

March 28, 2011

To: Olin Woods, Chair, and Members of the
Local Agency Formation Commission

From: Elisa Carvalho, Assistant Executive Officer

EXECUTIVE OFFICER'S REPORT
Kido Out-of-Agency Agency Agreement with the City of Davis
(LAFCO Proceeding No. 912)

Recommended Action

1. Assign the short form title, "Kido Out of Agency Service Agreement with the City of Davis" to this proposal.
2. Accept the Categorical Exemption of environmental impact as the appropriate environmental review for this proposal and instruct the Executive Officer to file a Notice of Exemption with the County Clerk.
3. Make the findings and conclusions as set out in this Executive Officer's Report.
4. Approve the Kido Out of Agency Service Agreement with the City of Davis, subject to the following conditions:
 - a. The project will be subject to all appropriate LAFCO and Clerk fees prior to recording of the Certificate of Completion for the Kido Out of Agency Service Agreement with the City of Davis.

COMMISSIONERS

*★ Public Member Olin Woods, Chair ★
★ County Member Matt Rexroad, Vice Chair ★
★ City Members Stephen Souza, Skip Davies ★ County Member Don Saylor ★*

ALTERNATE COMMISSIONERS

★ Public Member Robert Ramming ★ City Member Bill Kristoff ★ County Member Jim Provenza ★

STAFF

*★ Executive Officer Elizabeth Castro Kemper ★ Assistant Executive Officer Elisa Carvalho ★
★ Commission Clerk Terri Tuck ★ Commission Counsel Robyn Truitt Driven ★*

- b. The property owners receiving service will be subject to all appropriate fees and service charges for connection to the City of Davis.
- c. That the applicant and the real party of interest, if different, agree to defend, indemnify, hold harmless and release the Yolo County Local Agency Formation Commission, its agents, officers, attorney and employees from any claim, action or proceeding brought against any of them, the purpose of which to attack, set aside, void, or annul the approval of this application or adoption of the environmental review which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive negligence of the part of the Yolo County Local Agency Formation Commission its agents, officers, attorney or employees.
- d. Determine the effective date of the this agreement to be the date the Executive Officer signs the Certificate of Completion, once the imposed conditions are met.

Reason for Recommended Action

The City of Davis submitted an application (See Attachment A) to LAFCO for an Out-of-Agency Service Agreement on February 11, 2011. Pursuant to Government Code Section 56133(a), the City must request and receive written approval from the Commission before it can provide new or extended services by contract or agreement outside its jurisdictional boundaries.

Background

The City of Davis has approved contracts with Hiroshi and Thelma Kido for sewer and water service to one parcel (APN: 069-230-10) totaling 1.227 acres located at 1224 Drummond South (see Map A) in Yolo County. The Kido property consists of a single lot with one existing home. The City of Davis is the closest purveyor of these services.

The Kidos requested water and sewer service from the City to ensure reliable service. In a letter to the City Council dated May 19, 2010, the Kidos requested service from the City because the pump on their well had gone out several times. The Kidos also indicated they were elderly and that they would like to have a more reliable option for service when it becomes more difficult to address potential problems with the well and septic system. Although the Kidos current service issues are not an impending threat to public safety, the extension of water and wastewater services will provide improved health and safety conditions for the affected landowners.

The Kido property is currently in the City of Davis Sphere of Influence (See Map B). Pursuant to Government Code Section 56133(b), the Commission may authorize the City to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization. The Kidos (and

any successors to the property) have agreed not to oppose future annexation efforts initiated by the City or adjacent property owners.

Location and Land Use

The Kido property is adjacent to the Davis City limits on the north and west. The Kido property is situated in a residential area on the east side of Drummond Avenue South between Lilliard Drive and Montgomery Avenue.

The Kido property is designated Residential-Low Density in the Yolo County General Plan. This designation allows between 1 and 10 units per acre with municipal sewer and water. The property is zoned Residential Single Family in the County, which only allows 5-6 units per acre. At minimum, additional development would require a zoning permit from the County. The Kidos have not indicated a desire to construct additional units on their property.

Other Governmental Agencies

The Kido property is inside the boundary of the Willowbank County Service Area (CSA), a special district and residential community in the County. The Willowbank CSA was formed to help provide water service to residents in the area in a consistent way. The City has an agreement to supply water directly from the City's distribution system to the Willowbank CSA. Though the Kido property is located inside the Willowbank CSA boundaries, the Kidos do not receive service from the Willowbank County Service Area (CSA). The Kidos do not receive any municipal services either through the CSA or from the City as their home is currently on a well and septic system. The Kidos could receive water service through the CSA and wastewater service from the City; however, this arrangement would not result in efficient provision of services.

