

**AN ORDINANCE AMENDING THE SACRAMENTO COUNTY WATER AGENCY
CODE RELATING TO THE SUPPLEMENTAL DRAINAGE FEE IN THE
NORTH VINEYARD STATION SPECIFIC PLAN AREA**

The Board of Directors of the Sacramento County Water Agency ordains as follows:

SECTION 1. Chapter 2.81, Sections 2.81.005 through 2.81.160, Title 2, of the Sacramento County Water Agency Code is amended as follows:

2.81.005 Findings of Fact.

A. On November 4, 1998, the Sacramento County Board of Supervisors approved Resolution No. 98-1338 titled "Resolution of the Board of Supervisors of the County of Sacramento, State of California, Amending the North Vineyard Station Portion of the Vineyard Community Plan and Adopting the North Vineyard Station Specific Plan" ("NVSSP").

B. As part of the NVSSP planning process, on behalf of certain specific developers, MacKay & Soms Civil Engineers, Inc. prepared a Drainage Master Plan dated January 30, 1998. Therein a Preferred Drainage Plan was identified. In connection therewith a Capital Improvement Program and Financing Strategy was also developed which identified cost estimates for the proposed "backbone" infrastructure along with potential funding sources. Thereafter, certain project proponents determined that it was not financially feasible to construct features in the Preferred Drainage Plan and therefore evaluated phasing alternatives which included pumping of stormwater from newly constructed detention basins to unimproved channels on an interim basis (a policy that was at that time prohibited within the NVSSP area) thereby deferring construction of improved drainage channels until sufficient development had occurred to generate sufficient drainage impact fee revenues to fund construction of the deferred drainage facilities. That phased plan of drainage facilities construction was thereupon incorporated into the North Vineyard Station Specific Plan Drainage Master Plan Update and Phasing report dated January 2003 prepared by Wood Rodgers, Inc. (the "Drainage Master Plan Update") in order to update the 1998 version of the Preferred Drainage Master Plan for the NVSSP area. Accordingly, and in order to accommodate project proponents within the NVSSP area, the Drainage Master Plan Update was thereafter adopted by the Sacramento County Board of Supervisors on November 10, 2004, as part of its North Vineyard Station Specific Plan Public Facilities Financing Plan ("PFFP") prepared by Economic & Planning Systems, Inc. The Drainage Maser Plan Update specified a phased sequence of development including issuance of required permits and the order of completing construction of specific drainage elements which were thereafter to be accepted by named public agencies.

C. The PFFP included estimated costs of constructing drainage facilities required by the Drainage Master Plan Update.

D. The PFFP provided that the costs of constructing the drainage facilities required by the Drainage Master Plan Update would be paid by the Sacramento County Water Agency from drainage development impact fees.

E. The NVSSP area is within the boundaries of the Sacramento County Water Agency's Zone 11A which administers a broad based drainage development impact fee program devoted solely to paying allowed construction costs of Trunk Drainage Facilities.

F. A number of the drainage facilities required to be constructed by the Drainage Master Plan Update, while technically Trunk Drainage Facilities in that they serve a watershed area of thirty acres or greater, are nevertheless beyond the scope of anticipated Zone 11A drainage infrastructure funding and are therefore ineligible for payment from Zone 11A ("Non-Zone 11A Drainage Facilities"). The Non-Zone 11A Drainage Facilities that are ineligible for payment from Zone 11A are identified in the North Vineyard Station Supplemental Drainage Fee Study which is attached and incorporated herein by this reference. Such Non-Zone 11A Drainage Facilities, may be eligible for payment to be authorized and funded by the supplemental drainage fee adopted herein. Additionally, with regard to detention basin drainage facilities within the NVSSP area, while these may be eligible for Zone 11A payment, such payment from Zone 11A shall be limited to the level of compensation authorized by Zone 11A's payment program. Therefore, to the extent that additional compensation is payable for such detention basin facilities, all such additional compensation beyond that authorized and funded by the Zone 11A payment program shall be authorized and funded by the supplemental drainage fee program adopted herein.

