

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO

2:30pm "A"
10/17/00

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Redevelopment Agency Board

Executive Director
Daniel R. Fitzpatrick

Chairman
Daniel Ronquillo

Vice-Chairman
Tom Boyajian

Members
Chris Mathys
Ken Steitz
Sal Quintero
Garry Bredefeld
Henry Perea

AGENCY BRIEFING REPORT

DATE : October 16, 2000
TO : Redevelopment Agency Board Members
FROM : Daniel R. Fitzpatrick, Executive Director
SUBJECT : STADIUM REPORT AND RECOMMENDATIONS

The Council/Agency at their May 16th meeting approved deal points for a stadium proposal that centered around a City-owned 12,500 seat, 30 skybox stadium. The Council/Agency also directed the Executive Director of the Redevelopment Agency and the City Attorney to negotiate with the Fresno Diamond Group (FDG) on the City's behalf.

On Friday, May 26, 2000, the FDG announced at a press conference that they would accept the City's proposal and looked forward to refining the details to make the stadium deal a reality for the Grizzlies' 2002 season.

Subsequent to the FDG announcement, the Agency, City, and the FDG met on numerous occasions to develop the documents needed for a complete stadium package for Council/Agency consideration. The completed documents are on your Joint Agency/Council Agenda for October 17, 2000 at 2:30 p.m.

Presented to City Council
Date 10/17/00
Disposition Staff read
approved

On June 27, 2000, the Council/Agency approved the following:

- 1) A contract with HOK for the design of the stadium;
- 2) Award of contract to M.J. Menefee to perform stadium site preparation work related to the abandonment and filling of the "H" Street Ponding Basin; removal of existing concrete improvements; reconstruction of perimeter street improvements; and traffic signal modification;
- 3) Bond reimbursement resolution; and
- 4) Contract for Stadium Construction Management (Hunt Construction).

These contracts were awarded prior to the lease agreement being completed in order to meet a construction completion date in time for the 2002 baseball season.

The City Attorney, in her staff report of October 13, 2000 to Agency/Council, has comprehensively presented an overview of the various agreements implementing the Council/Agency adopted 13 deal points of May 16, 2000. As she noted in her report, the negotiations were completed with FDG, with input from the City Manager's office, RDA and City Attorney. No negotiations were held without all parties being represented.

This report is not intended to repeat the material covered by the City Attorney in her report. This report is to respond to issues raised by the City Manager in his report to Council/Agency of October 13, 2000, and to present the recommendations of the Agency's Executive Director:

Issues:

The first issue raised in the City Manager's report was the increased cost of the stadium. When Council passed the deal points earlier this year, the only information before it was a cost estimate supplied FDG by Harris Construction in 1999. With HOK and Hunt Construction working for the City the past several months, we were able to present a more accurate cost estimate to build a stadium in 2001/2002.

Yes, the projected construction costs have increased, and for the following reasons:

- 1) Prevailing wage rates;
- 2) Increased cost of steel and concrete from 1999 to 2001;
- 3) Booming national and state economy (contractors are not as "hungry" and materials are more difficult to receive, e.g. steel takes 5-7 months for delivery);
- 4) Public bidding vs. Private contract (the private sector is allowed to negotiate price with a sole source contractor vs. our public bidding requirements);
- 5) 10% City construction contingency (Harris estimates did not include a 10% construction contingency as is normally found in public works financing packages);

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- 6) Cost of Money. Interest rates are much higher today than 12 months ago.

Staff, working with HOK and Hunt Construction, have eliminated from the stadium design, features that would have increased cost even further. For example, club seating was reconfigured to allow for more economical construction, the free standing administrative building was moved internally, and the right field upper deck was eliminated. These items reduced cost, but still provide for a 12,500 seat, 30 skybox stadium, but without the "bells and whistles" that could drive up costs.

The second point raised as a concern by the City Manager was the issue of risk associated with the fast track approach of stadium construction. The Manager is correct that such an approach requires pre-ordering steel and pre-cast components. Yes, there is a risk to the City with such an accelerated construction approach. But it is, in my opinion, a prudent risk in order to open the stadium for the 2002 baseball season per your previous direction to staff.

This risk can be substantially mitigated by close team cooperation with HOK, Hunt, FDG and City. To this end, I would urge the appointment of a Stadium Project Coordinator to oversee all facets of this construction project. This individual must have the ability to cut across departmental lines and make timely decisions to keep the project on time and on budget.

The third issue of concern raised in the Manager's staff report is the security agreement between FDG, the Grizzlies, Inc., and the City. Suffice it to say that the City Attorney and outside counsel have spent a great deal of time, as memorialized in the documents before you on October 17, 2000, to protect the City interests in the future. The City Attorney's report speaks at length about this issue and the mechanism she has developed to protect the City.

The final issue raised by the City Manager was one of increased annual bond payments for the stadium from the projected \$2.7 million to \$3.5 million. The City Controller has developed his projection of stadium revenues as follows:

Projected Related Revenues:

FDG Rent	\$1,500,000
Sales Tax	47,400
Room Tax	46,900
Parking	620,000
City Sponsored Events: Net Operations	50,000
City Sponsored Events: Net Concessions	125,000
City Sponsored Events: Net Novelties	<u>250,000</u>
Total Project Related Revenues	2,639,800

Average Bond Debt Service

3,530,134

Annual Deficit	(890,334)
RDA Pass-Through Payments (AB1290)	<u>200,000</u>
Net Shortfall	(690,000)

The Disposition and Development Agreement (D&DA) is the document that directs how the stadium revenues are to be calculated and net shortfalls handled in future years.

As you will note in the Agency staff report on the Disposition and Development Agreement, the Agency is able to contribute \$200,000 per year to meet such a revenue shortfall (This is in addition to the RDA AB1290 pass-through shown in the calculations above). Thus, using the above City Controller analysis showing a projected \$690,000 shortfall, the Agency's contribution would reduce the shortfall to \$490,334 per year.

Thus, the question before the Agency and Council is how to make up a projected \$490,334 deficit.

Several of you have suggested various revenue sources to make up this deficit, including but not limited to: Red light citation revenues (\$500,000-\$900,000 annually), new card room revenue (\$50,000-\$100,000 annually), and parking meter revenue* (\$400,000-\$500,000 annually). Another suggested source of revenue is the \$1 million now going to Fresno County for the boot-camp. The last boot-camp payment, per City/County agreement, is September 2005, thus freeing this source of funds for stadium bond repayment if necessary. (Please note that the first stadium debt payment is not made until fiscal year 2004.)

The above enumerated sources of funding are today's ideas, but future budgets will present other constraints and opportunities. Therefore, it is recommended that Section 10(e) of the D&DA be amended per the attached rewrite. The amended Section 10(e) primarily adds a final paragraph to read as follows:

During the Agency and City budget process each year, the City Controller will prepare a pro forma analysis (projection) of the Bond Transaction debt service. If, after considering the above indices and the Agency Obligation, the Controller projects a shortfall, the Council and Agency Board shall identify and appropriate any legally available Agency or City Revenues.

*Note: I do not recommend parking meter funds be pledged for the stadium, as we will need these revenues to construct new downtown parking facilities

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This language allows future Mayors, Councils and Agency Boards to address any projected shortfall during annual budget sessions. Both City and Agency budgets are available to make up any shortfall in any given year.

Conclusion & Recommendations:

As the Agency Executive Director and as the Council/Agency designated staff for stadium negotiations, it is my recommendation that Council/Agency approve the following items on the October 17, 2000, 2:30 p.m. Agenda, Item A:

- 1) Approve 30 year lease agreement between City and Fresno Grizzlies, Inc., and Fresno Diamond Group, LLC, for the multi-purpose stadium;
- 2) Approve Non-relocation and Continuing Operation Agreement;
- 3) Approve Pledge Agreement;
- 4) Approve Parking Agreement;
- 5) Approve Disposition and Development Agreement with amended Section 10(e) (attached) discussed above;
- 6) Approve financing plan; and
- 7) Approve authorization of implementing action and document execution.

In conclusion, it has been a pleasure working with the City Attorney, her staff, and the staff assigned to the project by the City Manager in completing the negotiations for the multi-purpose stadium. The resulting agreements will serve the Agency and City well in the coming years.

REVISED SECTION 10(e)

(e) Agency Obligation.

The City plans to finance the Stadium Improvements as follows: The City shall enter into a Site Lease with the JPA, and the JPA will enter into a Facilities Lease with the City for the purpose of the JPA issuing bonds to finance the construction of the Stadium Improvements. The issuance of the bonds by the JPA shall hereinafter be referred to as " the Bond Transaction." The parties estimate that the annual debt service on the Bond Transaction will be an amount not to exceed \$_____. The JPA will pledge the Facility Lease payments from the City to pay down the debt on the Bond Transaction. The City anticipates pledging any and all legally available funds of the City's general fund to pay the annual Facility Lease payments, which will be equivalent to the Bond Transaction debt service, to the JPA.

The City anticipates receiving certain annual revenues related to Stadium operation as follows ("Stadium Annual Revenues"):

- (i) \$1,500,000.00 annual rent payment from FDG in accordance with the Stadium Sublease;
- (ii) Net sales taxes generated from sales made on or from the Property;
- (iii) Net Transient Room Taxes, as defined with the Fresno Municipal Code, Sections 4-601, et sequentes, generated from Stadium Events. For purposes of this Section, Net Transient Room Taxes shall be deemed to be \$_____ annually;
- (iv) Parking Revenue;
- (v) Revenues generated from "City Sponsored Events," as that term is defined in the Lease Agreement between the City and FDG. The Stadium Sublease gives the City 17 dates for City Sponsored Events at the Stadium.

The Agency Obligation, as determined under this Section, shall be limited by and subject to the following: (i) a maximum annual City Facility Lease payment (the Bond Transaction debt service) of \$_____, (ii) a Bond Transaction debt service payable over a maximum of 30 years, (iii) the Agency Obligation being construed as a partial reimbursement for public facilities under Health and Safety Code Section 33445(c), and (iv) the Agency Obligation not including any Stadium normal maintenance or operations costs. If the City's annual Facility Lease payment exceeds the Stadium Annual Revenues actually received by the

City and the Pass Through Payments, as defined in this paragraph, the Agency shall reimburse or pay the City the excess amount, not to exceed \$200,000 annually, from any legally available revenues ("the Agency Obligation"). "Pass Through Payments" means the actual amount of tax increment received by the City as a consequence of pass through payments pursuant to Health and safety Code Section 33607.5, from the future tax increment of the Agency's four newest redevelopment project areas (Airport Area, South Fresno Industrial Revitalization, Southeast Fresno Revitalization, and Central City Commercial Revitalization). The Agency Obligation shall end on the earlier to occur of the following: (i) 30 years after the Bond Transaction, (ii) the bonds issued pursuant to the Bond Transaction are paid or otherwise defeased, or (iii) the time within which the Law permits the Agency to collect tax increment from the Project Area or the Merger No. 1 Project Area to pay the Agency Obligation (reimbursement for Stadium Improvements costs financed by the Bond Transaction), or (iv) the date that the Agency issues tax exempt bonds for an amount equal to or more than the net present value of the estimated remaining Agency Obligation and repays City the then existing debt that qualifies for repayment through Agency-issued tax exempt bonds. The Agency Obligation shall not be increased as a consequence of any default by FDG or FDG's failure to pay any rental obligations under the Stadium Sublease.

The City will use Stadium Annual Revenues and Pass Through Payments as indices to calculate the Agency Obligation. Neither the use of the Stadium Annual Revenues or Pass Through Payments as indices, nor any other provision of this Agreement shall be construed as the City's pledge of revenues, income or taxes for a specific purpose. Stadium Annual Revenues shall be deposited into the City's General Fund and used for any and all lawful purposes as determined within the lawful discretion of the City.

During the Agency and City budget process each year, the City Controller will prepare a pro forma analysis (projection) of the Bond Transaction debt service. If, after considering the above indices and the Agency Obligation, the Controller projects a shortfall, the Council and Agency Board shall identify and appropriate any legally available Agency or City revenues.



