

MAR 14 2008

**TAX EXCHANGE AGREEMENT BETWEEN
THE COUNTY OF SACRAMENTO AND THE CITY OF SACRAMENTO,
RELATING TO THE GREENBRIAR ANNEXATION**

SACRAMENTO LOCAL AGENCY
FORMATION COMMISSION

This TAX EXCHANGE AGREEMENT (hereinafter "Agreement") is made and executed in duplicate this 11th day of March, 2008 by and between the COUNTY OF SACRAMENTO, a political subdivision of the State of California (hereinafter referred to as "COUNTY"), and the CITY OF SACRAMENTO, a charter city (hereinafter referred to as "CITY").

RECITALS

A. On June 6, 1978, the voters of the State of California amended the California Constitution by adding Article XIII A thereto which limited the total amount of property taxes which could be levied on property by local taxing agencies having such property within their territorial jurisdiction to one percent (1%) of full cash value; and

B. Following such constitutional amendment, the California Legislature added Section 99 to the California Revenue and Taxation Code which requires a city seeking to annex property to its incorporated territory and a county affected by such annexation to agree upon an exchange of property taxes which are derived from such property and available to the county and city following annexation of the property to the incorporated territory of the city; and

C. CITY has filed an application with the Sacramento Local Agency Formation Commission requesting its approval of the annexation of approximately 577 acres of real property to CITY ("the Greenbriar Annexation"); and

D. COUNTY and CITY wish to work together to develop a fair and equitable approach to the sharing of real property ad valorem taxes imposed and collected as authorized by the Revenue and Taxation Code in order to encourage sound urban development and economic growth; and

E. COUNTY and CITY are parties to the Natomas Vision Memorandum of Understanding ("the MOU"); and

F. One of the purposes of the MOU is to provide for the fair distribution between the COUNTY and the CITY of revenue generated within areas annexed to the CITY; and

G. The MOU specifies how property tax and other revenue generated within the area subject to the MOU is to be shared; and

H. The purpose of this Agreement is to implement the revenue sharing provisions of the MOU as they pertain to the Greenbriar Annexation; and

I. It is a further purpose of this Agreement to serve as a Property Tax Transfer Agreement pursuant to Section 99 of the California Revenue and Taxation Code.

CITY
AGREEMENT NO. 2008-0218

THIS IS A TRUE COPY
OF AN ORIGINAL DOCUMENT
ON FILE WITH THE
CITY CLERK

S. Mizuno

STEPHANIE MIZUNO
ASSISTANT CITY CLERK

DATE CERTIFIED: 03-13-08

COUNTY and CITY hereby agree as follows:

Section 1. Definitions. For purposes of this Agreement, the following terms shall have the meanings set forth below:

(a) "Annexation Area" shall mean that portion of the unincorporated area of COUNTY known as the Greenbriar Annexation,

(b) "Annexation Date" shall mean the date specified by the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000 (California Government Code § 56000 et seq.) as the effective date of the Greenbrier Annexation.

(c) "Big Box Retail Establishment" shall mean a store of greater than 75,000 square feet of buildable area that will generate sales, transaction or use tax revenue.

(d) "Greenbriar Annexation" shall mean the annexation to the CITY as delineated in Sacramento Local Agency Formation Commission Application Control Number "LAFC 10-05", the annexation of which to CITY is subsequently approved and completed by the Sacramento Local Agency Formation Commission as provided in the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000 (California Government Code § 56000 et seq.).

(e) "Natomas Vision MOU" shall mean the Memorandum of Understanding entered into December 10, 2002, by and between the COUNTY and the CITY which is attached hereto as Exhibit "A".

(f) "Property Tax Revenue" shall mean revenue from "ad valorem real property taxes on real property", as said term is used in Section 1 of Article 13A of the California Constitution and more particularly defined in subsection (c) of Section 95 of the California Revenue and Taxation Code, that is collected from within the Annexation Area, is available for allocation to the City and the County, and is currently allocated to the County General Fund, County Library Fund, Natomas Fire Protection District, and County Road Fund.

(g) "Sales Tax Revenue" shall mean the revenue from the sales, transaction and use taxes levied and received by the CITY that are collected within the Annexation Area.