G. In order to pay certain allowed construction costs of such Trunk Drainage Facilities which are not paid under the Zone 11A program but are required by the Drainage Master Plan Update and the Clean Water Act Section 404 Permit, a NVSSP Supplemental Drainage Impact Fee was adopted by the Sacramento County Water Agency Board of Directors on September 20, 2005, as Chapter 2.81 of the Sacramento County Water Agency Code, and was based upon the North Vineyard Station Specific Plan [Supplemental] Drainage Fee Study it approved on September 13, 2005 by WA-2612.

H. The NVSSP Supplemental Drainage Impact Fee plan, as adopted in 2005, was based, in part, on the then current estimates of drainage right-of-way land values.

I. A new estimate of drainage right-of-way land values was approved by the Sacramento County Water Agency Board of Directors on August 10, 2010, and staff was directed to prepare a proposed update to the NVSSP Supplemental Drainage Impact Fee recognizing such changed values and other costs including Army Corps of Engineers permit requirements and various appurtenant facilities related to the phased nature of the drainage development program.

J. The Board finds that it is appropriate that so long as the present vested rights continue for those vesting subdivision maps, in existence before August 10, 2010, shall remain subject to the terms of this Chapter 2.81 as was set forth in 2005, and the fee and credit schedule as adjusted by the Engineering News Record Index through

2008 and frozen by the Board. However, should the present vested rights expire, or for any other reason change or cease, then to the extent otherwise lawful, such areas shall be immediately subject to the terms and provisions of the then current version of the Supplemental Drainage Fee adopted herein.

K. A Supplemental Drainage Fee is required in order to enable funding of those drainage facilities required to be constructed by the Drainage Master Plan Update but which are ineligible for funding by Zone 11A of the Sacramento County Water Agency.

L. The Board hereby finds that the development and construction within the NVSSP Area will result in coverage of land with impervious surfaces, including, but not limited to, pavements, building roofs, driveways and parking areas. The reduction in the pervious land area and more efficient drainage due to construction of storm drains and channel improvements will result in a reduction of the infiltration of storm rainfall, causing an increase in the flow rate of storm water runoff, an increase in the volume of storm water runoff for certain storm events, disruption of aquatic habitat, and storm water quality degradation.

The Board hereby finds that the development described in the NVSSP will require construction of the drainage facilities described in the Drainage Master Plan Update.

2.81.010 Purpose.

A. The Sacramento County General Plan requires that areas chosen for urban expansion shall be capable of being provided within a reasonable period of time with an adequate level of public facilities, including drainage facilities.

B. The General Plan further requires the preparation of a plan that identifies a mechanism for financing those facilities necessary to serve urban development in areas designated for urban expansion. The general plan also contains additional policies for supporting funding of adequate drainage facilities and the use of developer dedications and developer impact fees and other means to pay for acceptable levels of public service.

C. The purpose of this Chapter is to implement the General Plan requirements set forth in subdivisions (A) and (B) of this section and to use the authority in Article XI, Section 7 of the California Constitution by imposing a supplemental development impact fee to fund the estimated cost of certain Trunk Drainage Facilities and services, the need for which is directly or indirectly generated by the type and level of development proposed in the NVSSP area and the PFFP, as it may be amended from time to time..

D. It is also the purpose of this Chapter to require that adequate provision is made for developer financed drainage facilities within the NVSSP area as a condition to any rezoning and prior to approval of certain plans and permits within said NVSSP area.

2.81.020 Definitions.

Except as expressly stated otherwise, the terms defined in Sacramento County Water Agency Code, Chapter 2.10 shall have the same meanings when used herein.

- **“Board”** means the Board of Directors of the Sacramento County Water Agency.