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 2:30 pm "A"

COUNCIL MEETING 10/17/00

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER *Andrew T. Souza*

October 13, 2000

Presented to Fresno Redevelopment Agency

Date 10/17/00

Disposition report made

FROM: ANDREW T. SOUZA
Interim City Manager

SUBJECT: REPORT ON AGREEMENT BETWEEN CITY OF FRESNO AND FRESNO DIAMOND GROUP RELATING TO A MULTIPURPOSE STADIUM

BACKGROUND

On May 16, 2000, the City Council approved a stadium proposal which contained thirteen deal points. The City Council also directed that any shortfall from the proposal be the obligation of the Redevelopment Agency. The City Administration and the Mayor expressed their support of the proposal and direction adopted by the Council. Staff from the City Manager's Office, Economic Development Division, Finance Division, and Public Works Engineering have reviewed the documents presented to the City Council. Unfortunately, due to the dramatic cost increases and risks associated with the terms of the lease, staff cannot recommend approval of these documents.

The proposal of May 16 requires a stadium cost of approximately \$25,300,000 and annual debt service of approximately \$2,700,000 on a total bond amount of approximately \$31,000,000. The agreements before the City Council will result in a stadium with construction costs estimated at \$32,600,000, and annual debt service of \$3,500,000 on a total bond amount of approximately \$41,000,000. These cost increases, which are only estimates and may well increase due to the aggressive timelines in place, will result in total bond payments of \$105,000,000 over the life of the agreements. They also result in a stadium proposal which is not self supporting, and which will result in a subsidy of approximately \$900,000 per year from other general fund related revenues causing either reductions of fundamental services, such as public safety, public works, or public parks, or tax increases. The increased subsidy of the project was discussed by HCDC during its review of the DDA between the City and Redevelopment Agency. HCDC ultimately recommended that the Agency's obligation for the subsidy be limited to \$200,000 annually, and that the balance of the shortfall should be the obligation of Fresno Diamond Group.

The lease agreement before the City Council contains significant risks that were not anticipated in the proposal of May 16. The first risk is that in order to meet the completion date of June 2002 contained in the lease, the City must dedicate \$5 to \$6 million of City funds to acquire structural steel, precast concrete, and to perform mass excavation support, well in advance of receiving bids on the stadium construction and knowing its final costs. This action will almost assuredly bind the City to an unknown final construction cost prior to having a complete financing source in place. It will also make the City responsible for any design or construction problems (and delays) caused by piece mealizing these major construction components.

The June completion date also creates an extremely difficult schedule for City staff and HOK to meet. Hunt Construction, construction manager for the project has expressed concerns regarding the schedule as it leaves no room for "in flight corrections." Therefore, any delays that occur will likely increase the cost of the stadium. Hunt has also stated that while the schedule is not impossible to maintain, projects of this nature are bound to run into a number of difficult challenges along the way, and that they believe potential safety valves, including schedule extensions and reduction in scope, should be developed.

It should also be noted that the review performed by the Economic Development Division was conducted without the benefit of a complete copy of all documents and agreements. The security for the Fresno Diamond Group's obligations under these agreements is not the baseball team. It is an interest in the companies that own the team and would be subject to any and all arrangements made by the Fresno Diamond Group which could include commitments to other regions. The proposed lease agreement between City of Fresno, Fresno Diamond Group, LLC and Fresno Grizzlies' Inc. also allows the sale of the team operations, together with the right to use the stadium, at any time including immediately after the sale of such items as the naming rights.

CONCLUSIONS AND RECOMMENDATIONS

Staff does not recommend the approval of the lease agreement and related documents presented to the City Council. Rather, staff recommends that the City Council direct staff to return with the lease agreement presented on November 23, 1998. This agreement will provide for a stadium which is self sustaining, and which can be expanded to meet increased needs and cash flows, a process that was used by Fresno State University to construct Bulldog Stadium.

REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. *2:30pm A*
COUNCIL MEETING *October 17, 2000*

APPROVED BY

DEPARTMENT DIRECTOR *Hilda Cantú Montoy*

CITY MANAGER

October 13, 2000

FROM: Hilda Cantú Montoy, City Attorney

SUBJECT: PROPOSED PUBLICLY OWNED MULTIPURPOSE STADIUM AT SITE
GENERALLY BOUND BY TULARE, BROADWAY/"H" AND INYO STREETS
AND FULTON MALL OR BROADWAY/FULTON ALLEY WITHIN THE
CENTRAL BUSINESS DISTRICT REDEVELOPMENT PLAN AREA

Presented to Fresno Redevelopment Agency

Date 10/17/00

Disposition Staff see appendix

BACKGROUND

On May 16, 2000, Council approved certain dealpoints regarding a stadium project and directed that negotiations with the Fresno Diamond Group (FDG) be commenced. The basic premise of Council's direction was for the City to construct a City-owned stadium and lease it to FDG for 30 years. The May 16th dealpoints and the transcript of the meeting are attached for your convenience, as they are referenced throughout this report.

Since May 16th, the Executive Director for the Redevelopment Agency (RDA), the City Manager, and this Office, along with our respective staffs have worked to accomplish Council's direction. Considerable work and negotiations have been undertaken by the City, RDA and FDG during that time period.

ISSUES

While the premise of the transaction is a common one utilized by public entities, some of the details of the dealpoints for this transaction and their interrelationship have presented challenges. The primary challenges include the following:

1. Construction Completion Date. We note that a construction completion date was not part of the May 16th dealpoints. Yet, at the outset of our discussions with FDG, their position was that the stadium needed to be completed in time for the 2002 AAA Baseball Season.

While a completion date was not expressly provided for in the dealpoints, this issue was addressed on June 27, 2000, when Messrs. Fitzpatrick and Reid sought and obtained approval from Council on agreements for architectural design and construction management services. The rationale was that Council would authorize these agreements early so that the subject work could commence parallel with the negotiations of the transaction and completion of all agreements and documents for Council consideration. Thereafter, the City engaged HOK Sport Inc. (HOK) for architectural design services and Hunt Construction Group, Inc. (Hunt Construction) for construction management services.

When Council approved the consultant agreements, Council understood it was taking a risk by authorizing their work prior to approving the project and the various related agreements and documents. This office assured Council that language protecting the City would be included in the agreement. The agreements provide that if, for any reason, the City determines there is insufficient funding available for the Stadium project, the lease with FDG is not consummated, or bonds are not issued for the project; then each of the consultant contracts may be terminated upon 7 days written notice to the respective consultant. In the event that the contracts are terminated for any of the aforesaid reasons, the consultants will be paid for the services performed prior to the effective date of the notice. HOK will be entitled to full compensation for the schematic design phase, if their contract is terminated prior to their completion of such phase.

The early work provided by HOK and Hunt Construction has proven very helpful in putting this transaction together. This is especially true with respect to gathering accurate information for construction cost estimates and the construction schedule. These matters are discussed in greater detail below in the section discussing the Lease Agreement. Notwithstanding this pre-Transaction approval work, we explain below why the construction completion date is not timely for the opening day of the 2002 AAA Baseball Season.

2. Project Costs and Design Criteria. Various issues have arisen with respect to the costs of the project. The Council's dealpoints called for:

- a. "\$25.3 stadium" including "FDG's verified costs of design and development to date." (See Dealpoint 3); and
- b. "Annual debt service, all things considered, . . . [of] approximately \$2,700,000" with a "total bond amount . . . of \$31,000,000." (See Dealpoint 4)

The numbers given by Council were very specific. Yet, in Dealpoint 2, Council directed that the "stadium will be constructed in accordance with the schematic design dated 3-1-99." The dealpoints have been used as strong guides, but Hunt Construction and HOK have provided us with information clearly showing that the stadium as proposed in the May 16th dealpoints cannot be constructed for \$25.3 million. Moreover, the bond transaction and most importantly, the annual debt service amount exceed the sums contemplated in the May 16th motion. Thus, the transaction before Council includes adjustments necessary to cost and design, as more fully described below under the Lease Agreement section.

3. Use of RDA Tax Increment for Certain Debt Service. This has been a topic of considerable discussion. While the use of tax increment was not a specific dealpoint, it was a significant part of Council's deliberations of May 16th. Based on Council's motion and the attendant discussion, this office understood the Council's position was that in the event the stadium revenues were insufficient to pay for debt service, tax increment would be used. As noted above, the project costs are greater than anticipated so this has understandably been a subject of disagreement between the RDA and City staff. Please see Staff Report regarding the alternate D&DAs: one consistent with the May 16th motion, the other capping the RDA's participation.

BASIC FINANCING STRUCTURE OF TRANSACTION

Financing of the Stadium Construction Costs will be provided by a lease revenue financing between the City and the Fresno Joint Powers Financing Authority (JPFA). This type of financing contemplates the City entering into a Site Lease to lease the stadium property to the JPFA. The JPFA then enters into a Facility lease to lease the Stadium back to the City for a period of 30 years. The JPFA issues bonds for a term of 30-years and the proceeds of the bonds are used to construct the Stadium. The rent that the City pays on the Facility lease is used as a pledge for the revenue to pay down the bonds. The City would also be entitled to sublease the Stadium to the Fresno Diamond Group. Mr. Carlton's detailed report on the Financing Plan, and recommended resolution to proceed with the Financing Plan are attached.

AGREEMENTS AND RESOLUTIONS

The following agreements represent the best and final set of documents for your consideration in approving this transaction. All of these agreements have been approved by this office.

1. Disposition and Development Agreement (D&DA). The fact that the underlying property is owned by the RDA together with the issue of the RDA's participation in the debt service required that a Disposition & Development Agreement (D&DA) be prepared and negotiated between the City and the RDA with this Office facilitating with drafting of the agreements as well as with advice and review regarding necessary data, findings, and procedures required under the California Community Redevelopment Law. Please see under separate cover, the staff report(s) regarding alternative D&DAs.

The D&DA has been structured to transfer title of the property to the City and to define the obligations of the RDA to the City in the event that the projected Stadium revenues and FDG's annual rent payment do not meet the City's annual debt service. As noted above, numerous discussions were held between the City and Agency staff regarding this agreement. This Office conducted extensive research to ensure that the City and Agency are in compliance with Redevelopment Law. (Permissible use of the tax increment, tax increment from merged areas, findings, construction of publicly owned facilities, etc.)

This Office prepared a D&DA consistent with Redevelopment Law and Council's vote of May 16th. Mr. Fitzpatrick's office prepared an alternative D&DA. The principal difference between the D&DA's is the capping of the RDA's obligations to the City in the event the City's annual debt service exceeds the actual stadium revenues. See staff report(s).

2. Lease Agreement With FDG.

a. Basic Terms. The primary agreement for this transaction is the Lease Agreement.¹ The Lease Agreement presented to Council represents a 30-year lease between the City, FDG and the Grizzlies.² The City will own the stadium, and the FDG will have the exclusive use and operation of the stadium subject to the right of the City to use the stadium 17 times each year. The City will be allowed 7 non-concession events and 10 concession events annually. The rent will be \$1,500,000.00 per year with no increases throughout the 30-year term of the agreement. The City will supply parking consistent with the Parking Agreement addressed below. The foregoing is consistent with the May 16th Dealpoints.

b. Design Criteria. The stadium will be constructed in accordance with design criteria attached as Exhibit "A" to the Lease Agreement. We note this is a variance from the "HOK schematic design of 3-1-99" required in Dealpoint 2. The parties have modified it in an effort to reduce the construction costs. The primary modifications are as follows:

(1) Elimination of the enclosed circulation corridor on the Suite Level. Circulation at the Suite Level is now done via exterior walkway. Estimated Savings: \$300,000.

(2) The removal of Club Seating from the Suite Level and relocating it to the standard truss system on the Upper Deck seating area. Estimated Savings: \$500,000.

(3) Elimination of the stand alone Administration Building and the creation of a combination Administration and Club Lounge Level inside of the existing stadium envelope thus reducing the total steel tonnage of the project. Estimated Savings: \$250,000.