(h) The following land uses shall be conclusively presumed to be a Single Purpose/Regional Tax Generating Land Use: hotels, motels, auto dealers, shopping malls, and Big Box Retail Establishments. The following land uses shall be conclusively presumed not to be a Single Purpose/Regional Tax Generating Land Use: gas stations, restaurants, grocery and department stores not meeting the definition of Big Box Retail Establishments, other community or local commercial establishments, and, with the exception of Big Box Retail Establishments, those commercial land uses authorized by and in substantial compliance with the Greenbriar Prezone Map which is depicted on Exhibit A attached hereto. Substantial compliance shall mean that the total retail in the Greenbriar project may exceed by up to 5% of the 38 acres shown on Exhibit A; any retail in excess of 39.8 acres shall trigger the requirement to share sales tax generated by all retail within the Greenbriar project.

(i) "Transient Occupancy Tax Revenue" shall mean the CITY general fund share of revenue from any transient occupancy tax levied and received by the CITY

pursuant to Revenue and Taxation Code Section 7280, or any successor statutory provision, that is collected within the Annexation Area.

Section 2. General Purpose of Agreement. The general purpose of this Agreement is:

(a) to devise an equitable exchange of Property Tax Revenue between CITY and COUNTY as required by Section 99 of the California Revenue and Taxation Code and the Natomas Vision MOU and;

(b) to fairly allocate Sales Tax and Transient Occupancy Tax Revenue collected within the Annexation Area as provided for in the Natomas Vision MOU.

Section 3. Exchange of Property Tax Revenues. On and after the Annexation Date, the COUNTY and CITY shall exchange Property Tax Revenue as follows:

| NAME | Available Tax Increment | | Annexation Shares |
|----------------|-------------------------|-------------|-------------------|
| | BEFORE ERAF | ERAF | |
| COUNTY LIBRARY | 2.223420 | | 2.223420 |
| COUNTY ROADS | 0.107840 | | 0.107840 |
| COUNTY GENERAL | 47.874900 | (26.885783) | 20.989117 |
| NATOMAS FIRE | 11.285210 | (0.010338) | 11.274872 |
| Net | 61.491370 | (26.896121) | 34.595249 |

County Share (50%)

17.297625

City Share (50%)

17.297625

(a) CITY shall receive 17.2976245% of the Property Tax Revenue to be allocated to its General Fund.

(b) COUNTY shall receive 17.2976245% of the Property Tax Revenue to be allocated to its General Fund.

Section 4. Sharing of Sales Tax and Transient-Occupancy Tax Revenues.

(a) If subsequent to the annexation date the CITY rezones any property within the Annexation Area from a residential land use to any retail land use, such that the total zoned retail land uses exceed 39.8 acres, the COUNTY and the CITY shall share Sales Tax and Transient Occupancy Tax Revenue as follows:

(i) The COUNTY and the CITY share equally in the Sales Tax and Transient Occupancy Tax Revenue collected with the area of such rezone.

(b) If any property within the Annexation Area is rezoned by the CITY from a residential land use to a Single Purpose/Regional Tax Generating Land Use, the CITY shall provide written notice of such rezoning to the COUNTY within thirty (30) days of the effective date of any such rezoning

Section 5. Adjustment of Property Tax Shares. In the event that the COUNTY is entitled to share in any Sales Tax and Transient Occupancy Tax Revenue pursuant to Section 4 of this Agreement, the COUNTY's share of such revenue shall be allocated to the COUNTY by increasing the COUNTY's percentage share of Property Tax Revenue established pursuant to Section 3 of this Agreement in an amount equal to the COUNTY's share of Sales Tax and

Transient Occupancy Tax Revenue. If the COUNTY's share of Sales Tax and Transient Occupancy Tax Revenue is greater than the amount of the CITY's share of Property Tax Revenue, the difference shall be paid by the CITY to the COUNTY within sixty (60) days after the end of the fiscal year in which the Sales Tax and Transient Occupancy Tax Revenue was collected.

Section 6. Exchange by County Auditor. COUNTY and CITY further agree that all of the exchanges of Property Tax Revenue required by this Agreement shall be made by the County Auditor.

Section 7. Dispute Resolution.