- **“Costs”** means amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of a facility including, without limitation, the cost of land, construction, engineering, administration, and consulting fees.
- **“County”** means the County of Sacramento.
- **“NVSSP Drainage Facilities”** means those public drainage facilities designated to be acquired, constructed and conveyed according to the schedule and as set forth in the Drainage Master Plan Update, as the same may be amended from time to time, and the Nexus Study or Drainage Fee Study for this Supplemental Drainage Fee, as the same may be amended from time to time.
- **“Drainage Master Plan Update”** means the “North Vineyard Station Participating Property Owners, North Vineyard Station Specific Plan, Drainage Master Plan Update and Phasing, County of Sacramento, California” report prepared for Sacramento County by Wood Rodgers, Inc., dated January 2003, including any amendments thereto approved at the sole discretion of the Director of the Department of Water Resources.
- **“Improvement Plan”** means the site plan of property proposed for development showing all required improvements that must be approved by the Municipal Services Agency pursuant to Chapter 12.03 of the Sacramento County Code prior to the issuance of a building permit for the property.
- **“North Vineyard Station Supplemental Drainage Fee Facilities”** (also “Non-Zone 11A Drainage Facilities” and the additional compensation authorized for such detention basin facilities beyond that authorized and funded by the Zone 11A payment program) means those NVSSP Drainage Facilities that are Trunk Drainage Facilities, costs for which are not included in the Zone 11A drainage impact fee program, and limited to those specifically described in the Supplemental Drainage Fee Study as updated from time to time.
- **“North Vineyard Station Supplemental Drainage Fee Study”** means the study, including any amendments thereto, adopted by the Board for the financing of NVSSP Supplemental Drainage Fee Facilities.
- **“North Vineyard Station Specific Plan (NVSSP), Public Facilities Financing Plan (PFFP)”** means plan, including any amendments thereto, adopted by resolution by the Sacramento County Board of Supervisors on November 10, 2004, for the financing of designated facilities to serve the North Vineyard Station PFFP area, including, but not limited to, a designation of those facilities to be constructed with the development fees collected pursuant to this Chapter, the schedule for commencement of construction, the estimated cost of constructing the facilities, and the total number of developable acres within the North Vineyard Station PFFP area.
- **“North Vineyard Station Public Facilities Financing Plan Area”** means all property located within the geographic area comprising the North Vineyard Station PFFP area. The NVSSP is approximately 1578 acres in size and is bounded by Florin Road on the north, Gerber Road on the south, the extension of Vineyard Road on the east, and Elder Creek (west side, top of channel) which roughly constitutes the western border. A legal description of this property is on

- **“North Vineyard Station Supplemental Drainage Fund”** means that special interest-bearing fund established pursuant to Section 2.81.030.
- **“NVSSP”** Abbreviation for the North Vineyard Station Specific Plan Area.
- **“PFFP”** Abbreviation for the North Vineyard Station Public Facilities Finance Plan as approved by the Sacramento County Board of Supervisors November 10, 2004.
- **“Schedule D”** – Credit unit prices listed for Zone 11A creditable facilities, as updated annually.
- **“Supplemental Drainage Fee”** means the fee required by this Chapter to be a condition on changes of land use zones and to be collected upon approval of building permits within the North Vineyard Station PFFP area.
- **“Value/Valuation Study”** – Valuation Study for North Vineyard Station Community Plan prepared by Pattison & Associates, Inc., dated May 27, 2009. The basis for real estate valuation in this Fee Plan and is hereby agreed to be reasonable. The Valuation Study may be updated and approved by the Board from time to time
- **“Zone 11A”** – A zone of the Sacramento County Water Agency, in which the North Vineyard Station Plan Area lies, established for the development of Trunk Drainage Facilities, and includes the Zone 11A Fee Plan and Engineer’s Report dated August 16, 2004 (and as subsequently updated).

2.81.030 Establishment and Administration of North Vineyard Station Supplemental Drainage Fund.

A. There is hereby created by the Sacramento County Water Agency a special interest-bearing fund entitled the North Vineyard Station Supplemental Drainage Fund. All drainage development impact fees collected pursuant to this Chapter shall be placed in said fund and shall be expended by the Agency, or its successor, solely to pay the costs of NVSSP Supplemental Drainage Fee Facilities.

B. The North Vineyard Station Supplemental Drainage Fund shall be a discrete financial component of Zone 11A of the Sacramento County Water Agency. The fund is isolated for the purposes of this Chapter 2.81.

C. Any fund or funds required to be established and maintained herein may be established and maintained in the accounting records either as an account or fund, and may, for the purpose of such accounting records, any audits thereof and any reports or statements with respect thereto, be treated either as an account or fund. All such records with respect to such fund shall be at all times maintained in accordance with sound accounting practice.

2.81.040 Imposition of North Vineyard Station Supplemental Drainage Fee.

No change in land use designation shall be approved within the NVSSP area unless payment of the development impact fees, established by this Chapter, by the property owner is required as a condition of such approval. No building permit shall be issued and no improvement plans shall be approved for property within the NVSSP area

unless the North Vineyard Station Supplemental Drainage Fee has been paid as required by this Chapter.