Several properties in the Willowbank CSA currently receive service directly from the City. Six properties with existing homes on Drummond Avenue South are currently connected to the City's wastewater system and seven are connected to the water system.

City Requirements and Standards

All construction, permit, and connection fees and costs are the responsibility of the property owner. The Kidos will be responsible for constructing the pipeline from their property to the City's pipeline according to City standards. The landowners will be required to construct approximately 50 feet of 1-inch pipe for water and approximately 75 feet of 4-inch pipe for wastewater. The City estimated construction costs at between \$15,000 and \$30,000. City water and sewer connection fees would be due at the time of connection, and the property owners would be responsible for the cost at the then current rates. The current connection fee for a ¾-inch water meter is currently \$8,970, and the current wastewater connection fee for a single family residential unit is \$6,150. A surcharge of 20-percent will also be applied to

the property owners' water and sewer rates as required in the City's Municipal Code for homes outside the City.

Effect on Open Space and Agricultural Uses

Out of Agency Agreements are not exempt from the LAFCO Agricultural Conservation Policy; however, mitigation does not apply to this project. The Kido property has one existing home site. No additional development is proposed at this time. Therefore, there will be no conversion of existing open-space or agricultural land. Additionally, in the case of a future annexation, mitigation would not be required as the LAFCO policy does not require mitigation for annexation of less than five acres of land once certain findings are made.

Environmental Assessment

LAFCO staff recommends that the appropriate environmental review for this proposal is a Class 3 Categorical Exemption under Public Resources Code Section 15303. This Exemption consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of this exemption include; but are not limited to; water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

Other Agency Involvement

There are no requirements in an Out of Agency Service Agreement for published or mailed notice; however, staff has contacted and worked with other departments and agencies in the preparation of this proposal. The Willowbank CSA Coordinator has been notified of this request. The County has also participated in discussions concerning service extension to this property. Commission Counsel has been apprised of this proposal and has reviewed the application and contracts between the Kidos and the City of Davis. There will be no other changes to service extension or boundaries resulting from this proposal.

Conformity with Commission Policy

This Out of Agency service Agreement is consistent with the Yolo County LAFCO's Standards of Evaluation, the Agricultural Conservation Policy, and the City of Davis Sphere of Influence. Approval of this agreement will ensure the adequate provision of municipal services in a manner that is logical and orderly.

Executive Officers Comments

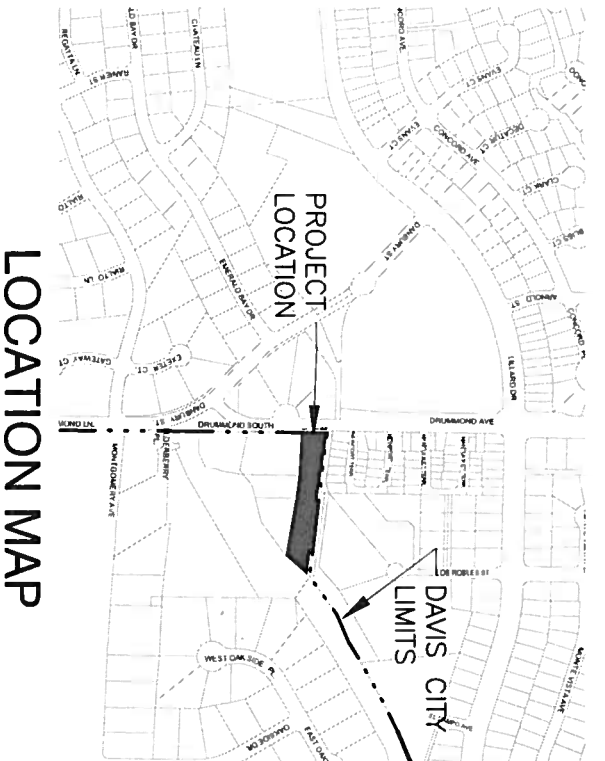
Staff recommends that the Commission approve the Findings and Conclusions as stated in this report:

Findings and Conclusions

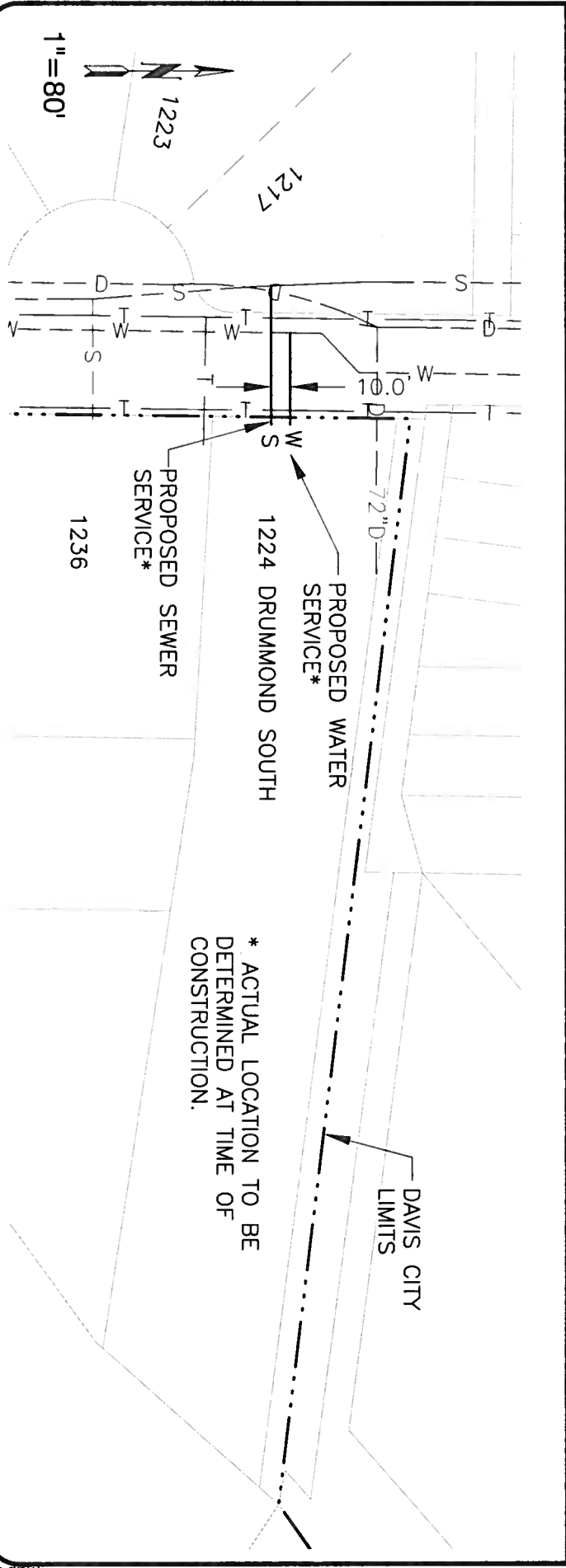
1. The City of Davis has signed an agreement with the landowner to extend water and wastewater services to the affected parcel.
2. The agreement calls for the City to provide water and wastewater service to the parcel.
3. The extension of wastewater services will provide improved health and safety conditions for the affected landowners.
4. The City of Davis is prepared to provide wastewater service to the property at this time.
5. The landowners will arrange to privately finance the extension of service to the City of Davis standards.
6. The Kido property is currently in the City of Davis Sphere of Influence.
7. The agreement is consistent with the LAFCO Standards of Evaluation.

Attachments:

Map A: Kido Property Site Map
Map B: City of Davis Sphere of Influence Map
Attachment A: Out of Agency Service Agreement



LOCATION MAP



* ACTUAL LOCATION TO BE DETERMINED AT TIME OF CONSTRUCTION.