(a) Inadmissibility. Should any disputes arise as to the performance of this Agreement, COUNTY and CITY agree to the dispute resolution process as set forth below. All conduct, testimony, statements or other evidence made or presented during the meeting described in subsection (b) below shall be confidential and inadmissible in any subsequent arbitration proceedings brought to prove liability for any claimed breach or damages which are the subject of the dispute resolution process.

(b) Initiation of Process. COUNTY or CITY may initiate the dispute resolution process by submitting written notification to the other of a potential dispute concerning the performance of this Agreement. This written notification shall include all supporting documentation, shall state what is in dispute, and shall request a meeting between the County Executive and the City Manager or their respective designees. The purpose of this meeting shall be to ascertain whether a resolution of the disagreement is possible without third party intervention. This meeting shall be scheduled to take place within thirty (30) working days of receipt of the written notification of the dispute. At the meeting, the respective representatives of the COUNTY and the CITY shall attempt to reach an equitable settlement of the disputed issue(s).

(c) Binding Arbitration. If the meeting provided for in subsection (b) of this Section fails to fully resolve the disagreement, the matter shall then be submitted by either party to the American Arbitration Association ("Arbitrator") to appoint a single, neutral arbitrator for a decision. The arbitration shall be conducted pursuant to the procedures set forth in Chapter 3 (commencing with Section 1282) of Title 9 of the California Code of Civil Procedure. The decision of the Arbitrator shall be controlling between the CITY and the COUNTY and shall be final. Except as provided in Code of Civil Procedure Sections 1286.2 and 1286.4, neither party shall be entitled to judicial review of the Arbitrator's decision. The party against whom the award is rendered shall pay any monetary award and/or comply with any other order of the Arbitrator within sixty (60) days of the entry of judgment on the award.

(d) Costs. The parties shall share equally in the costs and fees associated with the Arbitrator's fees and expenses. At the conclusion of the arbitration, the prevailing party, as determined by the Arbitrator, shall be entitled to reimbursement by the other party for the Arbitrator's fees and the Arbitrator's expenses incurred in connection with the arbitration. The awarded arbitrator's fees and expenses shall be remitted to the party whose position is upheld within thirty (30) days of the Arbitrator's decision. Each party shall bear its own costs, expenses and attorney's fees and no party shall be awarded its costs, expenses, or attorney's fees incurred in the dispute resolution process.

Section 8. Mutual Defense of Agreement. If the validity of this Agreement is challenged in any legal action by a party other than COUNTY or CITY, then COUNTY and CITY agree to defend jointly against the legal challenge and to share equally any award of costs, including attorneys' fees, against COUNTY, CITY, or both.

Section 9. Waiver of Retroactive Recovery. If the validity of this Agreement is challenged in any legal action brought by either CITY or any third party, CITY hereby waives any right to the retroactive recovery of any City Property Tax Revenues exchanged pursuant to this Agreement prior to the date on which such legal action is filed in a court of competent jurisdiction. The remedy available in any such legal action shall be limited to a prospective invalidation of the Agreement.

Section 10. Modification. The provision of this Agreement and all of the covenants and conditions set forth herein may be modified or amended only by a writing duly authorized and executed by both the COUNTY and CITY.

Section 11. Reformation. COUNTY and CITY understand and agree that this Agreement is based upon existing law, and that such law may be substantially amended in the future. In the event of an amendment of state law which renders this Agreement invalid or inoperable or which denies any party thereto the full benefit of this Agreement as set forth herein, in whole or in part, then COUNTY and CITY agree to renegotiate the Agreement in good faith.

Section 12. Effect of Tax Exchange Agreement. This Agreement shall be applicable solely to the Greenbriar Annexation and does not constitute either a master tax sharing agreement or an agreement on property tax exchanges which may be required for any other annexation to the CITY, nor does it alter or enlarge any revenue sharing obligations of the City by way of incorporation on July 1, 2000.

Section 13. Entire Agreement. With respect to the subject matter hereof only, this Agreement supersedes any and all previous negotiations, proposals, commitments, writings, and understandings of any nature whatsoever between COUNTY and CITY except as otherwise provided herein.