2.81.050 Payment of Development Fees.

A. Except as provided in subsection (c) below, the fees imposed pursuant to this Chapter shall be paid by the property owner to the Agency in an amount calculated pursuant to section 2.81.080. The fees shall be both calculated and paid upon approval of Improvement Plans using the fee schedule then current. For projects that are subject to building permits, but not Improvement Plan approval, the fees shall be both calculated and paid upon issuance of the building permits.

B. For property for which the development fees established by this Chapter were previously paid pursuant to this Section or pursuant to an interim fee agreement adopted by the Board at the time of improvement plan approval, said development fees already collected shall not be refunded for the purpose of later payment at time of building permit approval. Adjustments to said fees pursuant to the terms of such interim fee agreements shall be provided.

C. Those owners under vesting tentative subdivision maps approved by the County prior to the Board's approval of this fee plan update shall pay fees under the 2005 NVSSP Supplemental Drainage Fee schedule. Should the vested rights expire, or for any other reason change or cease, then to the extent otherwise lawful, the owners thereof shall be immediately subject to the terms and provisions of the then current version of the Supplemental Drainage Fee.

2.81.060 Adoption and Compliance with Schedule of North Vineyard Station Public Facilities Financing Plan.

A. The Board of Directors shall by resolution adopt the North Vineyard Station Drainage Supplemental Fee Study.

B. With the exception of facilities approved by the Agency Engineer for construction by a property owner pursuant to section 2.81.110, all facilities shall be constructed in accordance with the schedule established in the North Vineyard Station Drainage Fee Study adopted by the Board.

C. Within one hundred and eighty (180) days after the last day of the fiscal year, the Agency shall make available to the public the information required by Government Code section 66006.

D. The Board shall review the North Vineyard Station Drainage Fee Study at least every five years, or more often if it deems it appropriate, and make any finding required by Government Code section 66001. The Board may amend the fee by resolution at its discretion.

2.81.070 Establishment of Supplemental Drainage Fees.

A separate development impact fee is hereby established for supplemental drainage facilities within the North Vineyard Station Specific Plan Area.

2.81.080 Calculation of Development Fees.

A. The development impact fees set forth in sections 2.81.040 shall be as shown on the fee schedule for the North Vineyard Station Supplemental Drainage Fee.

- B. The fees and credits will be adjusted annually.
- C. The supplemental drainage development impact fee is based in part upon the following components: the North Vineyard Station PFFP, Real Estate Valuation Study by Pattison & Associates dated May 27, 2009, construction costs provided by MacKay and Soms Engineering, and environmental costs provided by ECORP.

2.81.090 Alternative Method and Compliance with Other Laws.

This Chapter is intended to establish a supplemental method for funding the cost of certain facilities and services the need for which will be generated by the level and type of development proposed in the North Vineyard Station PFFP area. The provisions of this Chapter shall not be construed as limiting the power of the Board to impose any other fees or exactions or to continue to impose existing ones, on development within the North Vineyard Station PFFP area, but shall be in addition to any other requirements which the Board is authorized to impose, or has previously imposed, as a condition of approving plans, re-zoning or other entitlements within the North Vineyard Station PFFP area pursuant to state and local laws. In particular, individual property owners shall remain obligated to fund, construct, and/or dedicate the improvements, public facilities and other exactions required by, but not limited to: (a) the Sacramento County Municipal Services Agency Improvement Standards; (b) the Quimby Act (Government Code section 66477 et seq.) and implementing ordinances (Chapter 22.40 of the Sacramento County Code); (c) school impact fees (Government Code sections 65970 et seq.) and implementing ordinances (Chapter 16.50 of the Sacramento County Code); and, (d) other drainage fees imposed by this Code. The construction of facilities by a private owner pursuant to this Chapter shall be performed and contracted for only as required by law, including but not limited to, compliance with the Sacramento County Standard Construction Specifications, Sacramento County Improvements Standards, and requirements for public works, if applicable to the particular facility.

