RESOLUTION 12-10

A RESOLUTION OF THE OVERSIGHT BOARD OF THE WEST SACRAMENTO REDEVELOPMENT SUCCESSOR AGENCY APPROVING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS) FOR THE PERIOD JANUARY 1 – JUNE 30, 2013, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(I)

WHEREAS, pursuant to Resolution 12-7, adopted by the City Council of the City of West Sacramento on February 1, 2012, the City of West Sacramento ("the City") agreed to serve as the Successor Agency to the Redevelopment Agency of the City of West Sacramento ("the Successor Agency") commencing upon dissolution of the Redevelopment Agency of the City of West Sacramento ("the Redevelopment Agency") on February 1, 2012 pursuant to Assembly Bill X1 26; and

WHEREAS, pursuant to Health and Safety Code Section 34177(l), before each six-month fiscal period, the successor agency to a dissolved redevelopment agency is required to adopt a draft Recognized Obligation Payment Schedule ("ROPS") that lists all of the obligations that are "enforceable obligations" within the meaning of Health and Safety Code Section 34177, and which identifies a source of payment for each such obligation from among (i) the Low and Moderate Income Housing Fund, (ii) bond proceeds, (iii) reserve balances, (iv) the administrative cost allowance, (v) revenues from rents, concessions, interest earnings, and asset sales, and (vi) the Redevelopment Property Tax Trust Fund established by the County Auditor-Controller to the extent no other source of funding is available or payment from property tax is contractually or statutorily required; and

WHEREAS, the draft ROPS must be concurrently submitted to the County Administrative Officer, the County Auditor-Controller, the State Department of Finance, and the Oversight Board established to review Successor Agency actions; and

WHEREAS, once the ROPS is approved by the Oversight Board, the ROPS must be posted on the Successor Agency's website and transmitted to the County Auditor-Controller, the State Controller and the State Department of Finance; and

WHEREAS, the Successor Agency has submitted its ROPS and administrative budget for January 1, 2013 through June 30, 2013 to the Oversight Board as required; and

WHEREAS, the ROPS includes as a proposed enforceable obligation certain pledges of tax increment relating to a development in the City known as the Bridge District, which pledges have been included on prior ROPS submissions approved by the Oversight Board, but disapproved by the Department of Finance; and

WHEREAS, the Bridge District is a large, master planned development intended to guide the transition of land uses from a former industrial area to a very dense mixed use, transit oriented development through a public-private partnership consisting of the City, the Redevelopment Agency, various private developers, and the State of California. This transition is to be accomplished through a complex series of interlocking land use and financing agreements between the City, the Redevelopment Agency and a number of private developers, including a variety of planning documents and land use entitlements, development agreements, disposition and development agreements, grant funds, Community Facilities District ("CFD")

special taxes and bond sales, and a pledge of property tax increment by the Redevelopment Agency which is reflected in these land use and financial agreements dating back to 2007; and

WHEREAS, the Oversight Board notes that the membership of the City Council and Redevelopment Agency Board at all times relevant to this resolution has consisted of the same individuals and that the City Council and Redevelopment Agency Board met at the same times in the same locations. Under those circumstances it was reasonable for a developer appearing before the City Council to understand a pledge of tax increment support by the City Council made in a binding agreement to be the pledge of the Redevelopment Agency itself, notwithstanding the existence of the Redevelopment Agency as a separate legal entity apart from the City ; and

WHEREAS, the Oversight Board has examined the Bridge District Specific Plan, including its Implementation Strategy, which was adopted prior to AB 1X 26. The Bridge District Specific Plan is based upon and contains certain assumptions regarding the construction of Backbone and Supplemental infrastructure (as such terms as defined in the Bridge District Specific Plan) which include the provision of much higher density, transit oriented development utilizing a streetcar transit system, the provision of shared public parking structures, the provision of fewer private parking spaces, the design and dedication of smaller streets capable of handling less traffic, the design of greater capacity water and sewer systems to accommodate higher density development, and the use of certain State grant funds requiring the provision of affordable housing; and

WHEREAS, the Bridge District Specific Plan and its Implementation Strategy indicate that the Bridge District Backbone and Supplemental Infrastructure will be partially financed with tax increment; and

WHEREAS, the Bridge District Specific Plan is incorporated herein by this reference; and