Section 14. Notices. All notices, requests, certifications or other correspondence required to be provided by the parties to this Agreement shall be in writing and shall be personally delivered or delivered by first class mail to the respective parties at the following addresses:

COUNTY
County Executive
County of Sacramento
700 H Street, Room 7650
Sacramento, CA 95814

CITY
City Manager
City of Sacramento
915 "I" Street, 5th Floor
Sacramento, CA 95814

Notice by personal delivery shall be effective immediately upon delivery. Notice by mail shall be effective upon receipt or three days after mailing, whichever is earlier.

Section 15. Approval, Consent, and Agreement. Wherever this Agreement requires a party's approval, consent, or agreement, the party shall make its decision to give or withhold

such approval, consent or agreement in good faith, and shall not withhold such approval, consent or agreement unreasonably or without good cause.

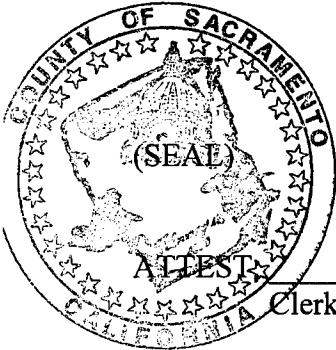
Section 16. Construction of Captions. Captions of the sections of this Agreement are for convenience and reference only. The words in the captions in no way explain, modify, amplify, or interpret this Agreement.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in the county of Sacramento, State of California, on the dates set forth above.

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

By *James R. Yell*
Chairperson of the Board of Supervisors



Cyrdi Lee
Clerk of the Board of Supervisors

Approved As to Form:

[Signature]
County Counsel

CITY OF SACRAMENTO, a charter city

By: *[Signature]*
City Manager

(SEAL)

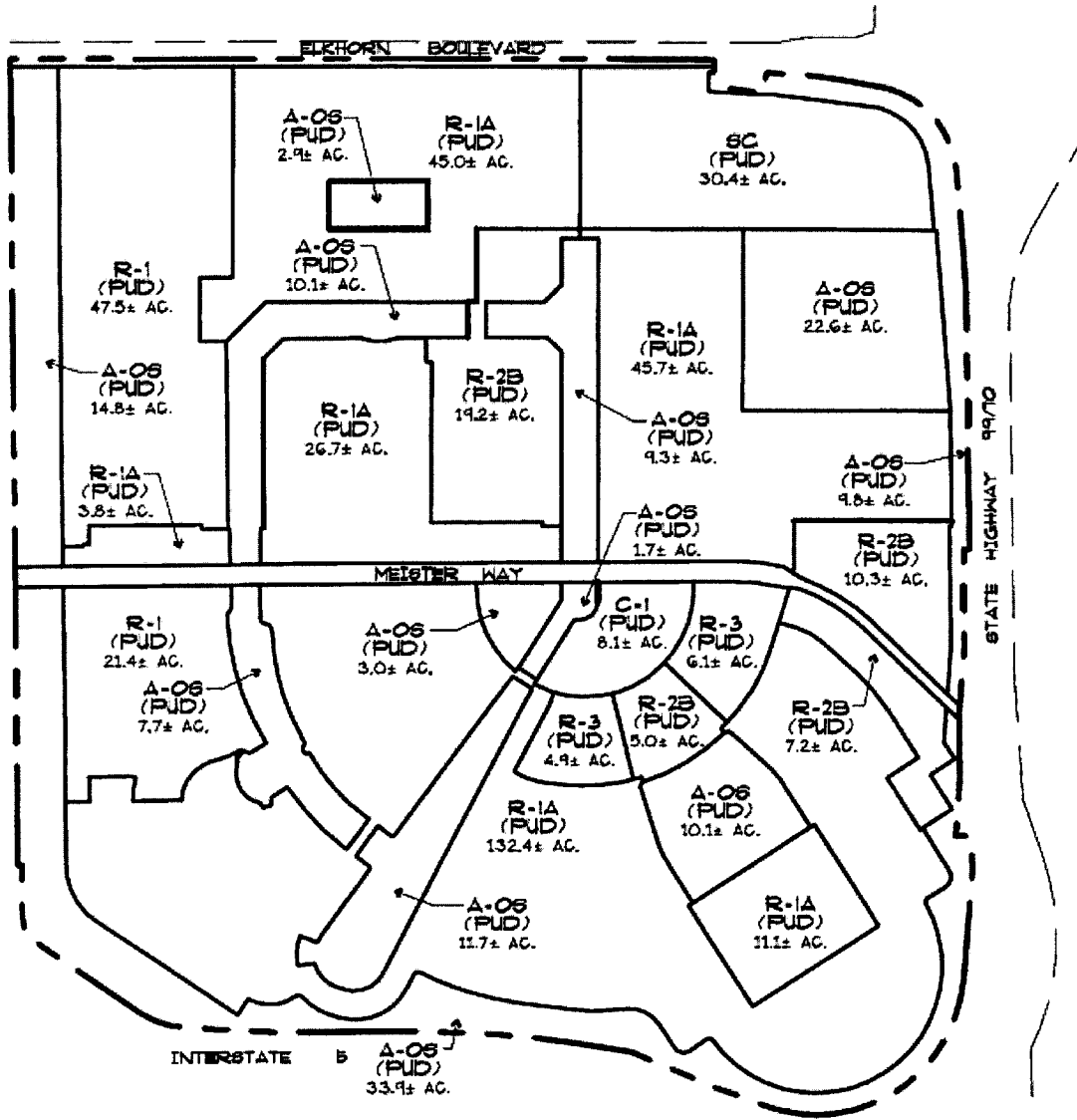
ATTEST: *Shirley Concolino*
City Clerk *3-12-08*