(4) Refinement of the seating layout thus increasing the total seat efficiency allowing an elimination of 950 seats in the upper deck seating area near the right field foul pole without decreasing total number of seats below 12,500. Estimated Savings: \$500,000.

c. Construction Completion Date and Cost. The Lease Agreement provides that the City will bid the construction work with a June 1, 2002, completion date and May 1, 2002, alternate completion date. The City will bid and award the project pursuant to a ceiling of \$28,560,048.00 (hereinafter "\$28.5 million" for

¹ As noted above, this is technically a sublease as the basic lease is between the City and the JPFA. For convenience purposes, we use the term Lease Agreement in this report.

² The City requested the Fresno Diamond Group to include the Grizzlies as a party to the Sublease to protect the integrity of the pledge of the Tucson Toros stock as security for performance of the Sublease Agreement. Failure to include the Grizzlies as a party to the Sublease Agreement could jeopardize the City's ability to foreclose on the pledged stock.

convenience). As noted above, the Council May 16th dealpoints anticipated the construction of the stadium to be approximately \$25 million which included FDG's verified costs of design and development to date and an allowance for equipment, furnishings and fixtures. The hard construction costs, ("bricks and mortar"), were anticipated to be approximately \$23,700,000.00. Information received from Hunt Construction reflect that the estimated construction costs are greater than originally anticipated. This cost is also driven by the construction completion date. We describe below how we arrived to the June 1 date and the \$28.5 million amount.

The total cost of construction as originally defined within the Council's May 16th dealpoints and the completion date for construction of the stadium represent two of the most significant issues for this project. The City and RDA, with the assistance of our consultants, HOK and Hunt Construction, have developed three scenarios for the stadium construction schedule which are as follows:

(1) June 1, 2002, Scenario -Complete construction of the stadium by June 1, 2002. This is the scenario contained in the Lease Agreement. This scenario will require the City to procure the steel, to precast the concrete, and to award the mass excavation contract before the City hires a general contractor for the major portion of the stadium construction. This schedule is considered by our consultants to be an aggressive approach, characterized as "Fast Track." It requires phasing of design work, multiple bid packages, the ordering of material prior to completion of design, a streamlined bid process, rapid review of bids, limited period between receipt of bids an award of contract, and a premium pay construction schedule. The projected hard construction costs for this construction would be approximately \$28.5 million. This amount does not take into account any potential cost overrun risks. With a compressed schedule, there is greater potential for mistake in design, inaccuracies between the design and ultimate construction, and in construction through multiple phases. We note further that this date was reduced from an earlier completion date of July 1, 2000, through the infusion of aggressive and accelerated time frames for HOK's work and that of City Staff.

(2) October 17, 2002, Scenario -Complete construction of the stadium by October 17, 2002. This scenario would allow the City to complete the design of the stadium before it bids the construction; bid the construction and then construct the stadium. The projected hard construction costs for the stadium would be approximately \$27 million. This scenario follows standard City procedures (design, bid, build) and presents the least risk and cost to the City.

(3) April 15, 2002, Scenario -Complete construction of the stadium by April 15, 2002. This scenario includes all the fast track features of the June 1, 2002, Scenario, but would require a significant shortening of the construction schedule from 12 months to 10 months. This scenario is not recommended by our consultants. It is the most costly in both total hard construction costs,

estimated at \$31 million, and in greater related risks. We have been advised by Hunt Construction, that this Scenario would have significantly greater exposure to the City in terms of potential design problems, construction inconsistencies or mistakes and associated costs related with compressing a 12 month construction schedule to 10 months.

The resulting Lease Agreement is an attempt to reconcile Council's goal to build the stadium to a defined construction budget and defined design while expediting the completion of construction to the greatest extent possible to meet FDG's goals of timely opening the stadium and a defined design. The June Scenario appears to afford the City the ability to construct the stadium in as expeditious time frame as is reasonably possible to allow FDG to capture a reasonable part of the 2002 AAA Baseball Season. While the June Scenario is still subject to greater risks than the October Scenario, the risks are far less than in the April Scenario.

Under the June Scenario reflected in the Lease Agreement which requires early contracting for steel, pre-cast concrete and mass excavation, the City will be committed to approximately \$5 million to \$6 million in costs before it receives bids for the general contractor's agreement and before the City determines to award a contract. As a consequence, the City is placed at some risk in the event no bids are received or all bids exceed the \$28.5 million Estimated Construction Cost for the stadium.

The Lease Agreement allows the City to bid the stadium construction consistent with design criteria defined in Exhibit "A" thereof, but with add alternates and deducts reasonably agreed upon in good faith between the City and FDG to allow for adjustments to meet the Estimated Construction Cost. At this point in the design process, there are no assurances that there are aspects of the design that can be deducted to meet a significantly lower construction cost without elimination of seats in the stadium but all avenues will be explored in good faith. The Lease Agreement provides that in the event that no bids are received or all bids exceed the budget, then Council and FDG may mutually agree to extend the completion date and rebid, or Council may terminate the lease agreement. In any event, it will be in the sole discretion of Council to award to the budget or to walk-away from the project. While there is ultimate ability for the City not to award if the fixed price is not met, the magnitude of the City's investment by that time will be substantial.

While FDG has agreed to Lease Agreement language with a June 1 completion date, they have asked that a May 1 completion date be added as an alternate date in the bid documents with the understanding that an award of a contract with that completion will be made only if the contract amount is equal to or less than the \$28.5 million.

We note here that the \$28.5 million amount does not include construction costs for concert staging, turf protection and the scoreboard because of their unique nature are being built by FDG. However, the City will reimburse FDG \$1.395 million for these costs through a rent credit. Thus, they are costs to the City.

In summary, the cost of the stadium construction is interrelated with the construction completion date and the fixed designed criteria. The overall costs of the stadium will be higher than contemplated by Council on May 16, 2000.

3. Parking Agreement. The Parking Agreement has been negotiated between FDG and the City and is attached in substantially complete form. All significant issues have been resolved between the parties. See staff's report under separate cover.

4. Non-Relocation and Continuous Operation Agreement. This Agreement has been negotiated between FDG, the Grizzlies and the City and is attached in substantially complete form. The Non-Relocation Agreement requires the Fresno Grizzlies, to continue to play all season home games at the City's Stadium during the term of the Sublease. The Fresno Diamond Group shall also be required to make commercially reasonable efforts to schedule events throughout the year that are consistent with a first-class state-of-art, multipurpose Stadium. This agreement creates additional obligations on FDG than those under the Sublease Agreement. In the event that FDG or the Grizzlies were to breach the Non-Relocation Agreement, the City would be entitled to sue either party for damages or equitable relief in the form of specific performance. Other than a rejection of this contract by a bankruptcy court, the City could attempt to enforce the Grizzlies to play in Fresno. All significant issues have been resolved between the parties.

5. Fresno Grizzlies Pledge Agreement. The Council's May 16th dealpoints required the Grizzlies to pledge the stock of the Tucson Toros, Inc. (TTI) for the duration of the lease with the City. Attached hereto is an Organization Diagram regarding the FDG related entities. TTI granted to FDG an option to purchase the Franchise in accordance with an Option Agreement dated October 21, 1997. FDG has requested that they be given the authority under the Pledge Agreement between the City and FDG to exercise their rights to purchase the Franchise which would have the effect of dissolving TTI, the Grizzlies, the interest held by John Carbray and the John Carbray Living Trust.

FDG desires that in the event that they exercise their option to purchase the Franchise, they would supply a substitute security to the City. They have proposed, as indicated in the attached Grizzlies Pledge Agreement to create a subsidiary Limited Liability Company which would hold all ownership interest in the Franchise. The subsidiary Limited Liability Company would issue one membership interest to only FDG and they would pledge any and all interest in that singular membership to the City as substitute security for the TTI stock. The Grizzlies Pledge Agreement requires that in the event that FDG were to replace the TTI stock with a substitute security such as a subsidiary Limited Liability Company, that company would replace the Grizzlies as a party to the Sublease Agreement with the City.

This structure would enable the City to have some form of security for the full term of the Lease Agreement and give FDG the ability to exercise its option to purchase the Franchise and collapse the current multiple entity ownership structure that currently exists. While this structure is not exactly the same as Council's Dealpoint 9, we believe it provides the City with the protection desired by Council.

ISSUE

Shall Council approve the documents, resolutions, and directions to move the Multipurpose Stadium Project forward?

CONCLUSIONS

If the City and the RDA wish to approve this project, approval of the following is necessary:

- *1. Agreement Between the City of Fresno, Fresno Grizzlies, Inc. and Fresno Diamond Group, LLC, Concerning Construction and Sublease of a Multipurpose Stadium [30-year Lease Agreement] **(Council action)**
- *2. Non-Relocation and Continuing Operation Agreement Between the Fresno Diamond Group, LLC, Fresno Grizzlies, Inc., Tucson Toros, Inc., and the City Of Fresno **(Council action)**
- *3. Pledge Agreement Between the Fresno Diamond Group, LLC, Fresno Grizzlies, Inc., Tucson Toros, Inc., and the City of Fresno **(Council action)**
- *4. Parking Agreement Between the Redevelopment Agency of the City of Fresno, the City of Fresno and the Fresno Diamond Group **(Council and Agency action)**
- *5. RESOLUTION - Approving Disposition and Development Agreement (D&DA) By and Between the City Of Fresno and the Redevelopment Agency of the City of Fresno, and Making Certain Findings Pursuant to the California Community Redevelopment Law, for the Proposed Multipurpose Stadium Project in the Merger No. 1 Project Area **(Council and Agency to specify which alternative) (Council and Agency action)**
 - a. Consideration Of Alternative D&DAs. **(Council and Agency action)**
- *6. RESOLUTION - Approving a Financing Plan for Construction of a Multipurpose Stadium to be Located in Downtown Fresno; Authorizing the Appointment of an Underwriter, Financial Advisor,

Trustee and Bond Counsel in Connection with the Financing; and Authorizing the Taking of All Necessary Actions to Proceed with the Financing. **(Council action)**

7. Action Providing Council President, City Manager, Redevelopment Agency Executive Director, and City Attorney, or their Designees with Authority to Take All Necessary Actions, including but not limited to, Execution of Agreements and Documents to Implement Stadium Project Consistent with Approved Resolutions and Documents. **(Council and Agency action)**

Attachments:

- 1) May 16, 2000 deal points & transcript.
- 2) Lease Agreement
- 3) Organization Chart

STADIUM PROPOSAL

May 16, 2000

1. The City will own the stadium and lease it to FDG. The lease will be for 30 years.
2. The stadium will be constructed in accordance with HOK design schematic dated 3-1-99. HOK will be the stadium architect.
3. The cost of the stadium, including adequate allowances for equipment and furnishings, will be approximately \$25,300,000. Concert seating and concert turf protection is outside the budget and will be provided by the tenant. The site, offsite improvements and building permits are outside the budget and will be provided by the landlord. The costs include FDG's verified costs of design and development to date. There will be approximately 30 private suites.
4. This proposal assumes that the annual debt service, all things considered, will be approximately \$2,700,000. (The total bond amount will be approximately \$31,000,000, which includes capitalized interest and costs of issuance.)
5. The rent will be \$1,500,000 for the term of the lease.
6. The City will provide assurances of adequate public parking, a fair parking charge, and keep all parking revenue for all baseball and non-baseball events (estimated \$600,000). Free parking will be available for players, game officials and a limited number of other essential event staff.
7. FDG will keep all other stadium revenue sources, e.g., naming rights, pouring rights, signage, advertising, etc.
8. FDG will pay all costs of operating, insurance and maintenance. The City will pay for the maintenance of the roof and other structural members.
9. The Triple-A franchise is owned by Tucson Toros, Inc., which is a subsidiary of Fresno Grizzlies, Inc. The value of the franchise is \$12,500,000, or more. Fresno Grizzlies, Inc. will guaranty the performance of FDG's lease and will pledge the shares of Tucson Toros, Inc., as security for the guaranty.
10. The City will provide adequate police personnel inside and outside of the stadium for all events, as determined by the Police Department. All event security will be provided and paid for by FDG.
11. The lease will include a 30-year non-relocation agreement.