WHEREAS, the Oversight Board notes that, in reliance on the Bridge District Specific Plan, the City entered into a series of three development agreements with private developers, each of which obligated the developer to agree to a special tax lien on its property pursuant to the Community Facilities Act of 1982, and in each of which the developers agreed to develop its property consistent with the Bridge District Specific Plan, including the streetcar transit system, parking structures, lesser private parking, lower capacity streets, higher capacity municipal utilities, and affordable housing noted above; and

WHEREAS, each development agreement, approved at public hearings before the City Council, obligated the City to require the Redevelopment Agency to provide tax increment to pay for the Backbone and Supplemental Infrastructure as laid out in the Bridge District Specific Plan's Implementation Strategy; and

WHEREAS, the three development agreements are: (1) Smart Growth Investors, II, LLC dated April 27, 2010, (2) Bridge District Riverfront, LLC, dated July 27, 2010, and (3) River Road Venture LLC, dated January 12, 2012. The development agreements are incorporated herein by this reference; and

WHEREAS, in reliance on the Bridge District Specific Plan and the development agreements, and the pledge of tax increment contained within them, the City and private

developers prior to the adoption of AB 1X 26 and continuing since its adoption, have expended significant monies to construct improvements, dedicated properties in the locations and at the size indicated in the Bridge District Specific Plan, consented to the levy of the special tax lien, sold bonds to third persons, conveyed property for affordable housing purposes, and have otherwise burdened their respective properties in such a manner that it cannot be effectively developed except as provided in the Bridge District Specific Plan; and

WHEREAS, the special tax lien adopted pursuant to the Community Facilities Act of 1982 was approved as CFD 27 by a vote of the developers (in their capacity as land owners within the Bridge District) and levied special taxes on the properties within the Bridge District. CFD 27 approved cash flows included assumed tax increment funding of $58 million dollars for parking structures, $12.9 million dollars for transit costs (including $1.4 million in streetcar assessments for the streetcar transit system), and $65,680 in remaining Backbone infrastructure in accordance with the Bridge District Specific Plan and the development agreements. In September 2010 CFD 27 Bonds in the amount of $12,645,000, secured by a pledge of special taxes which in turn were based upon the development of the property within the Bridge District in accordance with the Bridge District Specific Plan, were then sold to third persons, in reliance on the development of the Bridge District consistent with the Bridge District Specific Plan; and

WHEREAS, in reliance on the development agreements, both individually and jointly, the City and the Redevelopment Agency entered into "An Agreement Between the City of West Sacramento and the Redevelopment Agency of the City of West Sacramento Regarding the Future Expenditure of Tax Increment Generated From the Bridge District" dated February 2, 2011 ("City/Agency Agreement"), in which the Redevelopment Agency formally pledged the tax increment for the construction of the Backbone and Supplemental infrastructure as indicated in the Bridge District Specific Plan and as previously agreed to by the City Council; and

WHEREAS, the City/Agency Agreement is incorporated herein as Exhibit "A"; and

WHEREAS, even prior to the approval of the City/Agency Agreement, the Redevelopment Agency had been providing tax increment to the Bridge District in conformity with the Bridge District Specific Plan and the development agreements, thereby confirming to the developers the reasonableness of their reliance on the pledge of tax increment; and

WHEREAS, notwithstanding the provisions of Health and Safety Code section 34178(a), the Oversight Board finds that, given the totality of the circumstances surrounding the Bridge District, the City/Agency Agreement is more than an agreement solely between the City and Redevelopment Agency, and is inextricably intertwined with the Bridge District Specific Plan and the development agreements which preceded it and upon which both the developers and third person bond purchasers have relied to their detriment; and

WHEREAS, the failure to recognize the pledge of tax increment would cause the private developers and bond purchasers who relied upon it to suffer damages, potentially exposing the Successor Agency, the City, and the State to claims that they have unconstitutionally impaired the existing development agreements and bonds, and subjected the private property within the Bridge District to inverse condemnation inasmuch as the property cannot be effectively or economically developed without the anticipated tax increment and the land uses within the Bridge District can no longer be changed given the prior dedications of rights of way and construction of underground utilities in accordance with the Bridge District Specific Plan; and

WHEREAS, the Oversight Board therefore finds the City/Agency Agreement to be a valid pledge of tax increment by the Redevelopment Agency which should therefore be included on the ROPS; and

WHEREAS, the Oversight Board has likewise examined the remainder of the ROPS proposed by the Successor Agency and desires to also approve the enforceable obligations listed on it;

NOW THEREFORE, the Oversight Board of the Successor Agency to the Redevelopment Agency of the City of West Sacramento hereby resolves that:

1. The Oversight Board finds that the foregoing is true and correct.

2. The ROPS and the administrative budget for January 1, 2013 through June 30, 2013, as presented to the Oversight Board and attached to this Resolution, expressly including the provisions relating to the pledge of tax increment for the Bridge District, are hereby approved.