Approved As to Form:

Lawrence J. Duran
City Attorney

CITY
AGREEMENT NO. 2008-0218

**GREENBRIAR TAX SHARING AGREEMENT – EXHIBIT A
PREZONING MAP**



ZONING SUMMARY TABLE

| DESIGNATION | LAND USE | EXISTING | PROPOSED | DIFFERENCE |
|-------------|---|----------|----------|------------|
| R-1 (PUD) | LOW DENSITY RESIDENTIAL (4-15 DU/AC) | - | 68.9 | +68.9 |
| R-1A (PUD) | MEDIUM DENSITY RESIDENTIAL (16-29 DU/AC) | - | 264.7 | +264.7 |
| R-2B (PUD) | ELEMENTARY SCHOOL/PRIVATE PARK AND RECREATION SITES | - | 41.7 | +41.7 |
| R-3 (PUD) | MEDIUM DENSITY RESIDENTIAL (16-29 DU/AC) | - | 11.0 | +11.0 |
| A-06 (PUD) | HIGH DENSITY RESIDENTIAL (30+ DU/AC) | - | 137.6 | +137.6 |
| SC (PUD) | NEIGHBORHOOD PARK/OPEN SPACE/BUFFER/WATER | - | 30.4 | +30.4 |
| C-1 (PUD) | SHOPPING CENTER | - | 8.1 | +8.1 |
| AG-80 | COMMUNITY COMMERCIAL | 577.0 | - | -577.0 |
| MAJOR ROADS | AGRICULTURAL CROPLAND | - | 14.6 | +14.6 |
| | | 577.0 | 577.0 | |

RESOLUTION NO. 2008-144

Adopted by the Sacramento City Council

March 11, 2008

**ADOPTING THE PROPERTY TAX EXCHANGE AGREEMENT
FOR THE GREENBRIAR ANNEXATION (M05-046 / P05-069)**

BACKGROUND

- A. Whereas, before a Local Agency Formation Commission may act upon a proposed annexation to a city; the City and County must adopt a tax sharing agreement; and
- B. Whereas, landowners and the City of Sacramento have proposed the Greenbriar Annexation to the City of Sacramento; and
- C. Whereas, the County and City have negotiated a property tax exchange agreement specifying how property tax revenues will be allocated should the annexation be approved;

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. The City Manager is hereby authorized to execute the Property Tax Exchange Agreement on behalf of the City of Sacramento with the County of Sacramento and to do and perform everything necessary to carry out the purpose of this Resolution.

Table of Contents:

Exhibit A –Property Tax Exchange Agreement

Adopted by the City of Sacramento City Council on March 11, 2008 by the following vote:

- Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Tretheway, Waters, and Mayor Fargo.
- Noes: None.
- Abstain: None.
- Absent: Councilmember Sheedy.