Presented to City Council

Date 5/16/00

Disposition Proposal approved;

City & RDA Dir. to meet

with FDG & return on agreement

based on proposal

12. City-Sponsored Non-Concession Special Events. On available dates, the City may schedule an event in the stadium that will not make use of the stadium concession facilities. During the season, the City may designate up to seven (7) such non-concession using special events. Non-concession-using special events shall generally be partially or wholly sponsored or contracted for by either the City or other not-for-profit organizations or for charitable purposes. For example, the events may include arts festivals, ethnic festivals, neighborhood fairs, etc. The City shall be solely responsible for all costs associated with any City event, and the City shall be solely entitled to all revenues from any such event except concession revenues, which is outlined below.

13. City Sponsored Concession-Using Events. The City may designate up to ten (10) concession-using events. The City shall notify the Team in writing, at least thirty (30) days in advance of the City's intent to sponsor an event at the stadium. The Team shall notify the City within five (5) days after receipt of the notice if the City's proposed date conflicts with the Team's right to use the stadium. The Team will make reasonable efforts to accommodate the City's requested dates. On available dates, the City may use the stadium and its concessions as outlined below.

For all City Concession-Using Events such as City-sponsored concerts or other similar events, the Net Concession Revenue from the concessions operated by the Team shall be divided with fifty percent (50%) to the City and fifty percent (50%) to the Team. Net Concession Revenues mean the gross receipts from all concession sales, less the actual and reasonable costs of goods purchased and actual salaries, or sales commission expenses paid for the sales. In determining, Net Concession Revenues, no deduction from the gross sales receipts shall be made for the Team's or Concessionaire's overhead, management fees or concessionaires' commissions to the Team. Without prior approval of the City, Net Concession Revenue shall not include the actual costs of any goods, services or merchandise sold as a concession item which was acquired or purchased from a company or organization owned, in whole or in part, or controlled by the Team.

we estimated on the extremely conservative side. If we have our ten events and charge \$5.00 per ticket with 5,000 attendees, we would generate \$250,000. We know that whenever you have a concert such as a Neil Diamond event, they're usually sold out. It's not 5,000 attendees and you certainly don't charge \$5.00 a ticket, you charge a lot more. So that's a very rough conservative estimate. That would leave us with a shortfall of about \$190,000, which I believe we should use from the Redevelopment Agency area. Particularly the expanded areas of the airport, which I'm told by our Executive Director, Mr. Fitzpatrick, will generate approximately \$170,000 to \$200,000 a year from the expansion. It's new money that were not collecting now from the RDA. So in essence, there wouldn't be a short fall because we would use the RDA money. Now I think frankly that this is a good deal for both sides, for the Diamond Group it's a good deal for the City. There are protections in place for the City in terms of the pledging, of the shares, and also there, the short fall is certainly covered. Now my concern frankly is, that the Diamond Group has indicated in December that they wanted to do the 1.5 million. I don't think they're inclined to do the 1.5 million now. Because, I think frankly in January, they believe that they will get a sweeter deal, than what's being proposed today. Now, that may not be the case, I don't know. But I would certainly hope that the Mayoral candidates would certainly get on board if the Council supports this and expresses their support for the deal. So that we can get the deal done. Because everyone has talked about trying to get the deal done as quickly as possible, I do believe that there are external pressures to get the deal done perhaps from the Giants. So I would like to see rather than waiting until January, the fact that we have seven months here that we can get this deal completed and we can get the paperwork moving. And people working together to get this done. If the Diamond Group opts to wait until January, then I guess they wait til January. But I think, we can get this deal done. It's taking the very same numbers that the Diamond Group offered in December and applying them today. So I think it's a fair deal, I think it's a good deal for everyone involved. I have spoken with the Mayor and he has indicated that he has concerns about the shortfall and perhaps, there will be a larger shortfall that may be in fact the case. He has indicated that the General Fund will have a shortfall of about a million dollars from the Convention Center. I think that's accurate and Mr. Souza can talk about that. And so I think Council, we have to be concerned about future budgets, and the people who are going to be holding the positions in the future and the shortfalls that they will have to deal with. In fact, if the Convention Center is gonna be a million-dollar shortfall that's a serious subsidy we're going to have to put to the Convention Center. So I think we're going to have to be very careful in terms of the deal we construct with the Diamond Group. And I don't think we want to have any larger a short fall than what's predicted in this deal. So, I hope that we are very careful about this. I know obviously,

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got the message from them, and the Giants that they would like to see positive movement on finalizing a deal for a stadium this year. And, that message again was reinforced at a meeting that I had with Branch Ricky, just a few short months ago. With that in mind, you know that I met with a number of you to determine if there was some desire on the part of the Council to move a deal forward. That message was encouraging to me at the time. So I put together a team of Rich Mar, who's the gentleman, who is kinda of the brains behind the Redevelopment of the Manchester Center. Jerry Cook, who you know, as being involved in baseball and Larry Willy who's also worked very hard at putting a baseball.... We went through a process with a number of you on the Council, to call it a consensus. To determine, if there was in fact, a consensus on doing a stadium project this year. And I think its safe to say, that following those meetings we all felt, that - that you know that all of you were positive about moving forward. That there was an opportunity to do a stadium deal. Which brings me here today? And the proposal that you have under consideration today, does contain many of the key points that I think are important in doing a baseball stadium deal. But the points that you have in front of you today are not complete. I think if the deal that you have before you today, as adopted as a document that it's more of a proposal than it is a final negotiation. Which concerns us? I think rather what you have in front of you today, should be taken as guidelines that need to be followed so that if in fact its Hilda and Dan Fitzpatrick that they have the guidelines necessary, that they can follow to finalize the deal, bring it back to you for your approval. One thing that you could do today that would be very positive and that would be to move forward with a hiring of HOK and finalizing the design. We all know that HOK would take anywhere from two to five months to complete the design. Which if we wait, can only extend the building of the stadium. So I would encourage you today, to 1) consider that these be guidelines given to Dan Fitzpatrick and the City Attorney to finalize the deal; 2) that you consider actually hiring and finalizing the design of the stadium with HOK. And I think that these two steps should move to depoliticize this process. And really, hopefully take it out of the headlines and out of press conferences. So you know people, can meet with people, and get the project done. Thank you, for your time.

Boyajian Thank you, Mr. Dean. Jack Emerian.

Emarian Thank you, President Boyajian. First of all, I would like to address my first comments to Gary Bredefeld. Gary, you mentioned about a sweeter deal. That's gonna be further from the truth. The Fresno Diamond Group does not believe that we can get a sweeter deal with the next City Council. We believe that whatever, the deal comes out it would be the same whether its with them or with us. We do not believe that.....I don't believe that and I

don't think my Board of Directors believes that. We are very anxious to get this project done. So my name is Jack Emerian, I'm here on behalf of the Fresno Diamond Group and my capacity is Vice-Chairman of the Board of Directors. Before you is a proposal to build a multipurpose stadium in downtown Fresno. The fact that a proposal has been brought before you, indicates that you have a sincere desire to see this long and frustrating process come to a conclusion. No one, including myself, could be more pleased to see this process move forward and to achieve an agreement with the Council that both sides can live with. Although we view this proposal as the foundation of an agreement in principle, many details will have to be worked out before a final agreement will be achieved. The Diamond Group is ready, willing, and able to meet with your appointed representatives to work out an acceptable agreement. We strongly urge you, to establish the process to get these negotiations on track by designating a Council representative to meet with our representatives as soon as possible to work out the details. In conclusion, I am confident that we can work out an agreement that will satisfy both parties and get this stadium built. I thank you for allowing me this time to address you. Let's move forward. Thank you.

Boyajian Mr. Mullaly is he here.

Mullaly I think on.....that same..... I begin.....25 years of what happened. So far, I asked when the first proposal was from the group.... was show me the money. And we haven't seen the money. There's always well we're going to do that tomorrow. Let's hold another meeting. He wants all the best of two worlds. His. He wants the right to put on concerts. That's what he really wants. And he can cut the Convention Center to the floor. That's the word from the get go. He's not a producer of ball games. He's the producer of shows. And I don't mind if you make a deal with them. Its fine, but watch your wallet. I said that begin and I've said it today....and I'll say it after. And what usually happens, is when the ball bounces the wrong way. We will say we couldn't have predicted that. But the City's on the hook and he leaves. Now we had the Fresno Giants people don't remember that. That was a parent club.....was the San Francisco Giants. And City College took a dumping because the Giants went broke. The City College the one's playing and the stadium went broke. And I know you said that's not our problem, and it's yours. So the City College got stuck. That's why they don't let them play at..... they wanted to go to Fresno State.....look for a state get their smarter. City College will not lend out this stadium to nobody without the money up front. And I'm sure that the Chamber of Commerce has some millions of dollars, and they could pick up a million-dollar bond right there on site. But would they? He's smiling, and they wouldn't. And if they won't do it with their money, they want to do it with your money. That's

okay with me, but don't do it with my money. I don't want to see the taxes going up because another mistake was made. We need a ball park, fine. Let them have the ball park and he can use it for all ball park, but nothing else. Rest of the City. And you watch the rabbit run. Thank you.

Boyajian Thank you. Anyone else from the public want to speak on this issue. At this time we are closing the public hearing and going to Mr. Mathys.

Mathys I appreciate my colleague's perseverance on this issue. I know it's been very hard stuff. I know it's probably been the one issue that we have been criticized the most for up here, in the last four years. We haven't been able to come up with a proposal that is fair, and a proposal that would work. One comment I'd like to make, I did read the packet and do appreciate the different teams that were compared. One thing I did note with regards to Indiana, they did have about a nine million-dollar commitment from their county. Which that, they didn't have to pay back on a monthly payment. That was actually where, in fact, the county would take a portion of the revenue stream. So that is relevant because our proposal initially would have required payments to the county. The other thing they received which is very impressive and showed that their community supported it. They received a four million-dollar charitable contribution. So I think that's very relevant. I don't believe that we've been able to do that here in Fresno. I don't think that there has been any fund-raising done at all other than from the taxpayers. I think that's something we need to put more emphasis on. I really think at this point, Mr. Emerian. I've asked this from you for the last four years. And I know we don't always agree on everything, but I know that you are a successful business man. I know that many of those involved in the Diamond Group have excellent business track records. And, are very respectable. And I know for a fact that if I were to come to your printing company and want to do an order of fifty thousands dollars. You would want to know something about me. And you'd have a right to know that information because if, in fact, you did the printing and I didn't pay you afterwards you would be stuck with the bill. And, although that's a simple analogy, I think that very analogy applies to the taxpayers of the City. I've consistently asked for tax returns, we don't have them. I've asked for financial information from the Diamond Group. We don't have the information. I've asked for corporate credit reports. I've asked for individual credit reports. None of the information is available. Yet in the same breathe, we're contemplating a thirty million-dollar loan guaranteed by the taxpayers of this City, to in fact, build a baseball stadium. If that's good government or good business, I'm sitting in the wrong chair. The bottom line is, if we're going to get involved in a major transaction like a stadium. Which clearly will benefit the community, if its done right. We have a duty to do our homework. That homework includes knowing something about the

Fresno Diamond Group. We don't know how many tickets your selling. We don't know how many seats your billing. We have no idea what your profits are. We don't know your financial wherewithal. At the same time your coming here and asking us for thirty one-million dollars, something isn't complete in the equation. And if were going to get involved in a large expenditure, if we're going to encumber the tax dollars for the next thirty years. And keep in mind this decision won't affect just us, but it will affect taxpayers for the next thirty years. We have a duty to ask those questions and I still don't know to this day, why we haven't received a tax return. Why we don't have financial information. Why we don't have credit reports. If any of us go to a bank and we want to borrow on our house, we're going to have to furnish that information. Yes, it's not a house loan, but at the same time it's still a loan that we hope to get paid back on. And, so at this point, I can't afford to continue on voting on a stadium if in fact we don't have the information. And, what I don't understand is why we don't have it. What is the reason for not furnishing it to us? There's gotta be something there that you don't want us to see - for us not to get the information. So, at this point I'm not gonna support it, and I hope that before this year is out so that the next Mayor and the Council can make intelligent decision that, that information will be made available to them. Thank you.

Boyajian Member Ronquillo.