1224 DRUMMOND SOUTH

CITY OF DAVIS
PUBLIC WORKS DEPARTMENT

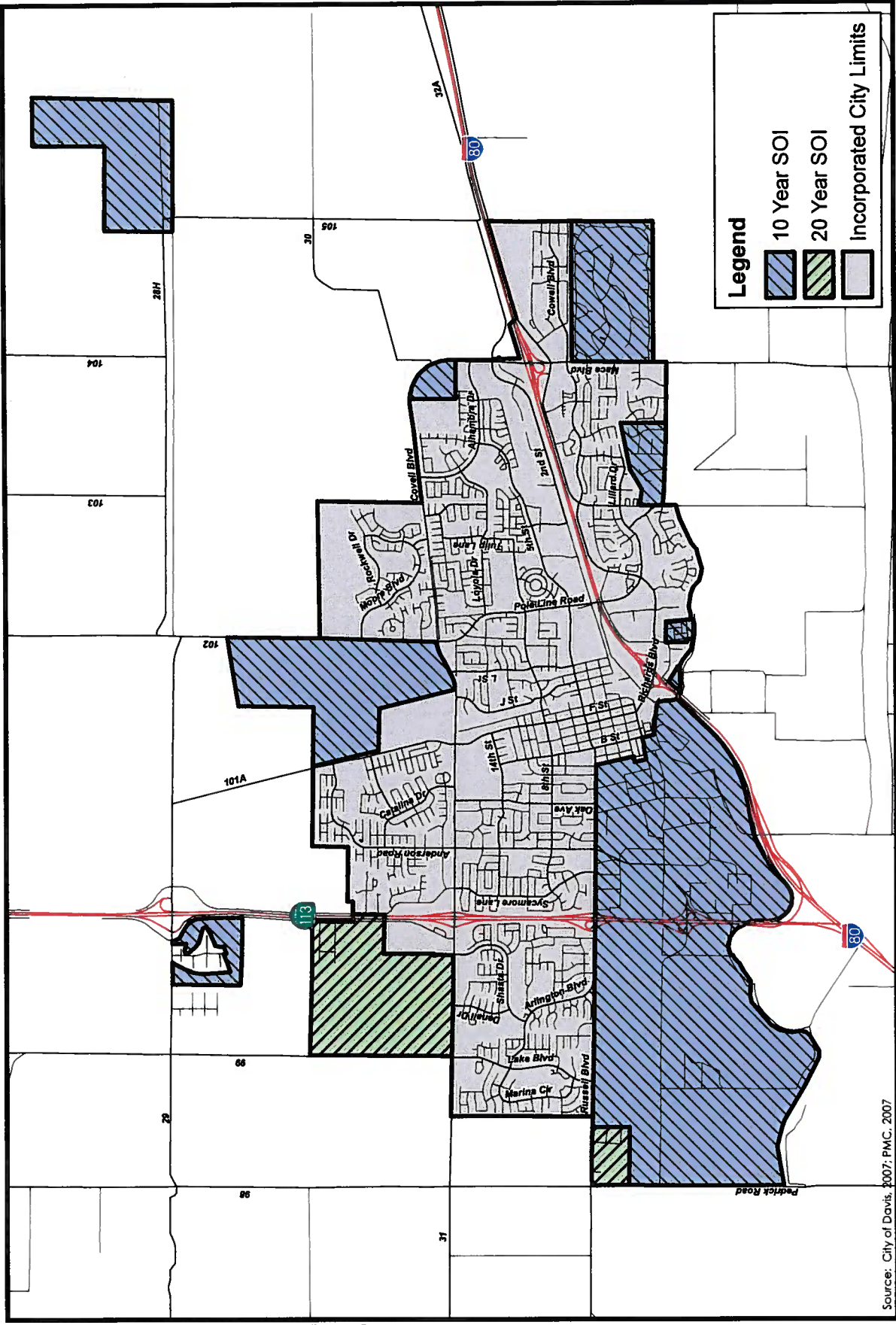


Figure 1.0-1
City of Davis Sphere of Influence

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Local Agency Formation Commission of Yolo County

625 Court Street, Suite 107, Woodland, CA 95695
Phone (530) 666-8048 Fax (530) 662-7383
lafoo@yololafoo.org www.yololafoo.org

APPLICATION: OUT OF AGENCY SERVICE CONTRACT REVIEW

Agency making Application:

Contact Person	<input type="text" value="Jennifer Border, on behalf of William Marshall, City Engineer (Interim)"/>		
Address	<input type="text" value="1717 Fifth Street"/>		
City	<input type="text" value="Davis"/>	State	<input type="text" value="CA"/>
		Zip	<input type="text" value="95616"/>
Phone	<input type="text" value="530-757-5610"/>	Email	<input type="text" value="jborder@cityofdavis.org"/>

Landowner	<input type="text" value="Hiroshi and Thelma Kido"/>		
Address	<input type="text" value="1224 Drummond South"/>		
City	<input type="text" value="Davis"/>	State	<input type="text" value="CA"/>
		Zip	<input type="text" value="95618"/>
Phone	<input type="text"/>	Email	<input type="text"/>

Property Address	<input type="text" value="1224 Drummond South"/>		
City	<input type="text" value="Davis"/>	, CA	Zip <input type="text" value="95618"/>
Parcel (s)	<input type="text" value="69-230-10"/>		

Please complete all relevant questions

1. Is the territory within the Agency's Sphere of Influence? Yes No
2. Type of service to be provided?

<input type="text" value="Water service and sanitary sewer service to serve one single family residential lot."/>

3. Please discuss the reason for the service agreement/contract. Explain why a jurisdictional change is not possible at this time. (Indicate if this is an emergency health and safety situation).