2.81.100 Credit of Fees.

A. In accordance with the provisions of Chapter 2.55 of Title 2 of the Sacramento Water Agency Code, a property owner may be entitled to a credit against any fees or charges due pursuant to this Chapter if the following conditions are met: (1) the property owner has constructed drainage facilities or performed environmental mitigation which was required as part of the NVSSP Supplemental Drainage Fee Study; (2) such facilities were Trunk Drainage Facilities designed to serve a watershed area of thirty acres or greater; (3) such facilities were required by the Agency in connection with development or new construction within the NVSSP Area; and (4) in the case of constructed facilities, such facilities were constructed pursuant to Improvement Plans approved by the Agency Engineer.

B. The credit allowed pursuant to this section shall be allowed against the fees required to be paid as described in Section 2.81.040 hereof. No credit allowed pursuant to this section shall be transferred to other parcels.

C. Acquisition of NVS Supplemental Drainage Fee Facilities for which credits are sought by the owner shall be conveyed when and as set forth in the development schedule of the NVSSP PFFF, as the same may be amended from time to time by the Board.

D. As explained herein above, the increased cost of the land component associated with the storm water detention basins, as provided in the Fee Plan Study, shall be compensated with a credit agreement against NVSSP Supplemental Drainage Fees.

E. The Sacramento County Water Agency will authorize only tentative credits for drainage land value becoming effective Credit Agreements after the field accepted improvements of detention basins, open space, or channel on that land.

2.81.110 Credits –Measurement And Payment.

In accordance with the provisions of Chapter 2.55 of Title 2 of the Sacramento Water Agency Code, upon application to do so from the property owner or authorized agent, the Sacramento County Water Agency may issue Credit Agreements for completion of North Vineyard Station Supplement Drainage Fee Facilities as listed below.

A. Riparian Landscaping and Enhancement shall be per the plan developed by ECORP. Riparian Landscaping as approved by the US Army Corps of Engineers and any subsequent amendments– Credits will be based on trees and shrubs planted, including irrigation and all appurtenances pursuant to the planting plan paid at unit price per each. Riparian Enhancement – Credits will be paid at unit price measured and paid per lineal foot of channel (measured at the center of the 2-year water surface) and per lineal foot of basin perimeter (measured at the water 100-year surface). There shall be no additional allowance for irrigation, establishment, or replanting.

B. Erosion Control - Credits for all erosion control and stabilization measures needed to establish the riparian landscaping and enhancements and the hydroseeding (paid by Zone 11A, Schedule D) will be based on actual cost not to exceed the amount listed on the credit schedule per lineal foot of channel (measured at the center of the 2-year water surface)

C. Lineal Water Quality Features – Credits will be lump sum as listed on Schedule N and only at those designated reaches of Elder and Gerber Creek.

D. Low Flow Driveway Crossing - Credits will be only at those designated reaches of Elder and Gerber Creek paid at unit prices listed on Schedule D.

E. Box Culvert - Credits will be paid at unit price per Schedule D for structural concrete, only, located at those designated sites on Elder and Gerber Creek.

F. Temporary Pump Station - Credits will be lump sum, verified actual cost, not to exceed the amounts listed on Schedule N, and only at those designated detention basins.

G. Remove Temporary Pump Stations – Credits will be lump sum verified actual cost not to exceed the amounts listed on Schedule N, and only at those designated detention basins. The pumps shall be the property of The Sacramento County Water Agency.

H. Construct Temporary Weirs – Credits will be per Schedule D, not to exceed the amount provided on Schedule N.

I. Channel Land - Credits will be no more than the amount shown for Channel Land on Schedule N and no additional amount shall be allowed. See also special provision below. Channel land will be measured from the future top of bank to top of bank or the future 100-year floodplain whichever is wider.

J. Channel Buffer Land – Credits will be no more than the amount shown for channel buffer land on Schedule N and the

K. Additional Amount for Basin Land - Credits will be no more than the amount shown on the Basin Land Schedule N. There is a cost share on flood detention basins with Zone 11A regional drainage impact fee program. Valuation of the Zone 11A share will be determined at the time of the Credit Agreement and may not exceed \$108,000 per acre. See also special provision below.

L. Right of Way Acquisition Assistance – Credits will be based on actual costs not to exceed amounts shown on Schedule N.

M. Engineering – Credit will be 8% of the credit provided for above listed constructed items only, as shown on Schedule N.