Ronquillo I have to concur with my colleague that these are one of those points in trying to make a decision for the City that we received a lot of criticism. I don't think just fabricated from the media, but my last contact with a lot of constituents. It was so much - I even believed those that were admittedly against it. We're just saying do something? It's as ridiculous as this can get. When you think in terms of the amount of time being spent, energy and legal services and everything else. Very frustrating for, I believe the entire City. That somehow we have evolved to some kind of a transaction, but I just want to go and say to some basic simple comments in reference to this. This stadium if you were there, the southern part of the mall. For those that may not be aware of exactly where it's at it's - if you stand on the mall and which is Fulton. And then you just look south which is from Tulare Street. If you were there at the Christmas celebration that we had there, or attempting to do a Christmas celebration of the downtown association. We had Santa Clause at it was at 5:00 p.m. in the evening, maybe 5:30 p.m. at the latest. And this was right before Christmas and we had a little bit of music some entertainment some children on stage and it was sad. It was - to me heart breaking. There was actually no children there for - to sit on Santa's lap. You had some homeless people not to far away. At 5:30 p.m. all the businesses were closed. And that's a sad, sad commentary for this City. Whether you're the Mayor or the Council on the dias for us to look with some kind type of pride and say that's

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what we want. And for the nay sayers that think that this City can't invest in itself, let me tell you something. If that's the kind of City you want then that's the kind a City you're going to continue to get. Is a dead City. When you look at that it is heart breaking. And if you can't experience that then really you don't have a heart. For us to think that this City can go forward and to have the core of the City that's actually shut down tight. When the people that are employed downtown leave and have no reason to stick around. And you try to do an event with heartfelt feelings from the downtown association and those that coordinated it. To have that kind of a miserable turn out, is sad. This stadium only represents an amenity. A piece of furniture for the City. You know your homes that you can buy, a thirty-inch television set or a very good used piece of furniture. A sofa to sit on. But no, generally in your homes you buy something that you are comfortable with something you can have pride in. And, usually it's a forty-inch screen these days so you can entertain your family and your friends and your visitors. This stadium represents nothing more than a piece of furniture in which we can be proud to have, an amenity in which we can use that to attract other people to come to the City. Businesses might consider relocating here because we have an additional amenity. Convention and conferences could highlight this. And, I'm saying that for a population of over \$400,000. In 20 years soon to be 700,000 or 800,000. We can't say that we can afford this is ridiculous. Yes, we can afford it. I'm in favor of putting through this project for that reason and that reason only. To help us revitalize that core of the City - that part of the City. The downtown mall, south mall specifically and use that as a catalyst to do that. And the amount of money that we have to invest really, and the amount that's being discussed as a subsidy is nothing compared to what will come from that. When we get sales tax revenues, and new property revenues because the new values increases. That amounts to nothing. It's been nothing but a political ball that people have been tossed around and for those like to....as I say cater to the nay sayer platform of the City of Fresno. You have done a hell of a good job so far in stemming our progress and respect to this. So Member Bredefeld, certainly I would ask you that....we say that this document that's in front of us, its not that we are endorsing it as the only document. But a document that we can use as a guideline. That we have the Agency Director, our attorney as indicated, sit down with the baseball people to see if we can get to specifically the points that we need to address in terms of the amount of the lease. And if you want to hold firm on the 1.5. That's fine. But let's say that this is a guideline document, and also that the project designs for the multi-purpose stadium be included in that process. And, I would support that. Would you be willing to adjust it that way? Your motion. Basically use those items that were pointed out the thirteen as the guideline.

Brefeld I'm going to address those.

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Ronquillo Okay. And also...we also ask the Director specifically to look at the project design for the multipurpose stadium and start honing that down to something that we want. I know that I have a little bit of a concern in the curtain design. Cause I'd like to make sure that the design includes the malls so that it can help encourage the revitalization as opposed to maybe just having one high wall there where its really not working in concert with the efforts to revitalize the southern part of the mall.

Boyajian Thank you. Member Bredefeld?

Bredefeld Yeah. I don't.....if we're doing semantics here or not. I don't see this as a guideline document. I see it as a very specific proposal. And, I keep hearing FDG saying this is a guideline. I'm not sure I understand that. We're offering 1.5 million the same figure that you offered the City of Fresno. I hope that's very clear, I don't think it can be any clearer than its written here. When I hear guideline I guess I'm a little concerned that guideline is a...is a..code for less lease payment. And I hope that's not really what the issue is, but I suspect that it may be the issue. I don't know. We'll see. But its my expectation that its \$1.5 million because the City cannot just afford to subsidize this to any amount. I think we are all committed to this and the City is committed to this financially. And, we're going to do what we need to do to get this done. But, I think it's very clear to understand from my perspective, this isn't a guideline document. It's a specific proposal, and it's specifically outlined. It's been specifically researched. I'd also think that the Council would be reminiscenced. I'm not sure what Mr. Emerian was referring to or Mr. Dean referring to in hiring HOK without a deal. I mean, I don't think that we are gonna go spend \$400,000 without some agreement with the Diamond Group. That would make absolutely no sense. Its not anything that I would support. Mr. Emerian what - maybe you can answer - where is the HOK work that you have hired them to do, thus far, what is remaining, how much is remaining to be done.

Emerian Well I think, they are about half way through the design process. And the final architectural work needs to be done. Many hundreds of thousands of dollars I know.....

Bredefeld How much?

Emerian Many hundreds of thousands of dollars have been spent already with them. Its on hold now. They're not doing any more work, but there is quite a bit of work that has to be done to complete it. To get the working drawings.

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Bredefeld Well, I would love for us to move forward with that. But, obviously I wouldn't support that happening without you agreeing to a deal. Doesn't make much sense for the City to move forward without a deal? Why would we.....

Emerian That's a decision for the Council. It would save some time if in your wisdom that you think that this is gonna become a reality. It would probably make some sense to get going on this.

Bredefeld It can happen tomorrow. All you have to do is to agree to it. Formally agree to it and then Council can move forward in that direction. We'd like to that, but obviously all I can do is speak for myself. I'm not gonna support making expenditures of hundreds of thousands of dollars without the Diamond Group agreeing to a deal.

Emerian I believe that if you appoint somebody that we can sit down with and talk to and get this thing finalized. We probably can do it in a matter of a few weeks. I don't know....I don't think we're that far apart.

Bredefeld No.

Emerian Okay.

Bredefeld Well, we're gonna do that as part of my motion. Mr. Fitzpatrick and Ms. Montoy would be lead in terms of getting this completed. And, I also want to be very clear in terms of any shortfall additionally beyond this \$190,000. We would be looking at the Redevelopment Agency to cover that cost. I think that's the incentive to make sure that we keep this as close to 1.5 as is outlined here. So, I think I've been very clear with my motion. City Clerk? Okay. So I guess if there's no one else we can just call the roll.

Boyajian No. Ms. City Attorney.

Montoy Yes....uh...I did have some concerns and some question's Council and Mr. Bredefeld. It is a proposal. You've clarified some things that I needed answered as far as whether this is going to be a proposal or just guidelines. As has been suggested by others and you say it's a proposal not just guidelines. My concern is that the packet contains a proposal for a City, Fresno Diamond Group agreement. Right? Its an agreement....but for the City - the City would build a stadium and the Fresno Diamond Group would lease it. My concern is that no where in that written documentation is the Redevelopment Agency mentioned. The one question I had, when I was reading it over the weekend was obviously, the RDA would have to be a part of it because they have to transfer the land to the City. So that the City could then build. However, today in the motion and in the discussion there's been

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Bredefeld Well, we will represent the City and I assume the City Staff will be involved. Obviously, we all know that they work for the City Manager, but I assume the City Manager, if the Council makes the direction to move in this direction City Staff will be available to you and help you expedite the process as the Council has directed today. Okay.

Quintero City Attorney, I've got a couple of questions and I don't know if it was clarified in your comments on No. 3. The site, offsite improvements, and building permits are outside the budget.

Montoy Right...I think Mr. Bredefeld addressed that when he responded to the question regarding No. 4. Where I said all things considered would be including those landlord improvements.

Quintero So, that's where....that will be addressed. Okay. And then the other part just in terms of a question. Did the - whatever - should a deal come together the current debts that the Diamond Group currently has would that also be part of the costs that will be included in the deal.

Montoy I believe so.....some of them would be under No. 3 it says the costs includes FDG verified costs of design and development to date. So, certain of their debts to date are included in this proposal, that's my understanding.

Quintero Do we have an idea what their current debts are?

Montoy No. You might refer to Mr. Bredefeld...I don't know.

Bredefeld I am not talking about taking over any of the Diamond Group's debts that they have. I'm talking about HOK verified costs of design and development to date that they have with HOK. We are not going to take over any Diamond Groups debts. I can assure you. They're gonna pay there own debts.

Montoy So, design and development - and we've come across this kind of language in another transaction that we had on Exhibit Hall and that's why I'm concerned. Design and development your specifically addressing the architectural design work.

Bredefeld What they've done thus far and that they verify that. But we are not assuming those debts....

Montoy No other development related costs?

Bredefeld Correct. Yes. Correct

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Page 14

Montoy Okay.

Quintero And then with the City's participation it would be built by organized labor and/or prevailing wage.

Montoy The construction would be competitively bid into the Charter and the City requires prevailing wages be paid.

Quintero I wanted that clarification. And then, finally, I guess the statement was made that the Diamond Group was willing to come to the table and sit down and start talking and trying to put a proposal or deal together. What happened with what we brought forward in December? Have you had any communication...or a...

Montoy I have not had any communications. The last communication that I know of was the whole issue with respect to getting a mediator. Since then I have had no communication, other than staff people in the RDA or the City Staff may have or City Councilmembers.

Quintero So then...for all intense and purposes whatever direction we have given in December has not gone anywhere.

Montoy I would assume this.....that if Council takes action today this action would supersede any prior action.

Quintero Again. Okay. Thank You.

Boyajian Member Bredefeld.

Bredefeld One final comment. I did speak with Branch Rickey, I believe last week and talked to him about this proposal to Mayoral candidates, if the Council supports this, do express their support for this so we can get this completed and everybody is on the same page.

Boyajian Thank you. Member Quintero?

Quintero What was the last communication that you had with the City Staff and City Attorney's Office that basically brought a halt to all communication. Or, what concerns are out there that you still have with the Diamond Group.

? *Rid* Well, of course, we had the major concern whether the deal that we can agree to is financially viable for the FDG.

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City Clerk's Office

Date *7/18/00*

Quintero And what is that?

? And what the bottom line is.....and can we make sufficient profit in this venture to satisfy the investors of our group.

? Where's the stumbling block on that.

? The stumbling block right now, might be.....one of the issues might be.....the amount of the 1.5 million. There might be a different way of doing that to protect our self and also allow the City to participate in some upside things. There's other formulas that can be worked out here. And that's the things we would like to explore with your representative in terms of what the final number will be. Because that's a huge amount of money.

Quintero So your saying...that the

? A great deal of concern to our Board of Directors.

Quintero So, your basically saying the 1.5 million isn't going to work.

? I'm not saying that.....I'm saying that we need to sit down and talk about that. And see if there's other ways that we can make this deal work.

Quintero And what prevented that discussion from what we approved in December.

? Our Board of Directors. They looked at this and they thought it was too rich. Too risky and we need to back away from that and take another approach to this.

Quintero So, you just told the City no we're not gonna accept it and we're not going.....

? We didn't officially tell the City anything....because there was no official discussion. The discussions were more private, private discussions that we had with Gary and others.

Quintero But if we appointed or asked staff to try and negotiate something on behalf of the City then that communication should have also gone along with our staff.

? Sure. We were as you might recall.....we were in discussions with the committee. The committee consisted of Councilmember Bredefeld and I guess it was Ronquillo and Steitz. And

Quintero And what did staff - was the staff present I mean just in the terms of trying to work.....

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? *h* I think they were involved in our process. When you say refer to staff what do you mean - what you mean.....

Quintero The City Attorney's Office

? *h* Yes, I believe they were involved in that...you know they were certainly aware of it. But that didn't seem to get anything accomplished as you know out of that came the proposal of September which we rejected. And that's kind of where it was left..

Quintero But, if we keep hearing the urgency of trying to get a proposal done, and here we are today with a proposal, which Councilmember Bredefeld brought forward. To some degree we haven't heard from you either. Right?