Request by property owner to connect in the future, to municipal domestic water and sanitary sewer (see attached map). Six existing properties on Drummond Avenue South are currently connected to the municipal sanitary sewer and seven are connected to the domestic water.

4. Is reorganization of the territory anticipated at some future time? Yes No

If yes, when? See narrative for #6 below.

5. If reorganization is contemplated, does the contract address this factor? Yes No

If yes, how? Agreement shall terminate if property is annexed into City.

6. If development is proposed, please provide a description of the project.

No development is proposed. Owner and successors in interest agree to not oppose future annexation of subject property to City if City or adjacent property owners initiate action to annex.

7. Is the project approval ministerial? Yes No

If the project approval is discretionary, attach all supporting development documentation including but not limited to:

Development approval?

Resolution attached?

Tentative Map and Conditions

General Plan Amendment

Specific Plan

Subdivision Map or Parcel Map

Rezoning

Other

8. Please provide a detailed description of how services are to be extended to the property.

Distance for connection:

Approximately 50 feet of 1-inch pipe to be constructed by owner to property for water connection.

Approximately 75 feet of 4-inch pipe to be constructed by owner to property for sanitary sewer connection.

Cost of Improvement:

Construction costs are currently highly variable and are estimated to be in the range of \$15,000 to \$30,000. In addition, sewer and water connection fees would be due at time of construction at the then current rates.

How is financing to occur?

If the owner chooses to connect to City services, all construction costs, connection fees, and permit costs would be the responsibility of the property owner.

ENVIRONMENTAL REVIEW

Please include a copy of environmental review conducted for the project. If exempt, please provide a copy of the Notice of Exemption.

MAPS

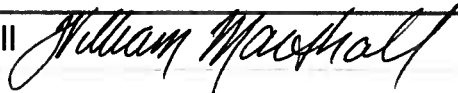
Please provide a vicinity map showing the property, district or city boundary, district or city sphere, and relevant proposed and existing infrastructure.

AGREEMENT/CONTRACT

Please attach a copy of the proposed agreement or contract.

Date Completed February 8, 2011

By William Marshall



Recording Requested by]
and when Recorded Mail to:]
City of Davis]
Public Works Department]
1717 Fifth Street]
Davis, CA 95616]

*Space above this Line
for Recorder's Use*

Agreement for Sewer Service

This Agreement, made and entered into this 8 day of Dec, 2011, by and between the City of Davis, a Municipal Corporation, hereinafter called "City," and Hiroshi and Thelma Kido, hereinafter called "Owner."

Witnesseth:

Whereas, Owner owns certain real property, hereinafter referred to as "Property," commonly designated as 1224 Drummond South (APN 69-230-10), located in the County of Yolo, State of California, outside the Davis city limits; and,

Whereas, Owner desires to enter into an Agreement for Sewer Service to construct a new sewer service to connect Property to City's sewer system; and,

Whereas, City's sewer system presently includes an 8-inch trunk sewer which Owner will tap into to serve Property.

Now, Therefore, in consideration of their mutual covenants herein contained, and subject to the terms, conditions, and provisions hereof, the parties hereto agree as follows:

1. Property

That certain real Property owned by Owner and subject to this Agreement is located outside the City limits in County of Yolo, State of California, and consists of the property commonly designated as 1224 Drummond South (APN 69-230-10). The Property includes one single family residence.

2. Sewer Service

A. City agrees to provide sewer service to Property and authorizes connections between Property and the sewer trunk line to the west of Property, upon the terms and conditions contained herein.

B. Owner agrees to cause construction drawings to be prepared for approval by City. In the event Owner decides to proceed with the sewer service connection, Owner shall install, at Owner's sole expense, a four-inch (4") sewer service and

cleanout to **Property**. The construction shall be performed by a contractor licensed by the State of California to perform this type of work.

