

**JOINT COMMUNITY FACILITIES AGREEMENT  
(Sacramento Metropolitan Air Quality Management District)**

**Natomas Central Community Facilities District No. 2006-02  
City of Sacramento, County of Sacramento, State of California**

**Recitals**

A. The parties to this Agreement are the City of Sacramento (the “City”), and the Sacramento Metropolitan Air Quality Management District (“SMAQMD”) (collectively, the “Parties”)

B. The effective date of this Agreement is November 1, 2006.

C. This agreement is made under the authority granted to the City under California Government Code Section 53316.2.

D. The City is conducting proceedings under the Mello-Roos Community Facilities Act of 1982 (the “Act”) in which it is considering formation of a community facilities district to be denominated “Natomas Central Community Facilities District No. 2006-02, City of Sacramento, County of Sacramento, State of California” (the “Community Facilities District”) to finance certain public fees and facilities. The land within the Community Facilities District is described in Exhibit A to the Resolution of Intention for the Community Facilities District, adopted by the City Council of the City on October 10, 2006 (the “Resolution of Intention”). The facilities and fees to be authorized to be financed by the Community Facilities District are described in Exhibit B to the Resolution of Intention (the “Improvements”).

E. The City requires that air quality mitigation fees be paid to SMAQMD by the developers of property within SMAQMD’s jurisdiction, as a condition of development, including the new development to occur on the land within the Community Facilities District. These fees are paid to SMAQMD for the purpose of funding air quality mitigation projects. The

SMAQMD air quality mitigation fees to be collected from new development within the Community Facilities District (the “SMAQMD Fees”) are included as a portion of the Improvements.

F. The Parties acknowledge that the City proposes to issue and sell bonds of the Community Facilities District and to provide bond sale proceeds to finance the SMAQMD Fees, but that failure to do so shall not create any liability on the part of the City.

G. The parties acknowledge that while SMAQMD desires to cooperate with the City in accomplishing the financing of the SMAQMD Fees, and is unaware of any restriction on the City’s authority to provide this financing for the SMAQMD Fees, SMAQMD makes no warranties or representations regarding the suitability of the funding of the fees under the authority granted to the City by Government Code Section 53316.2 and related provisions.

H. In consideration of the mutual undertakings of the Parties stated herein, the Parties agree as follows.

**Agreement**

1. The foregoing recitals are true and correct, and each of the Parties expressly so acknowledges.
2. This agreement is determined to be in the best interests of the residents of the City and of SMAQMD, and of the future residents of the area within the Community Facilities District.
3. Pursuant to the Act, the City will conduct proceedings under the Act to form the Community Facilities District and to authorize the financing of the Improvements, including the SMAQMD Fees.

4. The City will administer the Community Facilities District, including employing and paying all consultants, annually levying the special tax and all aspects of paying and administering the bonds, and complying with all State and Federal requirements appertaining to the proceedings, including the requirements of the United States Internal Revenue Code. SMAQMD will have no responsibility in that regard and will not participate in nor be considered a participant in the proceedings respecting the Community Facilities District (other than as a Party to this Agreement).

5. In the event the City completes issuance and sale of bonds, and bond proceeds become available to finance the SMAQMD Fees, SMAQMD shall accept such bond proceeds as are paid to it by the City as payment, to the extent of the money received, of the SMAQMD air quality mitigation fees due from property within the boundary of the Community Facilities District. If less than all of the SMAQMD air quality mitigation fees to be paid by developing property within the Community Facilities District are paid to SMAQMD from the proceeds of the bonds of the Community Facilities District, SMAQMD may allocate or credit the money received from bond proceeds to the property within the Community Facilities District in any reasonable manner that it shall determine.

6. This agreement does not amend or alter the preexisting requirement that the air quality mitigation fees be paid before building permits are issued as specified in Air Quality Conditions 5 and 11 of the applicable mitigation monitoring and reporting plan.

7. SMAQMD shall treat any bond proceeds received from the City as if that money had been paid to SMAQMD by the property owners within the Community Facilities District, and this Agreement grants to the City no power to direct how or where or when those moneys are to be spent by SMAQMD.

8. In the event the City issues its Community Facilities District bonds and funds any SMAQMD Fees, SMAQMD will establish and maintain a method of accounting for the SMAQMD Fees that will allocate the funds to the purchase or retrofit of vehicles, engines or other projects that meet the requirements of the District's Heavy-Duty-Low-Emission-Vehicle-Incentive Program (HDLEVIP).

