

**MEMORANDUM OF AGREEMENT  
REGARDING CITY SERVICES TO  
THE YANKS AIR MUSEUM PROJECT  
Nichols and City of Greenfield**

THIS MEMORANDUM OF AGREEMENT (hereinafter "MOA") is made and entered into on July 30, 2001, by and between CHARLES NICHOLS and JUDITH NICHOLS, as Trustees of the NICHOLS FAMILY TRUST UTA dated January 17, 1991 ("Nichols"); and the CITY OF GREENFIELD ("City"), as follows:

**RECITALS:**

This MOA is entered into with reference to the following facts and circumstances:

- A. **PROJECT SITE.** Nichols own approximately one hundred eleven (111) acres of land located north of the City and east of Highway 101, adjacent to the City in the unincorporated area of the County of Monterey, as more specifically shown on **Exhibit A** attached hereto ("Project Site").
- B. **YANKS AIR MUSEUM PROJECT.** Nichols intend to develop the Project Site with an aircraft museum, air strip, aircraft, storage hangars, winery with tasting room, two gasoline stations, and a 150-room hotel/motel, restaurants, retail space, amphitheater, and 80-space recreational vehicle (RV) park with caretaker unit ("Yanks Air Museum project"). A copy of the draft site plan for the Yanks Air Museum project is attached hereto as **Exhibit B**. The Yanks Air Museum project was approved by the County of Monterey ("County") on November 4, 1997, Monterey County Resolution No. 97-445. Conditions 36 and 37 of the Project approval require that the Project receive its water and sewer service from the City of Greenfield.
- C. **SPHERE OF INFLUENCE AMENDMENT.** The Project Site is within the City's Sphere of Influence and is appropriate as a future expansion area of the City.
- D. **ANNEXATION.** Pursuant to that certain Memorandum of Understanding between the City and County dated April 25, 2000 ("County MOU"), the City and County have agreed to a schedule for annexation of the Project Site to the City and tax sharing arrangement between the County and City for taxes generated from the Yanks Air Museum project whereby the City will obtain increased tax revenues as a result of the Yanks Air Museum project.
- E. **EDA GRANT FOR WATER AND SEWER IMPROVEMENTS.** The City, together with the County, has applied to the Economic Development Administration ("EDA") for a \$2.2 million grant to extend water and sewer infrastructure improvements to the Project Site. The grant application is based upon jobs that will be created by the Yanks Air Museum project. The

EDA grant requires some reimbursement to the City by interceding property owners whose property will benefit from the extension of the water and sewer lines to the Project Site.

F. PLANNING FEES. On September 1, 1998, Nichols paid the City Seven Thousand Five Hundred Dollars (\$7,500.00) for the planning consultant's fees to complete annexation of the Yanks Air Museum site to the City. On January 20, 2000, Nichols paid the City Fifteen Thousand Dollars (\$15,000.00) for planning consultant's fees to complete the EDA grant writing. The EDA grant was written by the County.

F. ECONOMIC BENEFIT. The City will achieve an economic benefit from the Yanks Air Museum project.

G. PURPOSE AND INTENT. It is the purpose and intent of this MOA to set forth certain agreements between the parties to jointly pursue a course of action to ensure the development of the Yanks Air Museum Project, facilitate the provision of water and sewer services to the Yanks Air Museum Project by the City in anticipation of future annexation, and to provide a means of financing and constructing project related facilities.

H. FURTHER ACTIONS. It is recognized that the parties may need to take further actions to comply with federal, state and local laws and regulations which may affect certain provisions contained herein (e.g., grant approvals, environmental review, LAFCO process, etc.); however, both parties shall use their best efforts diligently and in good faith to comply with and implement the terms and conditions of this MOA, as follows:

### TERMS AND CONDITIONS

1. DEVELOPMENT OF THE PROJECT SITE. Nichols and the City agree that development of the Project Site will occur in the unincorporated area of the County in accordance with the Board of Supervisors' November 4, 1997 approval, certified Yanks Air Museum and Visitor Serving Environmental Impact Report, and Memorandum of Understanding between the City and County dated April 25, 2000.