- C. **Owner** and **Owner's** contractor shall provide liability insurance on all construction operations with an insurance carrier satisfactory to **City**, insuring, without limitation, against claims arising from bodily and personal injury, including death, resulting from any act arising out of the performance of this work. The form of this insurance shall be in accordance with Section 7-11, Insurance Requirements of the **City's** Standard Specifications, General Conditions.
- D. **Owner** agrees that Chapter 33 of the Davis Municipal Code, "Sewers and Sewage Disposal," as it now exists and as amended in the future, is incorporated by reference into this **Agreement** and shall apply to **Owner** and **Property** under this Agreement. Pursuant to Section 33.04.050, in addition to the standard sewer rates, a surcharge of twenty percent (20%) will apply.

3. **Fees: Debt Service Charge**

- A. **Owner** shall pay **City** a sewer connection fee at the then-current rate for connection of **Property** to the **City** system. The connection fee for a detached single family residential unit is currently \$6,150. This fee is due and payable at the time of issuance of an encroachment permit to construct the sewer service to **Property**. Any additional residential units constructed or a change in land use may be cause for **City** to charge additional connection fees pursuant to city ordinances in effect at the time of construction and will require amendment to this agreement.
- B. **Owner** shall pay **City** the normal fees for inspection of the trenching and the connection to **City's** sewer system.
- C. **Owner** shall pay **City** the currently appropriate monthly service fee as established by **City** ordinance.
- D. **Owner** shall pay **City** any other appropriate charges and fees relating to sewer service, as established by the Davis Municipal Code.
- E. All fees and charges shall become delinquent if not paid within 30 days from mailing of an invoice, or upon the delinquent date specified on the invoice or bill, whichever is earlier.

4. **Permit; Inspection**

Owner shall obtain the necessary encroachment permits for any trenching and sewer connection on public property and shall allow **City** to inspect any and all work done under such permit(s), if issued by **City**.

5. **Successors; Recordation**

- A. All covenants contained in this Agreement shall pertain to and run with the title of **Property**, which is more particularly described in paragraph 1 of this **Agreement**. This **Agreement**, and all its terms, conditions and provisions shall be binding upon and inure to the benefit of the heirs, successors in interest, and assigns of the parties hereto.
- B. **City** shall cause a certified copy of this **Agreement** to be recorded in the Yolo County Recorder's Office.

6. **Severability**

If any portion of this **Agreement** shall be held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Agreement.

7. **Termination; Penalties; Lien**

- A. Upon failure of **City** or **Owner** to comply with any of the material provisions of this **Agreement**, the other party may terminate this **Agreement** after giving notice to the non-complying party of such failure to comply and affording such party a reasonable opportunity to effect compliance or to arrange for alternative service.
- B. **Owner** shall pay **City** a ten percent (10%) surcharge on all fees and charges enumerated in paragraph 3 that are delinquent. In addition, **Owner** shall pay **City** an additional one-half percent (0.5%) surcharge per month for nonpayment of the basic charges and the above ten percent (10%) delinquency surcharge.
- C. Fees and charges for sewer service facilities, enumerated in paragraph 3 and subparagraph B of this paragraph, shall constitute a lien against **Property** if such fees and charges remain delinquent for 60 days. **City** shall cause all such delinquent charges to be recorded in the Office of the Yolo County Recorder. When so recorded, such charges shall have the force, affect, and priority of a judgment lien, under **City** ordinance, and shall continue for three years from the date of recording unless sooner released or otherwise discharged. In the event of nonpayment of fees for charges, service may be discontinued pursuant to **City's** sewer ordinance.
- D. Should **City** Code provisions relating to sewer service be amended so as to conflict with subparagraph B of this paragraph, the Code provisions, as amended, shall control.

8. **Indemnity**

Owner shall assume the defense of, indemnify and hold harmless, the **City**, its officers and employees, from and against any and all claims, suits, actions, causes of action, or liability of any kind, brought by any person or persons for or on account of any loss,

damage or injury to person, property, or any other interest, tangible or intangible, sustained by or accruing to any third-party consumer or consumers of sewer service under this **Agreement**, directly or indirectly arising or resulting from failure of City's sewer system, whether caused by negligence or any other cause.

9. **Annexation**

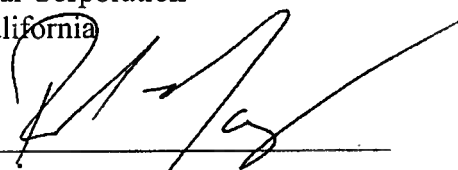
Owner and successors in interest agree to not oppose future annexation of subject property to **City** if **City** or adjacent property owners initiate action to annex. Should **City** annex **Property** in whole or in part while this **Agreement** is in effect, this **Agreement** shall terminate. Upon the effective date of annexation, whether in whole or in part, **Property** shall be subject to **City's** ordinances including those regulating water and sewage disposal.

