

SACRAMENTO COUNTY WATER AGENCY

ORDINANCE NO. _____

**AN ORDINANCE OF THE SACRAMENTO COUNTY WATER AGENCY CODE
RELATING TO THE VINEYARD SPRINGS SUPPLEMENTAL DRAINAGE FEE**

The Board of Directors of the Sacramento County Water Agency, a statutorily created district operating under the authority of and pursuant to the provisions of the Sacramento County Water Agency Act (California Water Code- Appendix, chapter 66, commencing at section 66-1 et seq.), ordains as follows:

SECTION 1. Section 2.10.095 of Chapter 2.10, Title 2, of the Sacramento County Water Agency Code is amended to read as follows:

2.10.095 Fee Plan.

The Sacramento County Water Agency Engineer's Report for Zones 11A, 11B, 11C, as well as the Reports for supplemental fee areas commonly referred to as Zones 11N and 11W, as revised from time to time.

SECTION 2. Section 2.80.005 of Chapter 2.80, Title 2, of the Sacramento County Water Agency Code is amended to read as follows:

2.80.005 Findings of Fact.

A. The Sacramento County Board of Supervisors adopted the Vineyard Springs Comprehensive Plan ("VSCP") Public Facilities Financing Plan on June 7, 2000, and estimated \$20.5 million in drainage facilities required for the VSCP area. Many of these facilities are funded by Zone 11A of the Sacramento County Water Agency; however a Supplemental Drainage Fee is required to fund various appurtenances that are not provided for in the current Zone 11A fee structure.

B. The Board hereby finds that the development and construction within the VSCP 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, and storm water quality degradation.

C. A number of the drainage facilities required to be constructed to conform to the approved drainage studies of the Vineyard Springs Comprehensive Plan and Florin Vineyard Gap Community Plan, while technically Trunk Drainage Facilities in that

they serve a watershed area of thirty (30) 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 Vineyard Springs Drainage Fee Study. Such Non-Zone 11A Drainage Facilities may be eligible for payment to be authorized and funded by the supplemental drainage fee adopted herein.

D. In order to pay certain costs associated with Non-Zone 11A Drainage Facilities required by the Drainage Master Plan Update and the Clean Water Act Section 404 Permit, a Vineyard Springs Supplemental Drainage Impact Fee was adopted by the Sacramento County Water Agency Board of Directors on July 15, 2003, with this Chapter being subsequently added on August 5, 2003. Subsequent drainage analyses, changes in federal permitting requirements, and approval of adjacent plan areas of North Vineyard Station and Florin Vineyard Gap support revisions to the drainage cost estimate.

E. The Board hereby finds that the development described in the VSCP will require construction of the drainage facilities described in the Supplemental Fee Study.

SECTION 3. Section 2.80.010 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.010 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 providing adequate drainage facilities.

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 development fees to fund the estimated cost of certain drainage facilities and services the need for which is directly or indirectly generated by the type and level of development proposed for the Vineyard Springs Supplemental Fee Plan Area.

D. It is also the purpose of this Chapter to require that adequate provision is made for developer financed drainage facilities within the Vineyard Springs Supplemental Fee Plan Area prior to approval of certain plans and permits within said area.

SECTION 4. Section 2.80.020 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.020 Definitions.

- A. "Acreage" means the gross acreage of any property within the Vineyard Springs Supplemental Fee Plan Area minus the acreage of major drainage channels, which cannot be developed.
- B. "Administrator" means the Administrator of the Sacramento County Municipal Services Agency.
- C. "Agency" means the Sacramento County Water Agency.
- D. "Agency Engineer" means the Director of the Sacramento County Water Resources Department of the Sacramento County Municipal Services Agency or his or her designee.
- E. "Board" means the Board of Directors of the Sacramento County Water Agency.
- F. "Building Permit" means the permit issued or required for the construction or improvement of new or additional square footage for any structure pursuant to and as defined by the Sacramento County Building Code.
- G. "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.
- H. "County" means the County of Sacramento.
- I. "Drainage Facilities" means those public facilities designated in the Vineyard Springs Supplemental Fee Plan.
- J. "Estimated Cost" means the cost of constructing a facility based upon the unit costs for each construction item plus a fixed percentage of 20% for inspection, materials testing, design and construction survey, engineering and administration set forth in the Supplemental Drainage Fee.
- K. "Improvement Plan" means a plan for private or public improvements which are to be accepted for maintenance by the Agency or the County, and which is prepared in accordance with the requirements of the latest edition of the County of Sacramento Standard Construction Specifications and the County of Sacramento Improvement Standards.
- L. "Planning Director" means the Director of the Sacramento County Department of Community Development, or successor department thereto.
- M. "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 Vineyard Springs Supplemental Fee Plan Area.
- N. "Vineyard Springs Public Facilities Financing Plan" means the plan, including any amendments thereto, adopted by resolution by the Sacramento County Board of Supervisors for the financing of designated facilities to serve the Vineyard Springs 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 acres within the Vineyard Springs PFFP area.