3. Staff is directed to transmit the ROPS and this Resolution to the County Administrative Officer, the County Auditor-Controller, the State Controller and the State Department of Finance.

4. Staff is directed to comply with all other legal requirements, including, without limitation, the reformatting of the ROPS as required by the Department of Finance, and the posting of the ROPS on the Successor Agency's website.

PASSED AND ADOPTED by the West Sacramento Successor Agency Oversight Board this 16th day of August 2012, by the following vote:

AYES: Cabaldon, DeAnda, Lantsberger, McGowan, Rivas, Sharpe
NOES: None
ABSENT: Ledesma

Christopher Ledesma, Chairperson

ATTEST:

Kryss Rankin, City Clerk

Exhibit "A"
Res. 12-10

AN AGREEMENT BETWEEN THE CITY OF WEST SACRAMENTO AND THE REDEVELOPMENT AGENCY OF THE CITY OF WEST SACRAMENTO REGARDING THE FUTURE EXPENDITURE OF TAX INCREMENT GENERATED FROM THE BRIDGE DISTRICT

This Bridge District Tax Increment Expenditure Agreement ("Agreement") is made and entered into on February 2, 2011 (the "Effective Date"), by and between the Redevelopment Agency of the City of West Sacramento ("Agency") and the City of West Sacramento ("City"), with reference to the following facts and intentions:

RECITALS

WHEREAS, the Agency is a California redevelopment agency as provided by the California Redevelopment Law, Health and Safety Code Sections 33000 et seq.; and

WHEREAS, the Agency is vested with the responsibility for formulation and execution of necessary redevelopment within the West Sacramento Redevelopment Project Area No. 1 (Project Area), adopted by the City Council of West Sacramento on May 6, 1987, by Ordinance No. 87-21; and

WHEREAS, the Bridge District, is within the boundaries of the Redevelopment Project Area and is described as a project in the Agency's Five-Year Implementation Plan (the "Implementation Plan"); and

WHEREAS, public improvements made to the Bridge District provide direct benefit to the entire Project Area and achieve the Agency's goal of eliminating blight by providing the basis for economic development and private investment within the Bridge District, contribute significantly to the overall provision of quality municipal services within the Project Area and will be of benefit to the Bridge District project and the Redevelopment Project Area; and

WHEREAS, the Bridge District has been planned for redevelopment into a transit-oriented district featuring up to 12.5 million square feet of commercial and residential development since the 1993 adoption of the Triangle Specific Plan; and

WHEREAS, since adoption of the 1993 plan the Redevelopment Agency has historically contributed to the deindustrialization and redevelopment of the area by encouraging private investment through the removal of obstacles to future development of the Riverfront funded by Redevelopment bond proceeds and tax increment; and

WHEREAS, In 2007 the city formed a collaborative, interdepartmental city and property owner Triangle Technical Advisory Committee (TTAC) to modernize the specific plan and further implement the city's strategic objectives for the District including city regulations, standards, plans, fees and investments to support a higher density, sustainable development model (including transit and structured parking); and

WHEREAS, the Bridge District Specific Plan (BDSP) volumes establish an expected build-out program, describe a mechanism for entitlements allocation, and define the infrastructure capacity that must be constructed (the "Backbone" and "Supplemental" improvements, including streets, municipal services, streetcar, structured parking, parks and civic amenities) to serve the anticipated development; and

WHEREAS, the financing plan included in the BDSP and its appendices identifies redevelopment tax increment as a critical source of financing for construction of both Backbone and Supplemental public improvements identified in the plan; and

WHEREAS, as described in the Agency's Implementation Plan the Bridge District requires significant Backbone infrastructure and amenity improvements to support initial private development projects regardless of their scale; and

WHEREAS, the Agency is committed to increasing, improving, and preserving the supply of low- and moderate-income housing available at affordable housing cost within the Bridge District; and

WHEREAS, in 2008 the city secured a $23.1 million Proposition 1C Infill Infrastructure Grant (the "Prop 1C Grant") to the Bridge District, leveraged by over $25 million of other committed public and private financing, including tax increment; and