10. **Notices**

All notices and communications to be given to either party may be given in writing, depositing same in the United States mail, postage prepaid, and addressed to the appropriate party of its last known address.

In Witness Whereof, the parties hereto have executed this **Agreement**, on the day and year first above written.

City of Davis
A Municipal Corporation
State of California



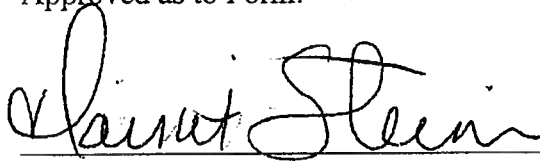
Paul Navazio
Interim City Manager

Owner



Hiroshi Kido

Approved as to Form:



Harriet Steiner
City Attorney

Owner



Thelma Kido

ACKNOWLEDGMENT

State of California
County of Yolo)

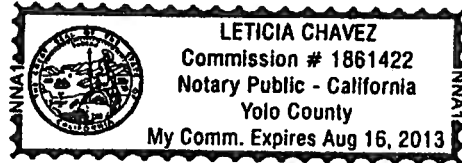
On December 8, 2010 before me, Leticia Chavez, Notary Public
(insert name and title of the officer)

personally appeared Hiroshi Kido and Thelma Kido
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



Recording Requested by]
and when Recorded Mail to:]
City of Davis]
Public Works Department]
1717 Fifth Street]
Davis, CA 95616]

*Space above this Line
for Recorder's Use*

Agreement for Water Service

This Agreement, made and entered into this 8th day of December, 2010, by and between the City of Davis, a Municipal Corporation, hereinafter called "City," and Hiroshi and Thelma Kido, hereinafter called "Owner."

Witnesseth:

Whereas, Owner owns certain real property, hereinafter referred to as "Property," commonly designated as 1224 Drummond South (APN 69-230-10), located in the County of Yolo, State of California, outside the Davis city limits; and,

Whereas, Owner desires to enter into an Agreement for Water Service to construct a new water service to connect Property to City's water system; and,

Whereas, City's water system presently includes a 10-inch main line which Owner will tap into to serve Property.

Now, Therefore, in consideration of their mutual covenants herein contained, and subject to the terms, conditions, and provisions hereof, the parties hereto agree as follows:

1. Property

That certain real Property owned by Owner and subject to this Agreement is located outside the City limits in County of Yolo, State of California, and consists of the property commonly designated as 1224 Drummond South (APN 69-230-10). The Property includes one single family residence.

2. Water Service

- A. City agrees to provide water service to Property and authorizes connections between Property and the water main line to the west of Property, upon the terms and conditions contained herein.
- B. Owner agrees to cause construction drawings to be prepared for approval by City. In the event Owner decides to proceed with the water service connection, Owner shall install, at Owner's sole expense, a one-inch (1") water service to

Property. Included shall be a backflow assembly placed after the water meter, subject to the approval of the City Engineer. The construction shall be performed by a contractor licensed by the State of California to perform this type of work.

- C. **Owner** and **Owner's** contractor shall provide liability insurance on all construction operations with an insurance carrier satisfactory to **City**, insuring, without limitation, against claims arising from bodily and personal injury, including death, resulting from any act arising out of the performance of this work. The form of this insurance shall be in accordance with Section 7-11, Insurance Requirements of the **City's** Standard Specifications, General Conditions.
- D. **Owner** agrees that Chapter 39 of the Davis Municipal Code, "Water," as it now exists and as amended in the future, is incorporated by reference into this **Agreement** and shall apply to **Owner** and **Property** under this Agreement. Pursuant to Section 39.03.150, in addition to the standard water rates, a surcharge of twenty percent (20%) will apply.

