Don Newton
278	06/10/02	Lands of Russell Service Order 901946	Full Improvements along the southern boundary of the subdivision for a 25-ft. IOD	\$27,130	Margerum & Assoc.
TOTAL				\$598,932	

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2004-31

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) **ss**
CITY OF ELK GROVE)

I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 3rd day of March 2004 by the following vote:

AYES 5: COUNCILMEMBERS: Scherman, Soares, Briggs, Cooper, Leary

NOES 0: COUNCILMEMBERS:

ABSTAIN 0: COUNCILMEMBERS:

ABSENT 0: COUNCILMEMBERS:





Peggy E. Jackson, City Clerk
City of Elk Grove, California