WHEREAS, the Prop 1C Grant requires that 731 affordable- and market-rate residential units be constructed within eight years of grant award; and

WHEREAS, the construction of these 731 units and a set of limited Backbone transportation, municipal utilities, and park improvements, are referred to in the BDSP Volume 3 as the 2014 Plan; and

WHEREAS, the Redevelopment Agency is committed to ensuring 198 affordable units under the Prop IC obligations; and

WHEREAS, in 2008 the TTAC members began defining the terms of development agreements with efforts focused on the Fulcrum (Smart Growth Investors II LLC) and Unger (Bridge District Riverfront LLC) projects as the committed market rate housing developers for the 1C infill Infrastructure Grant; and

WHEREAS, in May of 2010 the owners of property within the Bridge District voted to tax their property in order to provide financing for the 2014 Plan by forming Community Facility Financing District 27 (CFD 27); and

WHEREAS, bonds for CFD 27 were issued in August 2010; and

WHEREAS, in 2010 the City executed Development Agreements (DA) with Smart Growth Investors II LLC and Bridge District Riverfront LLC designed to implement a public-private transaction structure meeting the financing and construction obligations associated with the 2014 Plan and 1C Infill Infrastructure Grant; and

WHEREAS, sections 12.1.1.1 and 12.2.2 of the Smart Growth Investors II LLC and Bridge District Riverfront LLC DA states that the City and Agency will enter into an agreement that commits use of the net tax increment to fund the Backbone and Supplemental improvements in the Bridge District; and

WHEREAS, construction of a portion of the Backbone Improvements identified in the Bridge District Specific Plan is currently underway pursuant to three competitively bid contracts approved by the City Council in 2010. Additional Backbone Improvements have been designed and are programmed to commence construction in the spring of 2011.

NOW, THEREFORE, the Agency and City, in consideration of the foregoing and the following terms and conditions, agree as follows:

AGREEMENT

1. **Definitions.**

1.1 "Backbone Improvements" means the public infrastructure required to support the expected build-out program of 9.6 million square feet of development within the Bridge District as shown in Volume 3 of the Plan and its Appendices. For roadway and underground sewer, water and storm drain pipes only, the Backbone Improvements are sized to permit 12.5 million square feet of development. Backbone Improvements identified in the Bridge District Specific Plan include roadways, sewer, water, storm water drainage, park, and transit infrastructure scopes resulting from the Bridge District Specific Plan vision, urban standards, and engineering capacity analyses calculated on the 9.6 million square foot build-out projections in the Bridge District Specific Plan (especially Appendix C4) and including the resulting mitigations.

1.2 "Bridge District" means that area of land located in the eastern portion of the City and generally bound by the Sacramento River on the east, the Washington Specific Plan on the north, Tower Bridge Gateway on the west and Fifteenth Street on the southwest, as shown on the map in Volume 1, Section 1.1.2.

1.3 "Bridge District Specific Plan,""BDSP", or "Plan" means the Bridge District Specific Plan, consisting of: i) Volumes 1, 2, and 3 and the supporting Appendices adopted by the City Council on November 18, 2009; and ii) the Architectural Guidelines (Volume 4 of the Plan), adopted by the City Council on February 3, 2010. The term "Bridge District Specific Plan" includes any amendments to the Plan that may be approved by the City from time-to-time.

1.4 "Housing Set-Aside" means the portion of tax increment allocated to the Agency pursuant to Health and Safety Code Section 33670 that is required by Health and Safety Code Section 33334.2 to be used by the Agency for the purposes of increasing, improving, and preserving the supply of low- and moderate-income housing available at affordable housing cost to low- and moderate-income households.

1.5 "Net Tax Increment" means the tax increment (as that term is used in the California Redevelopment Law, Health and Safety Code Sections 33000 et seq.) generated from real property within the Bridge District, net of: i) all pass-throughs to other taxing agencies, including the statutory pass-through payment due to the City; ii) Housing Set-aside; iii) the payment of tax increment in connection with CFD 12 bonded indebtedness required by Section 5.5 of the Local Baseball Agreement dated April 30, 1999; iv) county administration charges and other deductions that may be required by law during the term of this Agreement. The term "Net Tax Increment" is also net of an amount equal to the share of the redevelopment agency's operating costs allocable to the Bridge District, which amount shall be determined based on the proportion of Agency employee hours dedicated to the Bridge District (numerator) to total Agency employee hours (denominator), said divisor product to be applied to the Agency Annual Budgeted Amount (defined below), exclusive of bond debt service existing as of the date of execution of this Agreement. City acknowledges: a) that the Agency has pledged all tax increment received by the Agency from the entire Redevelopment Project Area No. 1 toward

