

AGENDA ITEM NO. <u>1 F</u>
COUNCIL MEETING <u>2/16/2012</u>
APPROVED BY _____
DEPARTMENT DIRECTOR _____
CITY MANAGER 

February 16, 2012

FROM: BRUCE A. RUDD, Assistant City Manager/Interim PARCS Director
Parks, After School, Recreation, and Community Services Department

BY: PAUL A. MELIKIAN, Administrative & Finance Manager
IRMA YEPEZ-PEREZ, Grant Writer
Parks, After School, Recreation, and Community Services Department

SUBJECT: ACCEPTANCE OF PROPOSITION 40 CONTRACT EXTENSION FROM THE
STATE OF CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

RECOMMENDATIONS

Staff recommends that the City Council (1) approve acceptance of Proposition 40 Roberti-Z'berg-Harris – Block Grant (Prop 40) contract extension from the State of California Department of Parks and Recreation in the amount of \$211,856; (2) authorize the Parks, After School, Recreation and Community Services Director, or designated representative, as agent of the City of Fresno to execute and submit all necessary documents subject to prior approval as to form by the City Attorney's Office

EXECUTIVE SUMMARY

The Parks, After School, Recreation, and Community Services (PARCS) Department requested a Prop 40 grant extension of \$211,856 of which \$181,856 are dedicated to the Ted C. Wills Center improvements and the balance of \$30,000 for reimbursement of the Lafayette Park Lighting Project completed in May 2011. The State approved the extension of the grant through June 30, 2015, however the new grant agreement includes deed restrictions that must be recorded with the title to the property. Staff recommends acceptance of the grant and approval of the new deed restrictions, which obligate the City to operate and maintain the projects until 2031.

BACKGROUND

The Proposition 40 Roberti-Z'berg-Harris Block Grant (Prop 40) contract was scheduled to expire on June 30, 2011 and all funds left over would be liquidated by the State. Thanks to assistance from the Mayor's office, the State approved an extension of the grant as part of SB 87. The California Department of Parks and Recreation has issued a new contract extending the grant funds until June 30, 2015 which will allow for the construction of the Ted C. Wills project (\$181,856) and the reimbursement of funds for Lafayette Park Lighting Improvements (\$30,000). The new grant contract includes an important material change from the original contract. It includes deed restriction requirements to help ensure that the properties improved with the grant funds continue to be used for purposes consistent with the grant. The restrictions obligate the City to operate and maintain the projects until 2031 and will require the City to notify the State to obtain approval if there are any changes, including any potential outsourcing to community benefit organizations. Staff recommends acceptance of the grant extension and the deed restrictions. The deed restrictions must be filed with the County Recorder's Office before the City can obtain reimbursement of grant funds.

REPORT TO THE CITY COUNCIL

Proposition 40 extension

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FISCAL IMPACT

There is no impact to the General Fund. However, in the event the grant is not accepted because of the deed restrictions, additional funds must be obtained to complete the Ted C. Wills Rehabilitation project and funds for Lafayette lighting improvements would revert to the State.

The City will be responsible for the operation and maintenance of the park sites until 2031. If necessary, the PARCS Department will notify the State in writing regarding any potential partnerships with community-based organizations to help maintain and operate the parks.

1 RECORDING REQUESTED BY:
2 California Department of Parks and Recreation
3 Office of Grants and Local Services

4 WHEN RECORDED MAIL TO:
5 Office of Grants and Local Services
6 PO Box 942896
7 Sacramento, CA 94296-0001
8 Attn: Bill Meyer

9
10 **DEED RESTRICTION**
11

12 I. WHEREAS, City of Fresno, PARCS Department (hereinafter referred to as "Owner(s)")
13 is/are recorded owner(s) of the real property described in Exhibit A, attached and
14 incorporated herein by reference
15 (hereinafter referred to as the "Property"); and