2. ANNEXATION OF THE SITE TO THE CITY. Nichols agrees not to oppose annexation of the Project Site to the City and to provide such letters and/or documents to that effect to the County of Monterey, LAFCO, and/or the City.

3. PROVISION OF WATER AND SEWER SERVICE BY THE CITY. City agrees to immediately apply to LAFCO for approval to extend City water and sewer service to the site, and the Nichols agree to support the LAFCO application.

4. WATER AND SEWER FEES

(a) Infrastructure Reimbursement/Connection Fees. The City is collecting reimbursement/connection fees from all landowners owning land between the existing water/sewer service and the Project Site whose property will benefit from the extension of the water and sewer lines to reimburse the City for their One Million Dollar cost associated with the water and sewer

line extension. Nichols' pro-rata share of the One Million Dollar (\$1,000,000.00) infrastructure cost is One Hundred Eighty Thousand Dollars (\$180,000.00) (based on a 18% fair share ratio) to be paid to the City at the issuance of the first building permit for the Yanks Air Museum Project. Except as otherwise provided herein and as set forth below, ~~no~~ other reimbursement costs, connection fees or assessments will be charged the Yanks Air Museum Project for water and sewer service to the site, now, at the time of construction, at the time of annexation to the City, or any other time, except the water and sewer mitigation fees set forth herein below.

(b) Water Mitigation Fees. Water mitigation fees for the Yanks Air Museum Project shall be calculated on the basis of fixture units as described in the Uniform Code for the various buildings and uses approved for the Yanks Air Museum Project. The fee per fixture unit shall be capped at \$112.50/fixture unit for the buildings and structures approved for the Yanks Air Museum Project. A summary of the estimated Water Mitigation Fees for those structures is attached here to as **Exhibit C**.

(c) Sewer Mitigation Fees. Sewer mitigation fees for the Yanks Air Museum Project shall be calculated on the basis of fixture units as described in the Uniform Code for the various buildings and uses approved for the Yanks Air Museum Project. The fee per fixture unit shall be capped at \$99.60/fixture unit for the buildings and structures approved for the Yanks Air Museum Project. A summary of the estimated Sewer Mitigation Fees for those structures is attached here to as **Exhibit D**.

(d) Capacity Assurance/Time of Payment. Except as to the Hotel/Motel, Air Museum, and Aircraft Storage Hangers, as will be discussed below, payment of water and sewer mitigation fees based on fixture units for anticipated uses, with guaranteed capacity in the water and sewer system for said uses, shall be paid at the time building permits are obtained for the anticipated uses.

(e) Air Museum/Aircraft Storage Hanger Fee Waiver.

(i) Pursuant to Greenfield City Municipal Code section 19.04.030, the City agrees to waive water mitigation fees for water service, now and at the time of annexation, for the Air Museum and Aircraft Storage Hangers, finding that it will be equitable to do so given the fact that 1) the Air Museum and associated Aircraft Storage Hangers are to be operated by a non-profit organization; 2) the City obtained a \$2.2 million grant from the EDA to construct water facilities to the site based on the jobs that will be created by the Yanks Air Museum project; and 3) that the Yanks Air Museum project will generate significant additional tax revenue for the City. However, such waiver shall not exceed \$40,500.00.

(ii) Pursuant to Greenfield City Municipal Code section 19.06.030, the City agrees to waive sewer mitigation fees for sewer service, now and at the time of annexation, for the Air Museum and Aircraft Storage Hangers, finding that it will be equitable to do so given the fact that 1) the Air Museum and associated Aircraft Storage Hangers are to be operated by a non-profit organization; 2) the City obtained a \$2.2 million grant from the EDA to construct sewer facilities to the site based on the jobs that will be created by the Yanks Air Museum project; and 3) that the Yanks Air Museum project will generate significant additional tax revenue for the City. However, such waiver shall not exceed \$35,457.60.

(f) Hotel/Motel Mitigation Fees. Recognizing that bring a hotel/motel to the Yanks Air Museum site will provide economic revenue in the form of transient occupancy tax and other associated economic benefits, the City agrees to ~~defer~~ payment of the Hotel/Motel Water and Sewer Mitigation fees for a period of up to five (5) years following obtaining a building permit for the Hotel/Motel. The deferred payment schedule, for payments to be made after the deferral period, shall be established between Nichols (or if designated by Nichols, the hotel developer) and the City and included in a further agreement between the parties.