9. In the event the City issues its Community Facilities District bonds and funds any SMAQMD Fees, SMAQMD will use its best efforts to insure that at least 20 % of the fees are used to fund projects owned and operated by a state or local government unit.

10. To enable the City to comply with the City's arbitration calculation, reporting and payment obligations with respect to the Community Facilities District bonds, SMAQMD agrees to allow the City to inspect the records relating to the investment and expenditure of any bond funds held by SMAQMD at any reasonable time upon reasonable notice.

11. To assist the City Treasurer in preparing his Tax Certificate in conjunction with the issuance of the Community Facilities District bonds, SMAQMD agrees that, at or before the issuance of the bonds funding the SMAQMD Fees, it will provide to the City, at the City's request and upon reasonable notice, its reasonable expectations of how quickly it will spend the SMAQMD Fees for facilities described in paragraph 8 and 9 hereof. This information will include the amount of the SMAQMD Fees that SMAQMD reasonably expects that it will spend within six months of bond issuance; within one year of bond issuance; within two years of bond issuance; within three years of bond issuance; within five years of bond issuance; and when it reasonably expects to have spent all of the SMAQMD Fees. City acknowledges that these figures will not be guarantees, but merely reasonable expectations as of the date of bond issuance.

12. The City agrees to indemnify, defend and hold SMAQMD and its officers, agents and employees harmless from any and all claims, suits and damages (including costs and reasonable attorneys' fees) arising out of the conduct of the proceedings respecting the Community Facilities District, including but not limited to the formation of the Community Facilities District; the authorization of the financing of the Improvements (including but not limited to the SMAQMD Fees); the authorization for and implementation of the levy, collection and enforcement of the special tax; the authorization for, disclosure with respect to, issuance, sale and administration of the bonds; any continuing disclosure obligations relating to the bonds; any arbitrage or rebate issues with respect to the bonds under federal tax law and, absent willful misconduct, the information provided pursuant to paragraph 11 hereof.

13. SMAQMD agrees to fully administer, and to take full governmental responsibility for all aspects of, the air quality mitigation projects to be financed through the SMAQMD Fees including but not limited to identification of qualifying projects, approval of contracts, and monitoring to enforce the contracts, and the City shall have no responsibility in that regard. SMAQMD agrees to indemnify, defend and hold the City, the Community Facilities District, and their officers, agents and employees (collectively, the "Indemnified Parties") harmless from any and all claims, suits and damages (including costs and reasonable attorneys' fees) arising out of the implementation of the air quality mitigation projects to be financed through the SMAQMD Fees.

14. SMAQMD hereby acknowledges that the City may hereafter take each and every step required for or suitable for consummation of the proceedings, the levy, collection and enforcement of the special taxes, and the issuance, sale, delivery and administration of the bonds.

15. This agreement may be amended by a writing signed by the Parties, except that no amendment may be made after the issuance of the bonds that would be detrimental to the interests of the bondholders without complying with all of the bondholder consent provisions for the amendment of the bond resolutions, bond indentures or like instruments governing the issuance, delivery and administration of all outstanding bonds.

16. No person or entity shall be deemed to be a third party beneficiary of this Agreement, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity other than the City and SMAQMD (and their respective successors and assigns) any rights, remedies, obligations or liabilities under or by reason of this Agreement.

17. In the event of any legal action or proceeding arising from or related in any way to a breach of or enforcement or interpretation of this Agreement, the prevailing party shall be entitled to recover from the opposing party reasonable attorneys' fees and court costs in such amounts as shall be allowed by the court.

18. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

///

19. This agreement shall remain in force until all bonds have been retired and the authority to levy the special tax conferred by the Community Facilities District proceedings has ended or is otherwise terminated.

IN WITNESS WHEREOF the Parties have caused this agreement to be executed by their authorized representatives as of the effective date stated above.

CITY OF SACRAMENTO

SACRAMENTO METROPOLITAN AIR  
QUALITY MANAGEMENT DISTRICT

By \_\_\_\_\_  
City Treasurer

By \_\_\_\_\_  
Executive Director

Attest:  
City Clerk

Attest:  
Clerk for Board of Directors

By \_\_\_\_\_

By \_\_\_\_\_

APPROVED AS TO FORM:  
City Attorney

District Counsel

By \_\_\_\_\_

By \_\_\_\_\_