? *h* True. We've had some private discussions going on. Yes, publicly we have not. Because we don't believe, that's the proper place to negotiate these kinds of deals or in the public forum. It's to be done privately with whatever process you establish.

Quintero But, if there's an urgency from the Diamond Group and the PCL to try to get something done in Fresno. I mean. It seems it's a two-way street to pick up the phone

? *h* Absolutely. We're very anxious to get this done for a number of reasons. Not the least, at which its costing us dearly, being at Beiden Field. We need a new stadium and we need it desperately. And, I think Garry knows that as much as anybody that this has cost us a lot of money being out there. We'll have to play our fourth year out there. We anticipated playing out there one year. There are a lot of deficiencies in that whole process out there which I will not enumerate at this point. So there is yes an urgency to get this done for a number of reasons, not the least of which is the San Francisco Giants. They want a permanent home for this team, and we want a permanent home for them. We want to get this operation going.

Quintero Yet, the City Attorney's Office is telling me that they haven't heard from the Diamond Group.

? *h* Well, the negotiations basically stopped when we rejected the, the Mayor's Committee's proposition and quite frankly we didn't think it was going to go anywhere.

Quintero Ok. Thanks. City Attorney, when was the last written communication done. I mean who, who is the last person to send anything out or ...

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City Clerk's Office

Date 7/18/00

Montoy Gee, my recollection seems to be that it was the City Manager's correspondence regarding the mediators that would be available to conduct the mediation process that Council had directed. That's my recollection, but I may be wrong.

Quintero All right. And there was no response from the Diamond Group?

Reid Well, there wasn't a written response. I think verbally they've been indicating that they weren't interested in mediating. The mediator's been calling them, I think maybe weekly because we do think that this mediator would be very helpful. I do think you might want to consider continuing that effort and maybe ask the Diamond Group to agree to have the mediator as part of the meetings with Mr. Fitzpatrick and the City Attorney because I think they can be a very valuable resource to this process and they stand ready to do that.

Quintero Are you agreeable to that Mr. Emerian?

Emerian From my recollection, I don't think we were ever opposed to a mediator. When that was originally suggested, we were all for it if we could get this thing done. But I think some of you on the Council objected to having a mediator, among them was Councilmember Bredefeld. So, we never objected to that. If that will expedite this process, I think we're open to pretty much anything to get this thing done.

Reid No. We, the Council, approved the mediator, at least the Council Negotiating Committee did and we proposed one, actually I think we proposed three to the Diamond Group and recommended one. And, Mr. Motschieder, I think has routinely indicated that they weren't ready to do that. So, perhaps this is a break through.

Quintero Well, I'm just trying to get to the point to see who has been sitting on their hands and not moving forward with it because if there's such an urgency and we're not hearing from you, to say look, this one didn't work, let's . . .
[interrupted, inaudible]

Emerian We didn't know who to talk to quite frankly.

Quintero Pardon me.

Emerian We didn't know who to talk to.

Quintero I think it's in the minutes. . . [interrupted] of the Council meeting of the last meeting.

Emerian Who are we supposed to talk to. You haven't. You need to appoint somebody to talk to.

Quintero Mr. Emerian, I believe it's in the minutes of the Council meeting. The last time we gave direction, in terms of who was going to be negotiating on this, as well as, the three members of the Council.

Emerian Correct. But, it didn't go anywhere. It fell apart. Ok.

Boyajian Thank you. I just want to say a few words. Only in Fresno can we be fighting over whether we want a Triple A baseball team. Cities all over the country are fighting for major league baseball, Triple A baseball, anything they can get, an amenity. I've heard so many people in this community say, get the baseball stadium built. It might have an amenity in this town. My god, what's wrong with a baseball stadium. Look at Sacramento. You wonder why we get nothing done in this town. Sacramento's pouring for a baseball stadium right now, Triple A baseball. Probably, you know we can't have anything more. I mean, you have to start with something. Triple A baseball, to show that this town really wants a baseball stadium. And Mr. Emerian, I sympathize with you. You can't deal with what's gone on. I mean, and I sat through this for a year and a half. The administration doesn't want to make a deal. They'll do everything they can to break this deal up. You know we talked about. Mr. Mathys talked about taxpayers' monies being spent. Taxpayers' monies are being spent in a negative way. Taxpayers' monies are being spent to knock this deal out. And I don't know how much money has been spent, but it successfully worked. And for what, the good of this town? I don't think so. What it's done is divide this City up. How could you possibly divide this City on a baseball stadium? Because people made this political? They made a partisanship. And you know, I, if people just sat down and did what was best for the City, we'd get a lot of things done here. But I am, you know, I can understand why it hasn't gotten done. And, I would hope that, I agree with what Mr. Bredefeld says but I also agree with Mr. Dean. You know the issue is, let's stop all this bickering. I think that Dan Fitzpatrick and the City Attorney could work a deal I think, I think we could all work a deal. I mean my god, this is ridiculous. The Gap comes in town and we, we give them a red carpet and give them everything they want. But we can't get a baseball deal done? I think it can be done and it's sad. I thought this was an important issue to bring today, because people think that it's the City Council's fault. We've been doing everything we can. Since I've been on this Council, I've probably had 20-25 meetings trying to get this deal done. We're all Fresno's. This is not about the Diamond Group. You know, versus Fresno. We're all Fresno's. If we sat down, we could work this thing out so quickly if we got away from partisanship, politics, and whether you like this person or don't like this person. Let's just sit down and do it. I think that Mr. Bredefeld's

plan is good. But I also think that there has to be a chance that we have to give, we have to give the ability to get this deal off from Mr. Fitzpatrick and the City Attorney. If we can make this deal, let's make the deal. This is not good for Fresno. And we want people to come here and invest money in this City, we can't even get a baseball deal done.ah its ridiculous to me, so I want to get this started....ah as a Councilmember I believe that we can make it a deal. And I think that it's imperative that we do it in the next six months. Because I think it really, you can only put so much, people only can have so much patience. You can only have so much patience. If we did the same thing with the Gap, I don't think the Gap would be here right now. I don't think most people would be here right now investing their money in Fresno. And we talk about Fresno, what's good for Fresno. I hear this is what's good for Fresno. And the people that are saying what's good for Fresno are wasting a lot of taxpayers' money by making it impossible to make this deal. So what I'm saying is, I agree with..... yah.....Mr. Bredefeld, but I'd sure like to give some discretion to Mr. Fitzpatrick and the City Attorney. I wouldn't include our staff, the least I could do. All they can do is make every effort to knock this deal out, make every negative comment they can make, make every negative thing they can bring up. So I think that we have the ability to make the deal, let's make the deal and let's get on with it. We have far more important things in this town than worrying about a baseball stadium. We have an unemployment rate of over 14%. We have infield projects that need to be done. So I'm saying let's get this done for the sake of this City. Think about the City and let's get it done. So, I think I might be quirking your motion a little, but I support yah, I also support getting this deal done and giving Mr. Fitzpatrick. Okay. Call the question, let's figure out what the motion is as this point.

Klisch This is the way I have it. Direct staff to, consider the proposal as submitted. I won't reiterate all the proposal that's listed. To the Redevelopment Agency, Director, and the City Attorney to work together to bring back the necessary documents and the agreement as proposed...excuse me....and the agreement as proposed with the FDG.

Bredefeld We'll also.....and the City Staff will be involved. The City Attorney and Mr. Fitzpatrick are to meet with the Diamond Group and to come to an agreement that can be brought back along the proposal that's outlined for them, as well. Any shortfall in addition to the \$190,000, if there is anything larger, that it will come from the Redevelopment Agency and we'll have any resolutions that are necessary applied for that. That's the motion.

Boyajian Member Ronquillo.

Ronquillo You know, I just a...that's why I'm asking, that all elements of even the motion that's being made, be looked at as something cast and concrete here, because how can you just inaudible long say...any shortfall the basically a carte blanche by the Redevelopment Agency to cover it. We don't know what those figures are gonna be exactly, yet. Until that comes up, I couldn't agree to that. So...

Perea Dan, in response to that. The only piece I'm comfortable with here is that I don't know what that final number will be. It could be less than \$190,000 it could be more. My only concern, and why I would support this, is that whatever the cost will be from my perspective it will come out of the RDA. Now, whether that ends up being a number we can live with, I think we'll decide that once that number comes back to us. But I'm firm in my commitment that it would not be a General Fund contribution, but it will be RDA, but whether or not that amount is acceptable to us or not, I guess we'll make that decision when the documents come back.

Ronquillo Could we.....could the converse to that - and we'll discuss later that should there be on the upside - should the revitalization occur within a two block radius that the RDA have access to more of those funds.

Bredefeld Can we.....

Ronquillo The reason I'm saying that, is that the RDA has already invested \$6 million. And then at just at carte blanche two or three hundred thousand, I mean that's a substantial amount of money at a time that this Agency is still a sick puppy. Its still isn't a full bred grey hound that is streaking down from some track or something. It is finally moving, but, and we do have signs of some real rebirth and regrowth and the minute we have those extra dollars its sunk into one project. It doesn't make sense to me. So we have to keep that area open - eventually. So that, I mean keep that area open and discussion in reference to those revenues.

Bredefeld Mr. Fitzpatrick, it is feasible to come back in two weeks. You have plenty of direction to meet with the Diamond Group, come back. There will either, along with Hilda, City Staff whatever you both need and come back in two weeks to this Council with the acceptance regarding the deal so we can move forward rather than leaving this open-ended and then dragging out from months and months and month. Is that reasonable?

Fitzpatrick We'll certainly shoot to come back in at least with a report in two weeks of where we are and you know what the status is of the meeting. And, go from there. In terms of the point in terms of potential future, you know shortfall from the RDA, I think the RDA is willing and able to work on the \$200,000

shortfall here. Anything above and beyond that, let's have a little flexibility of how all that would work out in future years, but we'll give a report in two weeks.

Bredefeld But that, I understand your concern, but that is the motivation to keep the shortfall at \$200,000 and that's still my motion that we keep it. Any shortfall we'll be dealing with the RDA there are other ways that we can make up additional revenues that we need. We've talked about re-installing parking meters, but I think we as the Council need to take the position that we're going to any shortfall will come out of the RDA. And I think that's everyone's motivation to support this deal because that's the way its works for us.

Boyajian Member Mathys.

Mathys I was wondering if we could call for the question...

Boyajian Okay, we're gonna call for it...Madam City Clerk why don't you, roll call vote on this...

Klisch Who was the second on the motion, please.

Mathys Mr. Ronquillo.

Klisch Thank you.

Bredefeld No, there wasn't a second. I'm sorry there's a first by Councilmember Bredefeld, is there a second on this motion? I'll second it.

Klisch Councilmember Bredefeld, Yes.
Councilmember Mathys, No.
Councilmember Perea, absent.

Mathys Perea is here. .