N. Special provision regarding land valuation - Twice the area of all seasonal wetlands and vernal pools being taken and requiring off-site mitigation, as described in the text and exhibits of the US Army Corps of Engineers Section 404 Clean Water Act Permit for the drainage master plan and any amendments, shall be dedicated at no value. There is no value applied to land that is encumbered by an existing drainage easement. The value is reduced for land that falls within other easements such as powerlines, gas lines, or sewer lines. There is no value for drainage corridor at existing or proposed roadway crossings. For various other reasons, value of land may be less than the amounts posted in Schedule N, as determined by the County Real Estate Division, and credits will be issued accordingly. The Agency will only accept land when, where and if it suits the Agency at the sole discretion of the Agency. Nothing in this Title shall be considered as promising a land value credit agreement, amount, or reimbursement schedule.

2.81.120 Procedure for Credits.

A. Any person desiring credits for the items listed in Section 2.81.110 shall, prior to approval of improvement plans, make application for and execute an agreement with the Agency authorizing tentative credits ("credit agreement"). Credit agreements in amounts in excess of \$100,000 require prior approval of the Board. Credit agreements in amounts of \$100,000 or less may be approved by the Agency Engineer.

B. Tentative credits may be allocated prior to execution of the Credit Agreement, in order to subtract credits from fees at the time fees are due. The person receiving tentative credits shall agree that, if tentative credits allocated exceed the final credits, the excess amount shall be reimbursed to the Agency within 60 days of notice of such amount.

C. Credit Agreements based on value of drainage right of way may be issued at the pleasure of the Agency upon transfer of title to the County or to Southgate Recreation and Park District (in accordance with the Preserve Management Agreement) and conditioned upon recordation of a drainage easement. Costs are limited to the amounts provided in the Value Study, Exhibit V9, plus annual adjustments, per Section 2.81.130. The Value Study may be updated as the Agency might deem necessary, and adjustments to the fee and credit schedule would revise accordingly. The timing of acceptance of the drainage easement will generally occur when the improvement plans for the trunk drainage facility are approved, earlier acceptance may occur at the discretion of the Agency.

D. Credit Agreements based on endangered species mitigation planning and design may be issued upon approval of study, plan, payment of the mitigation fee or upon transfer of title; costs must be specifically demonstrated and the maximum

allowable credit is as listed on Schedule N.

E. The person receiving tentative credits shall agree that if the facilities are not accepted by the Agency, all tentative credits allocated shall be reimbursed to the Agency within 60 days of notice of non-acceptance of the facilities.

F. Apportionment of Credits. Except as set forth in this section, credits shall only be applied against NVSSP Supplemental Drainage Fees and charges due as a result of development or new construction on the parcel(s) served by the trunk drainage facilities for which the credits are given. Credits may not be assigned or apportioned to other parcels (other than child parcels) after the credit agreement is signed.

G. Credits may only be apportioned to other parcels, within the text of a credit agreement, if the Agency Engineer:

1. Is provided with evidence that title to the parcel(s) is held by the individual(s) or firm(s) who are requesting credits;
2. Determines that specific proportioning per parcel is adequately described in the credit agreement;
3. Determines that the parcel(s) to which such credits are to be apportioned are served by the facilities for which credits are authorized; and
4. Determines that each property owner is signatory on the credit agreement.

H. When credits are apportioned, the credit amounts shall be based on the amounts, listed on Schedule N, in effect on the date improvement plans are approved, plus adjustments up or down in accordance with 2.81.130.

I. Assignment of credit agreements. Credit balances may be assigned to a future buyer of undeveloped land by use of an Assignment of Drainage Credits Agreement. Credits run with the land, so assignment of the drainage credit agreement is necessary whenever undeveloped land is subdivided and sold. This Agreement shall include the following: date of the agreement; legal names of assignee and assignor; the parcel number and specific dollar amount of the credits that are being assigned; and indemnification of the County by the assignor. Use the assignment template found at Appendix 8 of the Zone 11 Fee Plan.

J. The creditable amounts are limited to the amount in the Credit Agreement as approved by the Board, and OWNER shall acknowledge that, notwithstanding any available credits, 20.00% of each fee obligation shall be paid in cash (accounting for the contingency, program administration, and right of way administration engineering and environmental items listed in the fee plan) at the time of permit issuance or improvement plan approval, whichever occurs first.