repayment of existing Agency bonded debt; b) that the Agency will, in the event it issues additional debt in the future, likely need to make this same pledge; and c) that these pledges constitute a senior claim on tax increment revenue, subject to the limitation that a pledge of tax increment revenue for new debt issued after the effective date shall only constitute a senior pledge if a commensurate portion of the net proceeds from that new debt is reserved for use within the Bridge District. "Agency Annual Budgeted Amount" means the number that is ninety-two percent (92%) of the budget approved by the City Council for redevelopment activities.

1.6 "Supplemental Improvement" means those improvements that are considered supplemental improvements as provided in the Bridge District Specific Plan.

2. **Expenditure of Net Tax Increment**. During the term of this Agreement, the Agency agrees to expend Net Tax Increment to provide funding for construction of Backbone and Supplemental improvements determined by the Parties to be necessary or appropriate, taking into consideration other available public and private sources of financing. As of the Effective Date, the Parties agree that the estimated total Net Tax Increment to be provided by the Agency for Backbone and Supplemental improvements pursuant to this Agreement is $115,700,00 based on the Financing Plan set forth in Appendix F of the Bridge District Specific Plan and Communities Financing District 27 Table 4 "Bridge District Cash Flow Sources and Uses of Funds."

3. **Timing and Scope of Supplemental Improvements.** The City agrees to consult with the Agency for the purpose of jointly deciding on the timing and scope of the Backbone and Supplemental Improvements, and the Agency's obligation to expend Net Tax Increment in the manner set forth herein is expressly made conditional on the Agency's concurrence in the timing and scope of construction of the Backbone and Supplemental Improvements.

4. **Expenditure of Housing Set-Aside.** During the term of this Agreement, the Agency agrees to expend the Housing Set-Aside generated from real property within the Bridge District for the purposes of increasing, improving, and preserving the supply of low- and moderate-income housing available at affordable housing cost within the Bridge District in accordance with the limitations on the use of Housing Set-Aside contained in the California Redevelopment Law. As of the Effective Date, the Parties agree that the estimated total Housing Set-Aside to be provided by the Agency for these purposes pursuant to this Agreement is $29,033,389 which is based on the expected affordable housing production obligations required by the terms of the Prop 1C Grant, Chapter 15.10 of the West Sacramento Municipal Code, and the California Redevelopment Law. The Agency and the City shall consult concerning the use of Housing Set-Aside.

5. **Term of Agreement**. This Agreement shall terminate upon the first to occur of: i) a determination by the City that the Supplemental Improvements have been substantially completed; or ii) or May 6, 2037 (provided then-current California Redevelopment Law, Health and Safety Code Sections 33000 et seq., permits the Agency to continue receiving tax increment and to repay debt after the May 6, 2027 end of the effective date of the redevelopment plan for the Agency's Redevelopment Project Area No. 1; if it does not, then this Agreement terminates on May 6, 2027).

6. **Indebtedness**. This Agreement constitutes "indebtedness" of the Agency as that term is used in Health and Safety Code Section 33675 and Article XVI, Section 16 of the California Constitution.

7. **Third Party Beneficiaries.** This Agreement is entered into for the sole benefit of the Parties and any Successors. No other party shall have any cause of action or the standing to assert any rights under this Agreement.

8. **Validity of Agreement.** If any provisions of this Agreement, or the application thereof to any person, party, transaction, or circumstance, is held invalid, the remainder of this Agreement, or the application of such provision to other persons, parties, transactions, or circumstances, shall not be affected thereby.

9. **Applicable Law.** This Agreement shall be interpreted under and pursuant to the laws of the State of California. Any legal action arising out of this Agreement shall be filed in and adjudicated by a court of competent jurisdiction in the County of Yolo, State of California.

10. **Entire Understanding of the Parties.** This Agreement constitutes the entire understanding and agreement of the Agency and the City with regard to the subject matter of this Agreement.

IN WITNESS WHEREOF, the Parties hereto are executing this Agreement on the dates set forth below, to be effective as of the Effective Date.