O. "Vineyard Springs Public Facilities Financing Plan Area" means all property located within the geographic area comprising the Vineyard Springs PFFP area. This area is bounded on the west by Bradshaw Road, on the south by Calvine Road, on the east by Excelsior Road, and on the north by Gerber Road. A legal description of this property is on file with the Clerk of the Board of Supervisors and is by this reference incorporated herein.

P. "Vineyard Springs Drainage Fee Study" means the study, including any amendments thereto, adopted by the Board for the financing of designated drainage facilities to serve the Vineyard Springs Supplemental Fee Plan Area, including, but not limited to a designation of those facilities to be constructed with the development fees collected pursuant to this Chapter, the approximate schedule for commencement of construction, the estimated cost of constructing the facilities and the total number of acres affected within the Vineyard Springs Supplemental Fee Plan Area.

Q. "Vineyard Springs Comprehensive Plan Drainage Master Plan" means the Final Drainage Master Plan report dated June 22, 1999, including any amendments thereto, and included by reference in the Vineyard Springs PFFP.

R. "Vineyard Springs Supplemental Drainage Fund" means that special interest-bearing trust fund established pursuant to Section 2.80.030.

S. "Vineyard Springs Supplemental Fee Plan Area" means the property within the area defined and described in the Vineyard Springs Drainage Fee Study.

SECTION 5. Section 2.80.030 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.030 Establishment and Administration of Vineyard Springs Supplemental Drainage Mitigation Fund.

A. The drainage fee was established in fiscal year 2004-05 by the Agency as a special interest-bearing fund entitled the Vineyard Springs Supplemental Drainage Fund. All drainage development fees collected pursuant to this Chapter shall be placed in said fund and shall be expended solely to pay the costs of drainage facilities located within the Vineyard Springs Supplemental Fee Plan Area, downstream on Upper Laguna Creek from Bradshaw Road to Calvine Road, and at the proposed detention site on Upper Laguna Creek in the Triangle Rock mining pit as identified in the Updated VSCP Drainage Fee Study dated June 2007 and on the upper reach of Gerber Creek as described in the 2015 Engineer's Report for the Vineyard Springs Supplemental Drainage Fee (Zone 11W)..

B. The Vineyard Springs Supplemental Drainage Fund shall be a financial component of Zone 11A of the Sacramento County Water Agency, and shall be known as Zone 11W.

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, may be treated either as an account or fund; but all such records with respect to such fund shall be at all times maintained in accordance with sound accounting practice.

D. Any excess fees remaining after construction of all drainage facilities described in the Vineyard Springs Drainage Fee Study shall remain in the fund for use in geomorphologic and environmental remediation work on Upper Laguna Creek upstream of Calvine Road and on Gerber Creek.

SECTION 6. Section 2.80.060 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.060 Adoption of the Vineyard Springs Drainage Fee Study.

A. The Board of Directors shall by resolution adopt the Vineyard Springs Drainage Fee Study.

B. With the exception of facilities approved by the Agency Engineer for construction by a property owner pursuant to Section 2.80.110, all facilities shall be constructed in accordance with the schedule established in the Vineyard Springs 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 Vineyard Springs 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.

SECTION 7. Section 2.80.070 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.070 Establishment of Supplemental Drainage Fees.

A separate development fee is hereby established for supplemental drainage facilities within the Vineyard Springs Supplemental Fee Plan Area. The foregoing drainage fees shall apply uniformly throughout the Vineyard Springs Supplemental Fee Plan Area based on increased percentage of impervious area at rates listed in Schedule W of the Vineyard Springs Drainage Fee Study.

SECTION 8. Section 2.80.080 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.080 Calculation of Development Fees.

A. The development fees set forth in Section 2.80.040 shall be calculated in accordance with Schedule W of the Vineyard Springs Drainage Fee Study.

B. Unless otherwise set forth in this Chapter, the fee shall be recalculated each year based on the method described in Section 2.50.080 of this Title.

SECTION 9. Section 2.80.090 of Chapter 2.80, Title 2, of the Sacramento County Water Agency Code is amended to read as follows:

2.80.090 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 Vineyard Springs Supplemental Fee Plan Area. The provisions of this Chapter shall not be construed to limit the power of the Board to impose any other fees or exactions or to continue to impose existing ones, on development within the Vineyard Springs Supplemental Fee Plan 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, rezonings or other entitlements within the Vineyard Springs Supplemental Fee Plan 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 Department of Municipal Services 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 other drainage fees imposed by this code.

SECTION 10. Section 2.80.100 of Chapter 2.80, Title 2, of the Sacramento County Water Agency Code is amended to read as follows:

2.80.100 Credit of Fees.

A. 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 Vineyard Springs Supplemental Drainage Fee Study; and (2) such facilities were designed to serve a watershed area of thirty acres or greater; and (3) such facilities were required by the Agency in connection with development or new construction within the Supplemental Fee Plan Area; and (4) 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 2.80.040 hereof. No credit allowed pursuant to this Section shall be transferred.

SECTION 11. Section 2.80.110 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.110 Amount of Credits.