(g) Monthly Service Charges. The City agrees to charge the Yanks Air Museum project its standard monthly service charge for water and sewer service (not double this fee), as the Yanks Air Museum project is within the City's Sphere of Influence and, by agreement, will be annexed into the City.

5. OTHER PERMIT AND IMPACT FEES. The Yanks Air Museum project will be developed in, and obtain its building permits from, the County. Nichols will pay all development fees and statutory fees required at the time of satisfying conditions of approval or obtaining building permits from the County, including park fees, school fees and inclusionary housing fees, if required. Should any portion of the Yanks Air Museum Project, as approved, be developed within the City, the City shall not charge Nichols any fees beyond those fees Nichols would have had to pay the County to develop the project in the County. After annexation, should Nichols decide to build additional structures and uses, beyond that envisioned in the initial County approval, Nichols will be charged the City's standard applicable fees for any additional development.

6. TRAFFIC IMPACT FEES. Traffic impact fees are not applicable to the Yanks Air Museum Project as it is being developed in the County. The City will not seek any traffic mitigation fees from the Yanks Air Museum Project, now or at the time of annexation, or any time, for the buildings and uses approved for the Yanks Air Museum Project. After annexation, should Nichols decide to build additional structures and uses, beyond that envisioned in the initial County approval, Nichols will be charged the City's standard traffic mitigation fees for any additional development.

7. POLICE FACILITIES FEES. Police impact fees are not applicable to the Yanks Air Museum Project as it is being developed in the County. The City will not seek any police mitigation fees from the Yanks Air Museum Project, now or at the time of annexation, or any time, for the buildings and uses approved for the Yanks Air Museum Project. After annexation, should Nichols decide to build additional structures and uses, beyond that envisioned in the initial County approval, Nichols will be charged the City's standard police fees for any additional development.

8. FIRE MITIGATION FEES. Nichols will pay fees or purchase equipment as agreed by the Greenfield Fire Projection District. Nichols will pay no fire mitigation fees to the City now, or at the time of annexation, or at any time.

9. TRANSIENT OCCUPANCY TAX ("TOT"). Following annexation into the City, the City shall not charge the Yanks Air Museum project a Transient Occupancy Tax greater than the TOT charged by the County.

10. RUNWAY PROTECTION ZONES. The Yanks Air Museum project airstrip will be open to the general public and available for public use. The airstrip shows runway protection zones (RPZ's) on the north and south end of the airstrip as shown on **Exhibit B**. Should the Yanks Air Museum project be unable to secure RPZ easements from the adjoining landowners, the City agrees to use its best efforts, including exercising its right of eminent domain, if possible, to acquire said easements for the public benefit, the costs of such eminent domain to be paid by Nichols with the estimated cost deposited with the City prior to eminent domain proceedings.
11. DEVELOPMENT AGREEMENT. Nichols and the City shall diligently and in good faith negotiate the terms of an agreement under Government Code section 65864 et. seq. for the development of the Project incorporating the terms of this MOA.
12. FURTHER ACTIONS. Each of the parties agrees to execute and deliver to the other all such documents and instruments, and to take such further actions, as may reasonably be required to give effect to the terms and conditions of this MOA. It is anticipated that a further development agreement supplemental hereto will be developed by the parties hereto (see Section 11 above).
13. INTERPRETATION. It is agreed and understood by the parties hereto that this Agreement has been arrived at through negotiation and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code section 1654. The provisions of this MOA shall be interpreted in a reasonable manner to effect the purpose of the parties and this MOA. In the absence of any further agreement, this MOA shall be specifically enforceable according to its terms.
14. DUTY TO MEET AND CONFER. If any dispute under this MOA arises, the parties shall first meet and confer in a good faith attempt to resolve the matter between themselves. Each party shall make all reasonable efforts to provide to the other party all the information that the party has in its possession that is relevant to the dispute, so that both parties will have ample information with which to reach a decision.
15. AMENDMENT OR MODIFICATION. This MOA may be amended, altered or modified only in writing, specifying such amendment, alteration or modification, executed by authorized representatives of both of the parties hereto.
16. ATTORNEYS' FEES AND COSTS. In the event it should become necessary for either party to enforce any of the terms and conditions of this MOA by court action or administrative enforcement, the prevailing party, in addition to any other remedy at law or in equity available to such party, shall be awarded all reasonable costs and reasonable attorneys' fees in connection therewith, including the fees and costs of experts reasonably consulted by the attorneys for the prevailing party.
17. RELATIONSHIP OF THE PARTIES. Nothing in this MOA shall create a joint venture, partnership or principal-agent relationship between the parties.
18. COUNTERPARTS. This MOA may be executed in two counterparts, each of which shall be deemed an original, but both of which shall be deemed to constitute one and the same instrument.