Klisch Councilmember Quintero, (out of range)

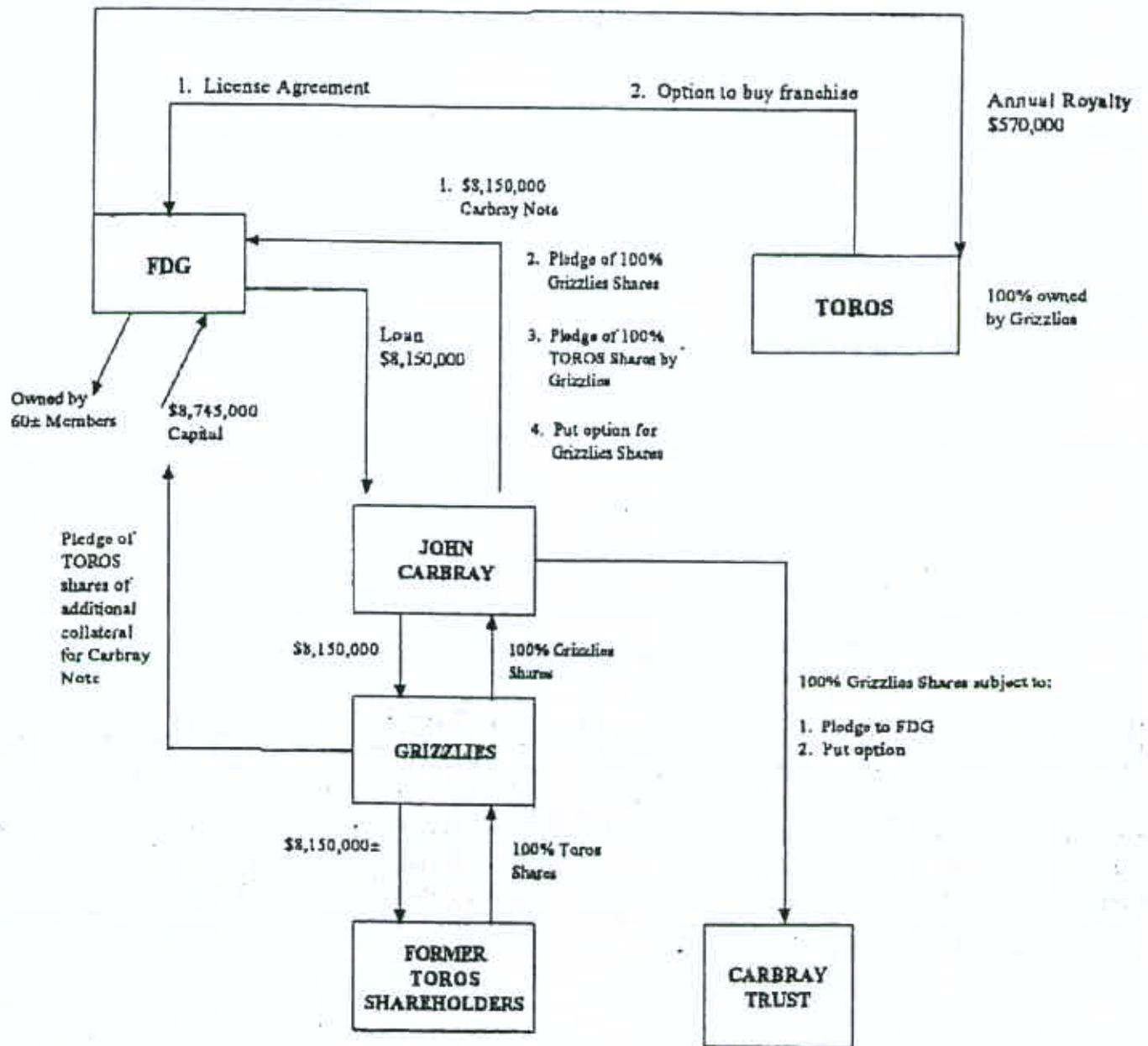
Klisch Sorry I didn't here him.
Councilmember Ronquillo, Yes.
Councilmember Steitz, Yes.
Council President Boyajian, Yes.
Motion carries, six yes, one no. Councilmember Mathys voting no.

DPH:cs:jl[11617cs/tapes.9]

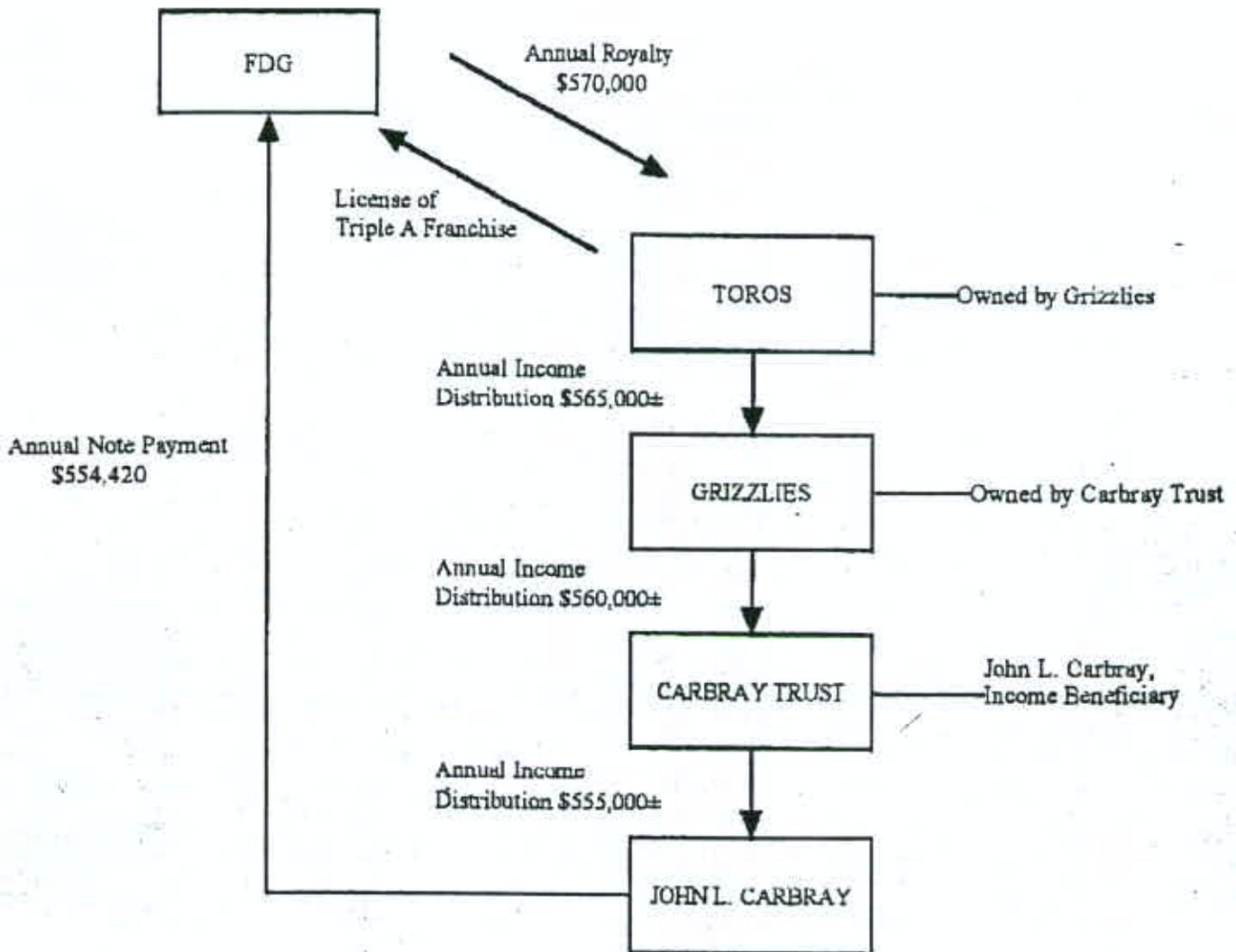
Certified Copy CS
City Clerk's Office

Date 7/18/00

ORGANIZATION DIAGRAM



CASH FLOW DIAGRAM



October 18, 2000

10:05am #1-3

10/24/00

TO: COUNCIL

FROM: REBECCA E. KLISCH, City Clerk *Rebecca Klisch*

SUBJECT: TRANSMITTAL OF MAYOR'S VETO

The Mayor has vetoed legislative action entitled approval of agrmnt bet. City of Fresno, Fresno Grizzlies, Inc. and Fresno Diamond Group re: construction & sublease of multipurpose stadium. Under the Charter, if a vetoed ordinance, resolution or other legislative action is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved. In accordance with the Fresno Municipal Code, any Councilmember may request the City Clerk to place the resolution, ordinance or other legislative action on the agenda for an override vote.

Any Councilmember who wishes this matter be placed on the agenda for an override vote must sign below and file this request with the City Clerk before the agenda for the meeting of November 14, 2000 is posted.

To: CLERK

Please place this item on the agenda for override consideration.

S. S. S. S.

 (signature)

Date: 10/18/00

Presented to City Council
 Date 10/24/00
 Disposition overridden

October 18, 2000

TO: COUNCIL
FROM: REBECCA E. KLISCH, City Clerk *Becky Klisch*
SUBJECT: TRANSMITTAL OF MAYOR'S VETO

The Mayor has vetoed legislative action entitled approval of agrmnt bet. City of Fresno, Fresno Grizzlies, Inc. and Fresno Diamond Group re: construction & sublease of multipurpose stadium . Under the Charter, if a vetoed ordinance, resolution or other legislative action is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved. In accordance with the Fresno Municipal Code, any Councilmember may request the City Clerk to place the resolution, ordinance or other legislative action on the agenda for an override vote.

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To: CLERK

Please place this item on the agenda for override consideration.

JMB

(signature)

Date: Oct 18, 00

October 18, 2000

TO: COUNCIL
FROM: REBECCA E. KLISCH, City Clerk *Becky Klisch*
SUBJECT: TRANSMITTAL OF MAYOR'S VETO

The Mayor has vetoed legislative action entitled approval of agrmnt bet. City of Fresno, Fresno Grizzlies, Inc. and Fresno Diamond Group re: construction & sublease of multipurpose stadium. Under the Charter, if a vetoed ordinance, resolution or other legislative action is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved. In accordance with the Fresno Municipal Code, any Councilmember may request the City Clerk to place the resolution, ordinance or other legislative action on the agenda for an override vote.

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To: CLERK

Please place this item on the agenda for override consideration.

(signature)

Date: _____



MAYOR JIM PATTERSON

October 18, 2000

TO: MEMBERS OF THE FRESNO CITY COUNCIL

FROM: MAYOR JIM PATTERSON

A first class baseball stadium would be a wonderful amenity for Fresno and would enhance our downtown and our reputation as an "All-America City". Earlier this year I was presented with a proposal that provided for construction of a stadium without the need to abandon our fundamental obligations to the taxpayers of this city.

On May 16, 2000 the City Council also approved the same proposal and endorsed the same principals that are designed to protect the city general fund and thereby the Police, Firefighters, Parks and other vital city services.

I now have no choice but to veto the proposed stadium agreements, approved by the City Council, because they deviate dramatically from the principals approved on May 16, 2000. The cost of construction, \$32,600,000, is far higher than the agreed upon \$25,300,000 and this has caused the cost of financing the project to skyrocket from payments of \$2,700,000 a payment of at least \$3,400,000 a year. This means, even using the most generous estimates of parking and other sources of funds, the subsidy required will be at least \$900,000 per year.

The agreements also lack the level of protection for the city expected in any prudent transaction. The security being provided is in the companies that own the team instead of the team itself and will be subject to any and all arrangements made by the Fresno Diamond group which could include commitments to other regions. The proposed lease agreement between City of Fresno, Fresno Diamond Group, LLC and Fresno Grizzlies, Inc. also allows the sale of the team operations, together with the right to use the stadium, at any time including immediately after the sale of such items as the naming rights.

Two years ago I offered a plan that would build a first class multi-purpose stadium for

CITY OF FRESNO

\$25,000,000. The plan included 12,500 seats and all of the appropriate amenities for a first class stadium. Unnecessary and expensive additions were not included. It also included a berm area for future expansion. The stadium I have proposed can be built without bleeding the general fund to pay for it and can be expanded in the future as needed.

The difference between my proposal and this one is the difference between vision and blindness. The Fresno State Football program had the vision to build what they could afford first, then expand the facility as it became financially feasible. They didn't build expensive additions until long after the stadium was built and had a chance to become successful without crippling debt loads.

With this veto I am asking, once again, that we abandon this unworkable proposal and work together to build a first class, affordable, stadium. If we work together we can build it without bleeding the general fund and damaging the vital public safety programs we've all worked so hard to rebuild.