2.81.130 Annual Fee and Credit Schedule Adjustment.

A. Except as described in 2.81.130(b) below, this fee and the unit prices for credits and real estate value study shall be revised annually, up or down, by the Engineering News Record Construction Cost Index, pursuant to Section 2.50.080 and 2.55.060. No other adjustments shall be allowed.

B. The 2008 fee and credit schedule was frozen by the Water Agency Board at the 2008 amounts and will remain frozen applicable to those developments paying fees and receiving credits under that schedule, pursuant to the terms of the vesting rights occurring prior to this Fee Plan update. No other adjustment shall be allowed.

2.81.140 Procedure for Reimbursement.

When all credits are exhausted on the parcels listed on the credit agreement and the items for which credits were issued are completed and accepted by the County and there remains a balance of credits, a reimbursement agreement will be issued. The North Vineyard Station Supplemental Drainage Fee Program is a stand-alone account, so reimbursement is dependent upon adequate fees collected from developers within specific plan area. When funds are available to make reimbursement payments, they

may only be disbursed as follows:

- A. Reimbursement Agreements in an amount less than or equal to \$100,000 will be paid by the Agency within 120 days of the signed Reimbursement Agreement;
- B. Reimbursement Agreements greater than \$100,000 will be paid in equal annual amounts over 10 years with \$100,000 minimum annual payments fully amortized with interest (County Treasury rate as defined in Section 2.10.156);
- C. If the Agency Engineer deems that there is not the financial capability within this fund to make the payments as described above, the payments will be deferred with interest and there shall be no penalty to the Agency; and
- D. Reimbursement may only be accelerated upon completion all phases of the project described in this Fee Plan, notwithstanding any provisions or Board approved agreements to the contrary.
- E. Excess credits shall only be reimbursed pursuant to the terms of a reimbursement agreement, per Section 2.60.030, executed by the Agency and the person entitled to such credits as funds are available. Reimbursement shall be amortized pursuant to Section 2.81.140 or until the North Vineyard Station area is fully developed.
- F. There are no other County or Agency funds from which reimbursement may be drawn; therefore, if there are not adequate funds in the account of this fee plan reimbursement payments must wait for development progress and fee revenue.
- G. Reimbursement payments to various parties within the specific plan area will be prioritized based on the date of the reimbursement agreement.

2.81.150 Excess Funds.

This Fee Plan has a sum of necessary contingency funds that may lead to some fund balance at the conclusion of development of the facilities. It is agreed that it is inappropriate to repay these funds to the individual property owners after final maps are recorded and lots are sold. Therefore, subject to approval of the Sacramento County Water Agency Board, these funds would remain available for other flood control, storm water quality, clean water, erosion control, or environmental mitigation within the Elder and Gerber Creek Watershed.

2.81.160 Fee Study.

The North Vineyard Station Supplemental Drainage Fee Study is hereby made a part of this chapter serving to clarify and define the fee and credit program.

SECTION 2. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Directors on November 1, 2011 and on November 8, 2011 further reading was waived by the unanimous vote of the Directors present.

This ordinance shall take effect and be in full force on and after thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days from the date

of its passage it shall be published once with the names of the members of the Board of Directors voting for and against the same, said publication to be made in a newspaper of general circulation published in the County of Sacramento.

On a motion by Director Yee, seconded by Director Nottoli, the foregoing ordinance was passed and adopted by the Board of Directors of the Sacramento County Water Agency, State of California, this 8th day of November, 2011, 2011, by the following vote:

AYES:	Director,	Peters, Serna, Yee, MacGlashan
	;	
NOES:	Director,	Nottoli
ABSENT:	Director,	None
ABSTAIN:	Director,	None



Roberta MacGletha

Chairperson of the Board of Director
of Sacramento County Water Agency

In accordance with Section 25103 of the Government Code
of the State of California a copy of the document has been
delivered to the Chairman on 11/8/11

ATTEST: Cyndi Lee
Clerk of the Board of Directors

By V. Rodgers
Deputy Clerk, Board of Directors

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FILED
BOARD OF DIRECTORS

NOV 01 2011
By Cyndi Lee
Clerk of the Board