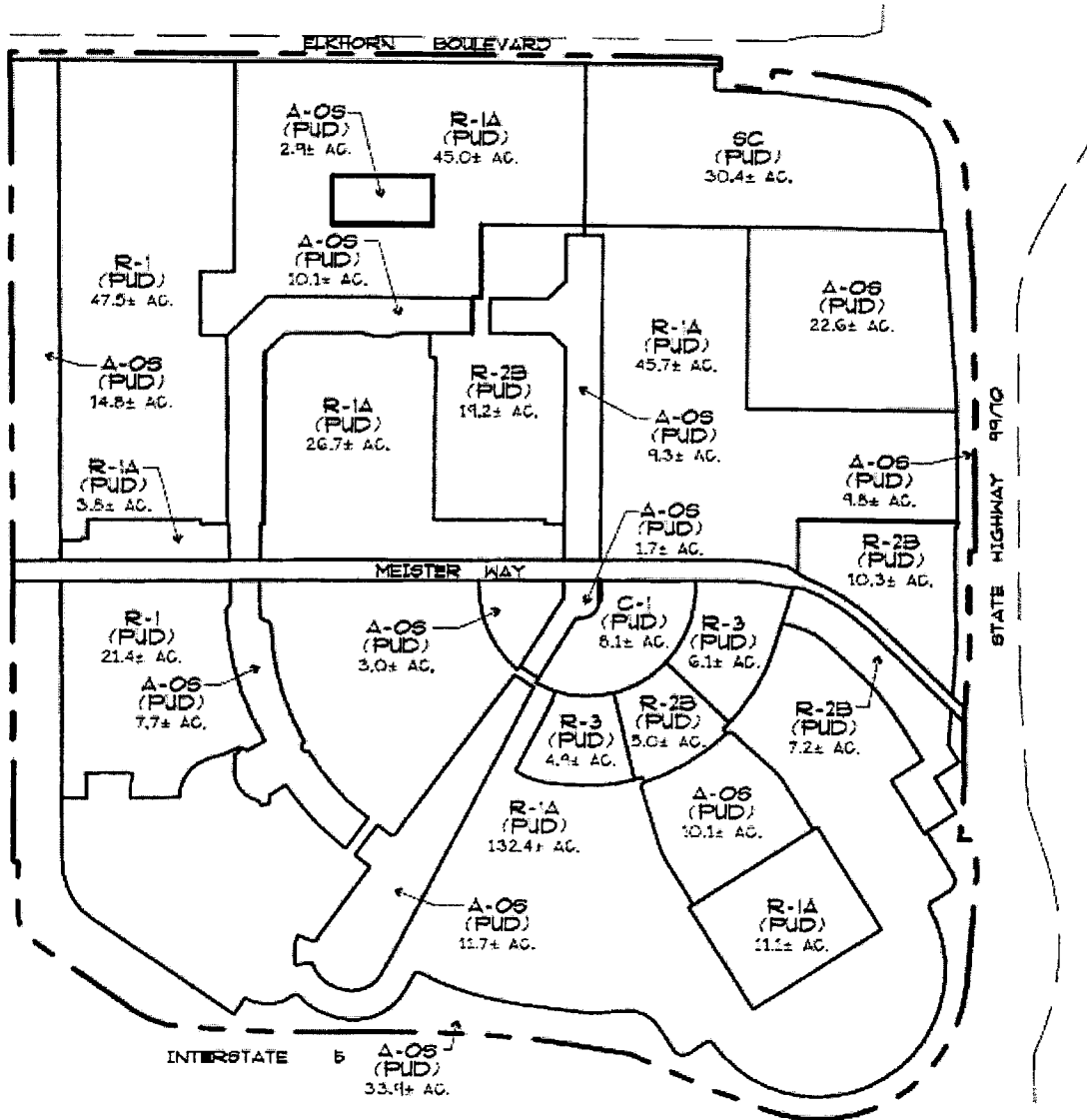
 Mayor Heather Fargo

Attest:



 Shirley Concolino, City Clerk

**GREENBRIAR TAX SHARING AGREEMENT – EXHIBIT 1
PREZONING MAP**



ZONING SUMMARY TABLE

| DESIGNATION | LAND USE | EXISTING | PROPOSED | DIFFERENCE |
|-------------|---|----------|----------|------------|
| R-1 (PUD) | LOW DENSITY RESIDENTIAL (4-15 DU/AC) | - | 68.9 | +68.9 |
| R-1A (PUD) | MEDIUM DENSITY RESIDENTIAL (16-29 DU/AC) | - | 264.7 | +264.7 |
| R-2B (PUD) | ELEMENTARY SCHOOL/PRIVATE PARK AND RECREATION SITES | - | 41.7 | +41.7 |
| R-3 (PUD) | MEDIUM DENSITY RESIDENTIAL (16-29 DU/AC) | - | 11.0 | +11.0 |
| A-05 (PUD) | HIGH DENSITY RESIDENTIAL (30+ DU/AC) | - | 137.6 | -137.6 |
| SC (PUD) | NEIGHBORHOOD PARK/OPEN SPACE/BUFFER/WATER | - | 30.4 | +30.4 |
| C-1 (PUD) | SHOPPING CENTER | - | 8.1 | +8.1 |
| AG-80 | COMMUNITY COMMERCIAL | 577.0 | - | -577.0 |
| MAJOR ROADS | AGRICULTURAL CROPLAND | - | 14.6 | +14.6 |
| | | 577.0 | 577.0 | |

RESOLUTION NO. 2008-0212

**RESOLUTION OF THE BOARD OF SUPERVISORS
APPROVING A TAX EXCHANGE AGREEMENT WITH THE CITY
OF SACRAMENTO FOR THE GREENBRIAR ANNEXATION**

WHEREAS, on December 10, 2002 the County and the City of Sacramento have entered into a Natomas Joint Vision Memorandum of Understanding (MOU) to encourage the sound urban development, economic growth and sound planning principles; and

WHEREAS, the County and the City of Sacramento are parties the Natomas Vision Joint Vision MOU; and

WHEREAS, the Natomas Joint Vision MOU provides the for a fair share distribution between the County and the City of Sacramento revenue generated within areas annexed to the City of Sacramento ; and

WHEREAS, the Natomas Joint Vision MOU specifies how property tax revenue and other revenue generated within the subject area will be shared; and

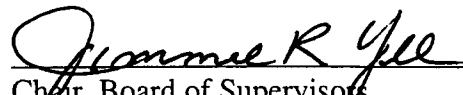
WHEREAS, the purpose of this tax exchange agreement is to implement the revenue sharing provisions of the Natomas Joint Vision MOU as they pertain to the Greenbriar Annexation area; and

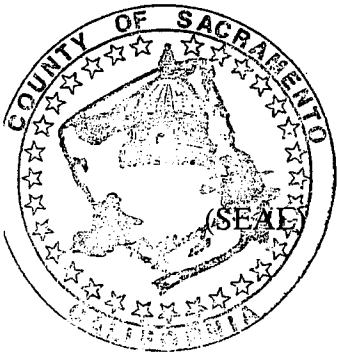
WHEREAS, it is further the purpose of this agreement to serve as a property tax Transfer Agreement pursuant to Section 99 of the California Revenue and Taxation Code.

NOW THEREFORE, BE IT RESOLVED AND ORDERED that the Chair of the Board of Supervisors on behalf of the COUNTY OF SACRAMENTO, be and is hereby authorized and directed to execute a Tax Exchange Agreement with the City of Sacramento for the Greenbriar Annexation in a form approved by County Counsel, and perform any and all things necessary, subject to approval by County Counsel, to carry out the purpose of this Resolution.

On a motion by Supervisor Dickinson, seconded by Supervisor Peters, the foregoing resolution was passed and adopted by the BOARD OF SUPERVISORS of the County of Sacramento, State of California, this 12th day of March 2008, by the following vote, to wit:

AYES: Supervisors, Dickinson, MacGlashan, Nottoli, Peters, Yee
NOES: Supervisors, none
ABSENT: Supervisors, none
ABSTAIN: Supervisors, none


Chair, Board of Supervisors
COUNTY OF SACRAMENTO
STATE OF CALIFORNIA

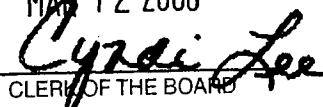


ATTEST: 
Clerk, Board of Supervisors

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 of the Board of Supervisors, County of Sacramento on **MAR 12 2008**

By 
Deputy Clerk, Board of Supervisors

FILED
BOARD OF SUPERVISORS

MAR 12 2008
BY 
CLERK OF THE BOARD