19. ENTIRE AGREEMENT. This MOA constitutes the entire and complete agreement between the parties regarding the subject matter hereof and supersedes all prior or contemporaneous negotiations, understandings or agreements of the parties, whether written or oral, with respect to such subject matter. This Section 19 is not intended to prevent or relieve the parties hereto from entering into such supplemental agreement(s) as set forth above in Section 11.

IN WITNESS WHEREOF, this MOA has been executed by the duly by the parties on the date first shown above.

YANKS AIR MUSEUM

By Charles F. Nichols  
Charles F. Nichols, Trustee, Owner

By Judith A. Nichols  
Judith A. Nichols, Trustee, Owner

CITY OF GREENFIELD

By J. M. Romo  
J. M. Romo, Mayor

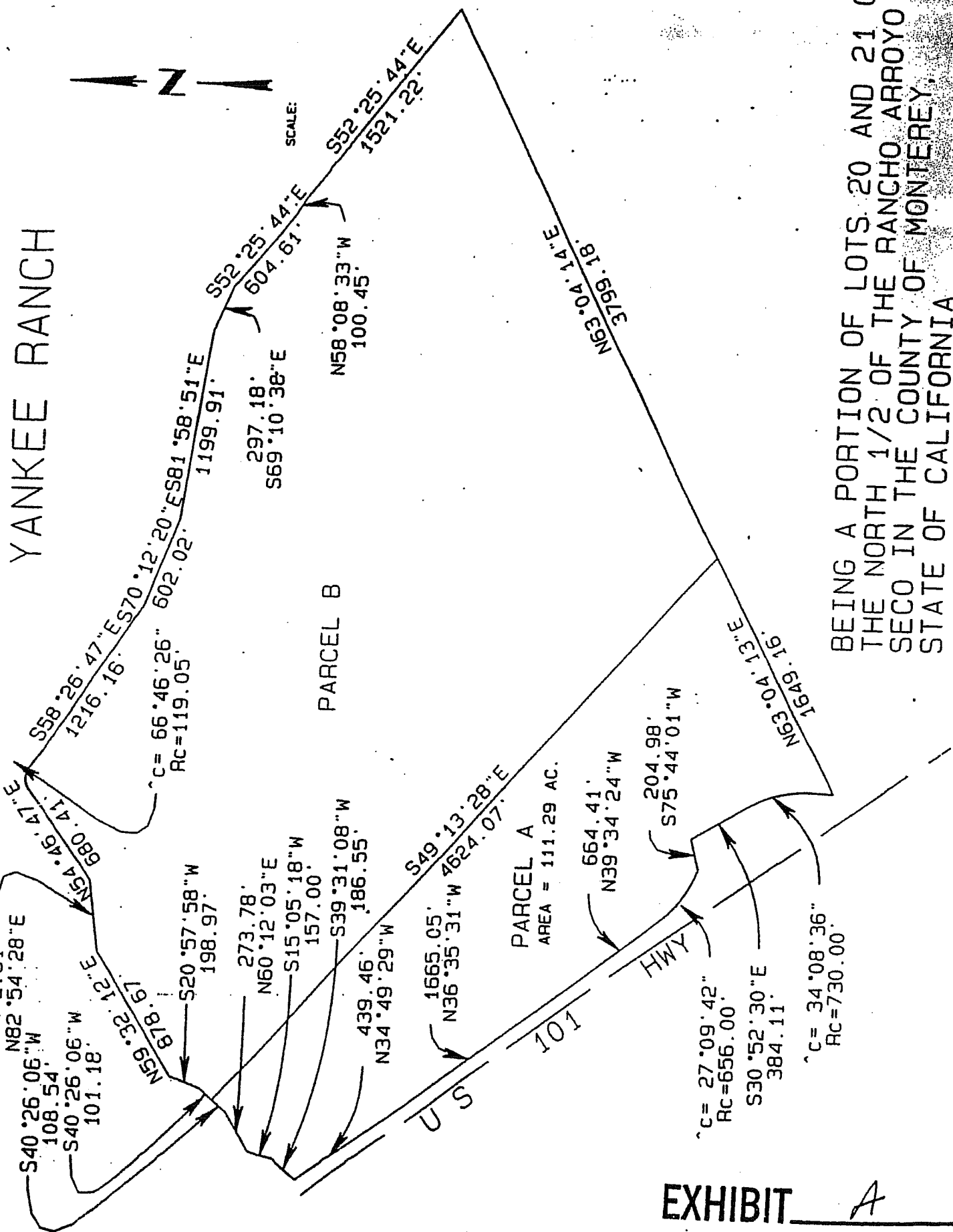
ATTEST:

By Ann F. Rathbun  
Ann F. Rathbun, City Clerk

# YANKEE RANCH



SCALE:



BEING A PORTION OF LOTS 20 AND 21 OF THE NORTH 1/2 OF THE RANCHO ARROYO SECO IN THE COUNTY OF MONTEREY STATE OF CALIFORNIA

EXHIBIT      A



# CONCEPTUAL DEVELOPMENT PLAN YANKS AIR MUSEUM Greenfield, California

03-26-01

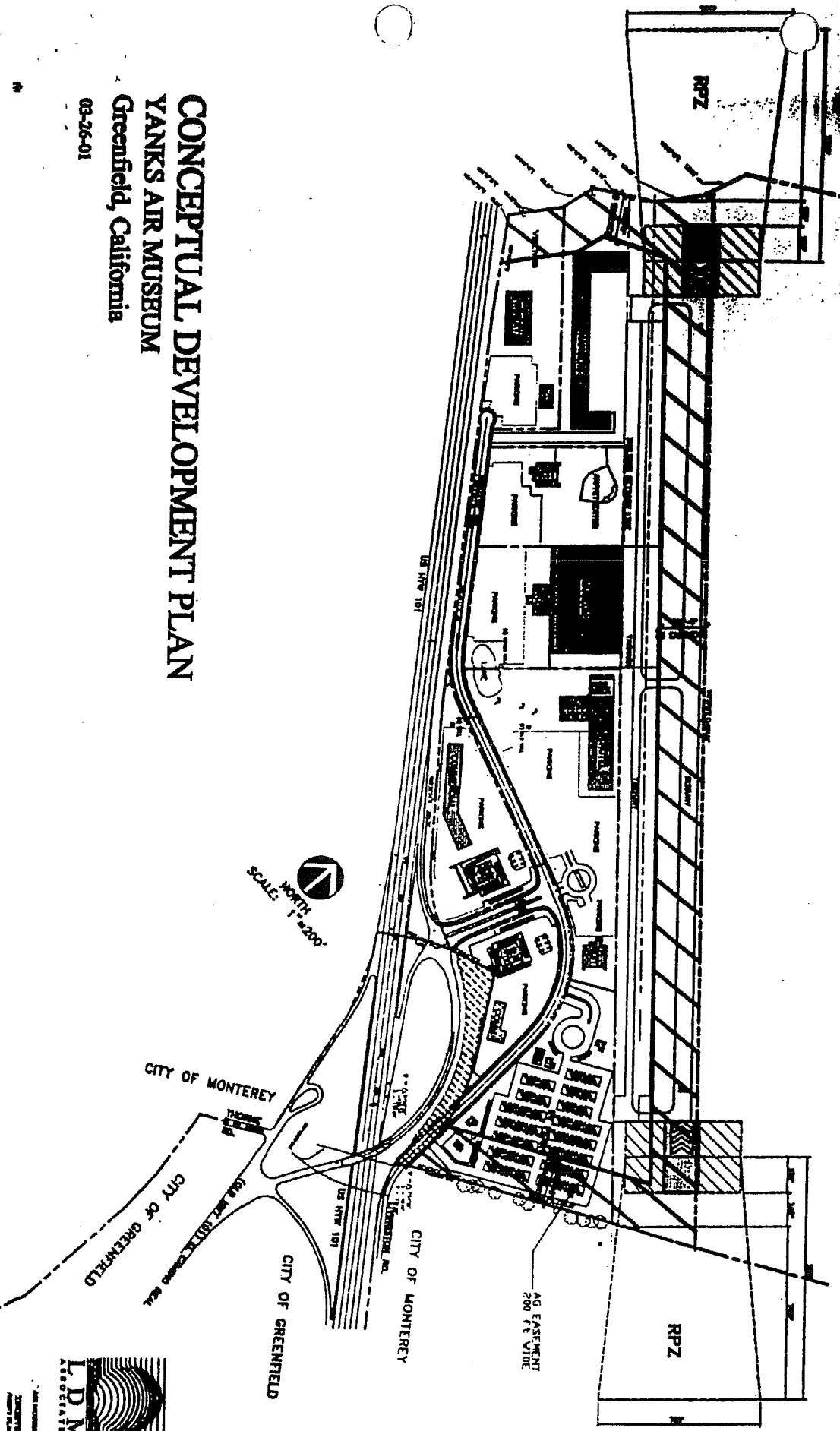


EXHIBIT B



WATER MITIGATION FEES

Item No.	Building Identification	Unit of Measure	Total Measurement	Rate	Amount
1	Air Museum (180,000 sf)	Fixture Unit	Appx. 282 F/U	\$112.50	waive <del>\$31,725.00</del>
2	Winery (30,000 sf)	Fixture Unit	Appx. 164 F/U	\$112.50	\$18,450.00
3	Hotel/Motel (150 Units)	Fixture Unit	Appx 1,648 F/U	\$112.50	\$185,400.00
4	Gasoline Stations (2 ea.)	Fixture Unit	Appx. 82 F/U	\$112.50	\$9,225.00
5	Commercial Bldgs. (60,000 sf)	Fixture Unit	Appx. 438 F/U	\$112.50	\$49,275.00
6	Small Restaurants (2 ea.)	Fixture Unit	Appx. 102 F/U	\$112.50	\$11,475.00
7	Aircraft Storage Hangers (75,375 sf)	Fixture Unit	Appx. 74 F/U	\$112.50	waived <del>\$8,325.00</del>