The amount of credits authorized for the construction of drainage facilities shall be computed for each category of work in the manner described below and as further described in the Vineyard Springs Drainage Fee Study.

A. The unit prices and credit schedule as described in the Vineyard Springs Drainage Fee Study set the credits available for the following activities, and no additional compensation is allowed.

1. Riparian Enhancement and Landscaping. Credits will be issued for linear creek landscaping and basin perimeter landscaping.

2. Basin Perimeter Landscaping. Credits will be issued for construction of basin perimeter landscaping.

3. Erosion Control. Credits will be issued for construction of erosion control.

4. Linear Water Quality Features. Credits will be issued for construction of linear water quality features.

5. Drainage Right of Way Acquisition. Credits will be issued for acquisition of drainage right of way.

B. The following items are compensated in accordance with Chapter 2.55 and its Schedule D unit prices as indicated on Schedule W of the Vineyard Springs Drainage Fee Study, and no additional compensation is allowed.

1. Trails and Drainage Maintenance Access. Credits will be issued for construction of trails in accordance with Chapter 2.55 and Schedule D.

2. Creek Trail Crossings. Credits will be issued for construction of trail crossings.

3. Low Flow Driveway Crossings. Credits will be issued for construction of driveway crossings.

4. Construct Temporary Weir. Credits will be issued for construction of the temporary weir at the G46 Basin.

SECTION 12. Section 2.80.120 of Chapter 2.80, Title 2, of the Sacramento

County Water Agency Code is amended to read as follows:

2.80.120 Procedure for Credits.

A. Any person desiring credits for the construction of drainage facilities shall, prior to approval of improvement plans for the drainage facilities, execute an agreement with the Agency authorizing tentative credits ("credit agreement"). The Board of Directors must approve credit agreements in an amount in excess of \$100,000. The Agency Engineer may approve credit agreements in an amount of \$100,000 or less.

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.

C. For Credit Agreements based on acquisition of real estate, credits may be issued upon transfer of title to the County or where applicable, other government

agency or 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 as described in the Vineyard Springs Drainage Fee Study, plus annual adjustments, in accordance with this Chapter. The Value Study may be updated as the Agency deems necessary, and adjustments to the fee and credit schedule shall be revised accordingly. The acceptance of a drainage easement will generally occur when the improvement plans for the trunk drainage facility are approved, though earlier acceptance may occur at the discretion of the Agency.

D. For Credit Agreements based on endangered species mitigation, credits may be issued upon approval of improvement plans, payment of the mitigation fee or upon transfer of title.

E. For Credit Agreements for construction of drainage facilities, upon final field acceptance of drainage facilities, the as-built quantities shall be determined and the credits shall be corrected as necessary. 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.

F. 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 drainage facilities.

G. Apportionment of Credits. Except as set forth in this Section, credits shall only be applied against 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 to other parcels after the credit agreement is signed.

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

1. Title to the parcels are held by the individual(s) or firm(s) who are signatory on the credit agreement;
2. Specific proportioning per parcel is described in the credit agreement;
3. The parcel(s) or parcels to which such credits are to be apportioned must be served by the drainage facilities for which credits are authorized;
4. Each property owner is signatory on the credit agreement.

I. When credits are apportioned, the credit amounts shall be based on the rates in effect on the date improvement plans are approved for the parcel to which credits have been apportioned.

J. 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.

SECTION 13. Section 2.80.140 of Chapter 2.80, Title 2, of the Sacramento County Water Agency Code is amended to read as follows:

2.80.140 Reimbursement Agreements.

Reimbursement shall conform to the following requirements:

- A. A reimbursement agreement shall be prepared and approved in accordance with Sections 2.60.030 and 2.60.040 of this Title.;
- B. Payment of reimbursement shall be as described in Section 2.60.050 of this Title;
- C. If adequate funds do not exist in the Vineyard Springs Supplemental Drainage Fund, reimbursement payments shall wait for development progress and corresponding fee revenue.
- D. If ample funds are available in the Zone 11W fund, reimbursement may be accelerated when allowed by the terms approved by the Agency Engineer.

SECTION 14. Section 2.80.160 of Chapter 2.80, Title 2, of the Sacramento County Water Agency Code is added to read as follows:

2.80.160 Fee Study.

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

SECTION 15. This ordinance was introduced and the title thereof read at the regular meeting of the Board of Directors on _____, and on _____, 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 sixty (60) 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 _____, seconded by Director _____, the foregoing ordinance was passed and adopted by the Board of Directors of the Sacramento County Water Agency, a statutorily created district operating under the authority of and pursuant to the provisions of the Sacramento County Water Agency Act (California Water Code- Appendix, chapter 66, commencing at section 66-1 et seq.) this ____ day of _____ 201__, by the following vote:

AYES: Directors,

NOES: Directors,

ABSENT: Directors,

ABSTAIN: Directors,

Chair of the Board of Directors,
Sacramento County Water Agency

(SEAL)

ATTEST: _____
Clerk, Board of Directors