"AGENCY"

REDEVELOPMENT AGENCY OF THE CITY OF WEST SACRAMENTO,

By: William G. Kristoff
Christopher Cabaldon, Chair

"CITY"

CITY OF WEST SACRAMENTO,

By: William G. Kristoff
Christopher Cabaldon, Mayor

ATTEST:

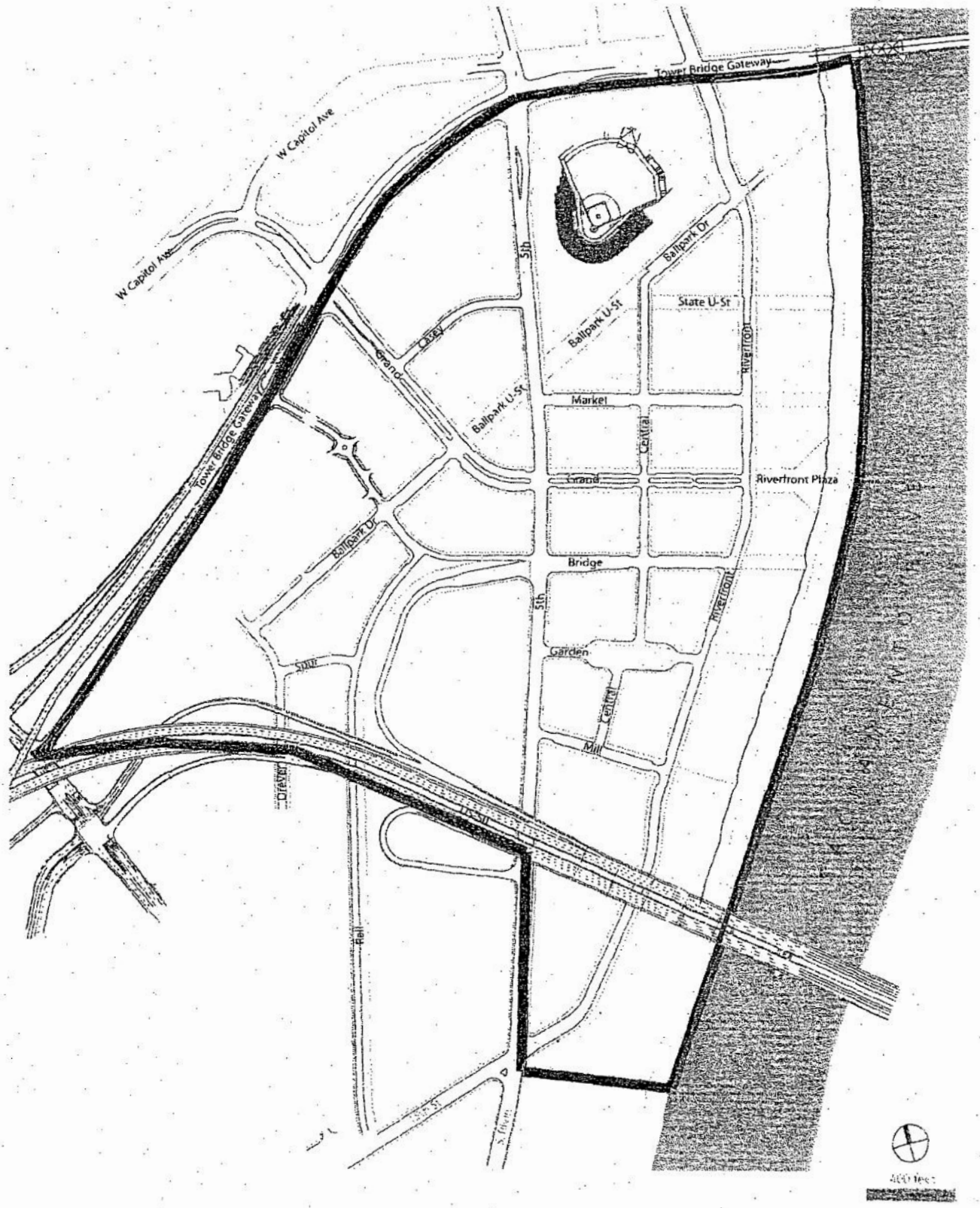
By: Kryss Rankin
Kryss Rankin, City Clerk

APPROVED AS TO FORM

By: [signature]
City Attorney/Agency Counsel

EXHIBIT A

Map of Bridge District



Bridge District Specific Plan: Boundary

SFRA Architects • URS • City of West Sacramento • Wood Rodgers