8	Large Restaurant (1 ea.)	Fixture Unit	Appx. 100 F/U	\$112.50	\$11,250.00
9	Recreational Vehicle Park (80 Spaces)	Fixture Unit	Appx. 527 F/U	\$112.50	\$59,287.50

Total water fees \$344,362.50

from next page  
Total Sewer \$295,911.60

Total \$640,274.10

SEWER MITIGATION FEES

Item No.	Building Identification	Unit of Measure	Total Measurement	Rate	Amount Due
1	Air Museum (180,000 sf)	Fixture Unit	Appx. 282 F/U	\$99.60	<del>\$28,087</del> waived
2	Winery (30,000 sf)	Fixture Unit	Appx. 164 F/U	\$99.60	\$16,334
3	Hotel/Motel (150 Units)	Fixture Unit	Appx 1,648 F/U	\$99.60	\$164,140
4	Gasoline Stations (2 ea.)	Fixture Unit	Appx. 82 F/U	\$99.60	\$8,167
5	Commercial Bldgs. (60,000 sf)	Fixture Unit	Appx. 438 F/U	\$99.60	\$43,624
6	Small Restaurants (2 ea.)	Fixture Unit	Appx. 102 F/U	\$99.60	\$10,159
7	Aircraft Storage Hangers (75,375 sf)	Fixture Unit	Appx. 74 F/U	\$99.60	<del>\$7,370</del> waived
8	Large Restaurant (1 ea.)	Fixture Unit	Appx. 100 F/U	\$99.60	\$996
9	Recreational Vehicle Park (80 Spaces)	Fixture Unit	Appx. 527 F/U	\$99.60	\$52,489

Total sewer

\$ 295,911.60