3. **Fees: Debt Service Charge**

- A. **Owner** shall pay **City** a water connection fee at the then-current rate for connection of **Property** to the **City** system. The connection fee for a 3/4-inch water meter is currently \$8,970. This fee is due and payable at the time of issuance of an encroachment permit to construct the water service to **Property**. Any additional residential units constructed or a change in land use may be cause for **City** to charge additional connection fees pursuant to city ordinances in effect at the time of construction and will require amendment to this agreement.
- B. **Owner** shall pay **City** the normal fees for inspection of the trenching and the connection to **City's** water system.
- C. **Owner** shall pay **City** the currently appropriate monthly service fee as established by **City** ordinance.
- D. **Owner** shall pay **City** any other appropriate charges and fees relating to water service, as established by the Davis Municipal Code. This shall include, but not limited to, water meter and backflow permit fees.
- E. All fees and charges shall become delinquent if not paid within 30 days from mailing of an invoice, or upon the delinquent date specified on the invoice or bill, whichever is earlier.

4. **Permit; Inspection**

Owner shall obtain the necessary encroachment permits for any trenching and water connection on public property and shall allow **City** to inspect any and all work done under such permit(s), if issued by **City**.

5. **Successors; Recordation**

- A. All covenants contained in this Agreement shall pertain to and run with the title of **Property**, which is more particularly described in paragraph 1 of this **Agreement**. This **Agreement**, and all its terms, conditions and provisions shall be binding upon and inure to the benefit of the heirs, successors in interest, and assigns of the parties hereto.
- B. **City** shall cause a certified copy of this **Agreement** to be recorded in the Yolo County Recorder's Office.

6. **Severability**

If any portion of this **Agreement** shall be held to be invalid by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Agreement.

7. **Termination; Penalties; Lien**

- A. Upon failure of **City** or **Owner** to comply with any of the material provisions of this **Agreement**, the other party may terminate this **Agreement** after giving notice to the non-complying party of such failure to comply and affording such party a reasonable opportunity to effect compliance or to arrange for alternative service.
- B. **Owner** shall pay **City** a ten percent (10%) surcharge on all fees and charges enumerated in paragraph 3 that are delinquent. In addition, **Owner** shall pay **City** an additional one-half percent (0.5%) surcharge per month for nonpayment of the basic charges and the above ten percent (10%) delinquency surcharge.
- C. Fees and charges for water service facilities, enumerated in paragraph 3 and subparagraph B of this paragraph, shall constitute a lien against **Property** if such fees and charges remain delinquent for 60 days. **City** shall cause all such delinquent charges to be recorded in the Office of the Yolo County Recorder. When so recorded, such charges shall have the force, affect, and priority of a judgment lien, under **City** ordinance, and shall continue for three years from the date of recording unless sooner released or otherwise discharged. In the event of nonpayment of fees for charges, service may be discontinued pursuant to **City's** water ordinance.
- D. Should **City** Code provisions relating to water service be amended so as to conflict with subparagraph B of this paragraph, the Code provisions, as amended, shall control.

8. **Indemnity**

Owner shall assume the defense of, indemnify and hold harmless, the **City**, its officers and employees, from and against any and all claims, suits, actions, causes of action, or

liability of any kind, brought by any person or persons for or on account of any loss, damage or injury to person, property, or any other interest, tangible or intangible, sustained by or accruing to any third-party consumer or consumers of water service under this **Agreement**, directly or indirectly arising or resulting from failure of **City's** water system, whether caused by negligence or any other cause.

9. **Annexation**

Owner and successors in interest agree to not oppose future annexation of subject property to **City** if **City** or adjacent property owners initiate action to annex. Should **City** annex **Property** in whole or in part while this **Agreement** is in effect, this **Agreement** shall terminate. Upon the effective date of annexation, whether in whole or in part, **Property** shall be subject to **City's** ordinances including those regulating water and sewage disposal.

10. **Notices**

All notices and communications to be given to either party may be given in writing, depositing same in the United States mail, postage prepaid, and addressed to the appropriate party of its last known address.

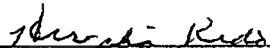
In Witness Whereof, the parties hereto have executed this **Agreement**, on the day and in the year first above written.

City of Davis
A Municipal Corporation
State of California



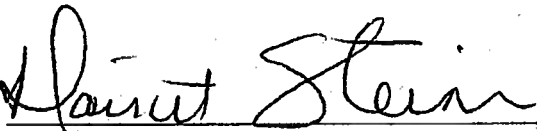
Paul Navazio
Interim City Manager

Owner



Hiroshi Kido

Approved as to Form:



Harriet Steiner
City Attorney

Owner



Thelma Kido

ACKNOWLEDGMENT

State of California
County of Yolo

On December 8, 2010 before me, Leticia Chavez, Notary Public
(insert name and title of the officer)

personally appeared Hiroshi Kido and Thelma Kido
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Leticia Chavez* (Seal)