16 II. WHEREAS, City of Fresno, PARCS Department (hereinafter referred to as
17 "Applicant(s)")

18 III. WHEREAS, the California Department of Parks and Recreation (hereinafter referred to
19 as "DPR") is a public agency created and existing under the authority of section 5001 of the California
20 Public Resources Code (hereinafter referred to as the "PRC"). And

21 IV. WHEREAS, Owner(s) (or Applicants) applied to DPR for grant funds available pursuant
22 to the 2002 Resources Bond Act, Roberti-Z'berg-Harris - Block Grant, for improvements on the Property;
23 and

24 V. WHEREAS, DPR's Office of Grants and Local Services approved Grant RZ-10-021,
25 (hereinafter referred to as "Grant") on the Property, subject to, among other conditions, recordation of this
26 Deed Restriction on the Property; and

27 VI. WHEREAS, but for the imposition of the Deed Restriction condition of the Grant, the
Grant would not be consistent with the public purposes of the 2002 Resources Bond Act, Roberti-Z'berg-

1 Harris - Block Grant and the funds that are the subject of the Grant could therefore not have been granted;
2 and

3 VII. WHEREAS, Owner(s) has/ve elected to comply with the Deed Restriction of the Grant,
4 so as to enable Owner(s), to receive the Grant funds and perform the work described in the Grant;

5 NOW, THEREFORE, in consideration of the issuance of the Grant funds by DPR, the
6 undersigned Owner(s) for himself/herself/themselves and for his/her/their heirs, assigns, and successors-
7 in-interest, hereby irrevocably covenant(s) with DPR that the condition of the grant (set forth at
8 paragraph(s) 1 through 5 and in Exhibit B hereto) shall at all times on and after the date on which this
9 Deed Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use
10 and enjoyment of the Property that are hereby attached to the deed to the Property as fully effective
11 components thereof.

12 1. DURATION. (a) This Deed Restriction shall remain in full force and effect and shall
13 bind Owner(s) and all his/her/their assigns or successors-in-interest for the period running from 7/1/2011
14 through 6/30/2031.

15 2. TAXES AND ASSESSMENTS. It is intended that this Deed Restriction is irrevocable
16 and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the
17 California Constitution; and b) section 402.I of the California Revenue and Taxation Code or successor
18 statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to
19 the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or
20 successor statute, which survives a sale of tax-deeded property.

21 3. RIGHT OF ENTRY. DPR or its agent or employees may enter onto the Property at times
22 reasonably acceptable to Owner(s) to ascertain whether the use restrictions set forth above are being
23 observed.
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25 4. REMEDIES. Any act, conveyance, contract, or authorization by Owner(s) whether
26 written or oral which uses or would cause to be used or would permit use of the Property contrary to the
27 terms of this Deed Restriction will be deemed a violation and a breach hereof. DPR may pursue any and

1 all available legal and/or equitable remedies to enforce the terms and conditions of this Deed Restriction.

2 In the event of a breach, any forbearance on the part of DPR to enforce the terms and provisions hereof
3 shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

4 5. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any
5 reason becomes unenforceable, no other provision shall be affected or impaired.

6
7 Dated: _____, 20 _____

8
9
10 Signed: _____ Signed: _____

11
12 _____
PRINT/TYPE NAME & TITLE OF ABOVE
(GRANTEE'S AUTHORIZED REPRESENTATIVE)

13
14 _____
PRINT/TYPE NAME & TITLE OF ABOVE
(ADDITIONAL SIGNATURE, AS REQUIRED)

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22 ****NOTARY ACKNOWLEDGEMENT ON THE NEXT PAGE****

1 State of California

2 County of _____

3 On _____ before me, _____, a Notary Public,

4 personally appeared _____, who proved to me on the basis of
5 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and
6 acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that
7 by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
8 person(s) acted, executed the instrument.
9

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

12 WITNESS my hand and official seal.

13 Signature _____ (Seal)
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