October 18, 2000

Council Adoption: 10/17/00

TO: MAYOR JIM PATTERSON

Mayor Approval: _____

FROM: REBECCA E. KLISCH, City Clerk *R.E.K.*

Mayor Veto: _____

SUBJECT: TRANSMITTAL OF COUNCIL ACTION
FOR APPROVAL OR VETO

Override Request: _____

By: _____
Deputy

At the Council meeting of 10/17/00, Council took legislative action to approve the following: Agmmt bet. City of Fresno, Fresno Grizzlies, Inc. and Fresno Diamond Group re: const. & sublease of multipurpose stadium (2:30 A-1), by the following vote:

Ayes	:	Bredefeld, Perea, Quintero, Ronquillo, Boyajian
Noes	:	Mathys, Steitz
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before 10/30/00. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)



Jim Patterson, Mayor

Date: 10/18/2000

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:
Noes	:
Absent	:
Abstain	:



MAYOR JIM PATTERSON

October 18, 2000

TO: MEMBERS OF THE FRESNO CITY COUNCIL

FROM: MAYOR JIM PATTERSON

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October 18, 2000

TO: COUNCIL

FROM: REBECCA E. KLISCH, City Clerk

Rebecca Klisch

SUBJECT: TRANSMITTAL OF MAYOR'S VETO

The Mayor has vetoed legislative action entitled Approving Non-relocation & cont. Operation Agrmnt bet. Fresno Diamond Group, Fresno Grizzlies, Inc. Tucson Toros, Inc. and the City of Fresno. Under the Charter, if a vetoed ordinance, resolution or other legislative action is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved. In accordance with the Fresno Municipal Code, any Councilmember may request the City Clerk to place the resolution, ordinance or other legislative action on the agenda for an override vote.

Any Councilmember who wishes this matter be placed on the agenda for an override vote must sign below and file this request with the City Clerk before the agenda for the meeting of November 14, 2000 is posted.

To: CLERK

Please place this item on the agenda for override consideration.

S. Anderson
(signature)

Date: 10/18/00

October 18, 2000

TO: COUNCIL

FROM: REBECCA E. KLISCH, City Clerk

Rebecca Klisch

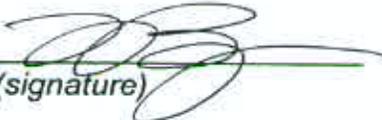
SUBJECT: TRANSMITTAL OF MAYOR'S VETO

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To: CLERK

Please place this item on the agenda for override consideration.


(signature)

Date: Oct 18, 00

October 18, 2000

TO: COUNCIL

FROM: REBECCA E. KLISCH, *Rebecca Klisch* City Clerk

SUBJECT: TRANSMITTAL OF MAYOR'S VETO

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To: CLERK

Please place this item on the agenda for override consideration.

(signature)

Date: _____

October 18, 2000

Council Adoption: 10/17/00

TO: MAYOR JIM PATTERSON

Mayor Approval: _____

FROM: REBECCA E. KLISCH, City Clerk ^{REK}

Mayor Veto: _____

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

Override Request: _____

By: _____
Deputy

At the Council meeting of 10/17/00, Council took legislative action to approve the following: Non-relocation & cont. Operation Agrmnt bet. Fresno Diamond Group, Fresno Grizzlies, Inc. Tucson Toros, Inc. and the City of Fresno (2:30A-2), by the following vote:

Ayes	:	Bredfeld, Perea, Quintero, Ronquillo, Boyajian
Noes	:	Mathys, Steitz
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before 10/30/00. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)



Jim Patterson, Mayor

Date: 10/18/00

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:	
Noes	:	
Absent	:	
Abstain	:	

10:05 am

October 18, 2000

TO: COUNCIL
FROM: REBECCA E. KLISCH, City Clerk *Rebecca Klisch*
SUBJECT: TRANSMITTAL OF MAYOR'S VETO

The Mayor has vetoed legislative action entitled Approving a pledge agrmnt bet. Fresno Diamond Group, Fresno Grizzlies, Inc. Tucson Toros, Inc. and City of Fresno. Under the Charter, if a vetoed ordinance, resolution or other legislative action is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved. In accordance with the Fresno Municipal Code, any Councilmember may request the City Clerk to place the resolution, ordinance or other legislative action on the agenda for an override vote.

Any Councilmember who wishes this matter be placed on the agenda for an override vote must sign below and file this request with the City Clerk before the agenda for the meeting of November 14, 2000 is posted.

To: CLERK

Please place this item on the agenda for override consideration.

S. Ornelas

(signature)

Date: 10/18/00

October 18, 2000

TO: COUNCIL
FROM: REBECCA E. KLISCH, City Clerk *Rebecca Klisch*
SUBJECT: TRANSMITTAL OF MAYOR'S VETO

The Mayor has vetoed legislative action entitled Approving a pledge agrmnt bet. Fresno Diamond Group, Fresno Grizzlies, Inc. Tucson Toros, Inc. and City of Fresno. Under the Charter, if a vetoed ordinance, resolution or other legislative action is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved. In accordance with the Fresno Municipal Code, any Councilmember may request the City Clerk to place the resolution, ordinance or other legislative action on the agenda for an override vote.

Any Councilmember who wishes this matter be placed on the agenda for an override vote must sign below and file this request with the City Clerk before the agenda for the meeting of November 14, 2000 is posted.

To: CLERK

Please place this item on the agenda for override consideration.

[Handwritten Signature]

(signature)

Date: Oct 18, 2000

October 18, 2000

TO: COUNCIL
FROM: REBECCA E. KLISCH, City Clerk *Rebecca Klisch*
SUBJECT: TRANSMITTAL OF MAYOR'S VETO

The Mayor has vetoed legislative action entitled Approving a pledge agrmnt bet. Fresno Diamond Group, Fresno Grizzlies, Inc. Tucson Toros, Inc. and City of Fresno. Under the Charter, if a vetoed ordinance, resolution or other legislative action is not overridden within 30 days of the veto, the resolution or ordinance is deemed disapproved. In accordance with the Fresno Municipal Code, any Councilmember may request the City Clerk to place the resolution, ordinance or other legislative action on the agenda for an override vote.

Any Councilmember who wishes this matter be placed on the agenda for an override vote must sign below and file this request with the City Clerk before the agenda for the meeting of November 14, 2000 is posted.

To: CLERK

Please place this item on the agenda for override consideration.

(signature)

Date: _____

October 18, 2000

Council Adoption: 10/17/00

TO: MAYOR JIM PATTERSON

Mayor Approval: _____

FROM: REBECCA E. KLISCH, City Clerk ^{RPK}

Mayor Veto: _____

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

Override Request: _____

By: _____
Deputy

At the Council meeting of 10/17/00, Council took legislative action to approve the following Pledge Agrmnt bet. Fresno Diamond Group, Fresno Grizzlies, Inc., Tucson Toros, Inc. and City of Fresno (2:30 A-3), by the following vote:

Ayes	:	Bredefeld, Perea, Quintero, Ronquillo, Boyajian
Noes	:	Mathys, Steitz
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before 10/30/00. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)



Jim Patterson, Mayor

Date: 10/18/2000

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:
Noes	:
Absent	:
Abstain	:



MAYOR JIM PATTERSON

October 18, 2000

TO: MEMBERS OF THE FRESNO CITY COUNCIL

FROM: MAYOR JIM PATTERSON

A first class baseball stadium would be a wonderful amenity for Fresno and would enhance our downtown and our reputation as an "All-America City". Earlier this year I was presented with a proposal that provided for construction of a stadium without the need to abandon our fundamental obligations to the taxpayers of this city.

On May 16, 2000 the City Council also approved the same proposal and endorsed the same principals that are designed to protect the city general fund and thereby the Police, Firefighters, Parks and other vital city services.

I now have no choice but to veto the proposed stadium agreements, approved by the City Council, because they deviate dramatically from the principals approved on May 16, 2000. The cost of construction, \$32,600,000, is far higher than the agreed upon \$25,300,000 and this has caused the cost of financing the project to skyrocket from payments of \$2,700,000 a payment of at least \$3,400,000 a year. This means, even using the most generous estimates of parking and other sources of funds, the subsidy required will be at least \$900,000 per year.

The agreements also lack the level of protection for the city expected in any prudent transaction. The security being provided is in the companies that own the team instead of the team itself and will be subject to any and all arrangements made by the Fresno Diamond group which could include commitments to other regions. The proposed lease agreement between City of Fresno, Fresno Diamond Group, LLC and Fresno Grizzlies, Inc. also allows the sale of the team operations, together with the right to use the stadium, at any time including immediately after the sale of such items as the naming rights.

Two years ago I offered a plan that would build a first class multi-purpose stadium for

\$25,000,000. The plan included 12,500 seats and all of the appropriate amenities for a first class stadium. Unnecessary and expensive additions were not included. It also included a berm area for future expansion. The stadium I have proposed can be built without bleeding the general fund to pay for it and can be expanded in the future as needed.

The difference between my proposal and this one is the difference between vision and blindness. The Fresno State Football program had the vision to build what they could afford first, then expand the facility as it became financially feasible. They didn't build expensive additions until long after the stadium was built and had a chance to become successful without crippling debt loads.

With this veto I am asking, once again, that we abandon this unworkable proposal and work together to build a first class, affordable, stadium. If we work together we can build it without bleeding the general fund and damaging the vital public safety programs we've all worked so hard to rebuild.

AGREEMENT

BETWEEN

**THE CITY OF FRESNO,
FRESNO GRIZZLIES, INC.**

AND

FRESNO DIAMOND GROUP, LLC

CONCERNING CONSTRUCTION AND SUBLEASE OF

A MULTIPURPOSE STADIUM

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**AGREEMENT
BETWEEN
THE CITY OF FRESNO
FRESNO GRIZZLIES, INC
AND
FRESNO DIAMOND GROUP, LLC
CONCERNING CONSTRUCTION AND SUBLEASE OF
A MULTIPURPOSE STADIUM**

This agreement ("Agreement") is made January 3rd 2001, 2000, by and between the City of Fresno, a California Municipal Corporation ("City"); and the Fresno Grizzlies, Inc. a California Corporation ("Grizzlies"), and the Fresno Diamond Group, LLC, a California Limited Liability Company ("FDG"), (collectively referred to herein as "Tenant").

RECITALS

WHEREAS, the Tenant is a valued community asset which contributes to the quality of life in Fresno; and

WHEREAS, the City believes that the development and construction of a Stadium ("Stadium") will provide a significant and much needed catalyst for revitalization and continuing redevelopment of downtown Fresno; and

WHEREAS, the City, the Redevelopment Agency of the City of Fresno (the "Agency"), and the Fresno Joint Powers Financing Authority (the "Authority") are willing to make significant investments in the Stadium; and

WHEREAS, the Parties have determined that the proposed public/private partnership for the Stadium and associated redevelopment is in the best interests of the Parties and the citizens of Fresno, and

WHEREAS, Tucson Toros, Inc. ("Toros") has been granted a franchise (the "Franchise") by the National Association of Professional Baseball Leagues, Inc., (the "NAPBL") for a AAA baseball team in the Pacific Coast League of Professional Baseball Clubs, Inc., ("PCL"); and

WHEREAS, Toros, as Licensor, and FDG, as Licensee, have entered into that certain Exclusive License Agreement dated October 21, 1997, (the "License Agreement") under which FDG has the right to operate and use the Franchise; and

WHEREAS, Grizzlies is the owner of all of the outstanding capital stock issued by the Toros; and

WHEREAS, the Parties have agreed to bear the cost of the Stadium as hereinafter described; and

WHEREAS, in accordance to its statutory authority, City shall finance the construction of the Stadium through the issuance of bonds by the Authority or any other legally permissible means of financing.

NOW THEREFORE, in consideration of the foregoing, the terms and conditions hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. "Activities" means all events (baseball and non-baseball) selected by Tenant throughout the year subject to City Sponsored Events as described in Article 3.

Section 1.2. "Agency" means the Redevelopment Agency of the City of Fresno.

Section 1.3. "Architect" means HOK Sport Inc., the architectural firm hired by the City to design the Stadium.

Section 1.4. "Authority" means the Fresno Joint Powers Financing Authority.

Section 1.5. "City" means the City of Fresno, a Municipal Corporation.

Section 1.6. "City Council" means the Council of the City of Fresno.

Section 1.7. "City Sponsored Event" is an event for which the City has requested Tenant to utilize the Stadium in accordance with Article 3.

Section 1.8. "Commencement Date" means the date when the Architect has issued a Certificate of Substantial Completion on the Stadium, the City has issued a Certificate of Occupancy and possession of the Stadium has been tendered to Tenants.

Section 1.9. "Concession" means any and all food and beverage items sold anywhere at the Stadium, except in the Grizzlies Shop, including but not limited to skyboxes, by Tenant or in accordance with an agreement to be negotiated and entered into between Tenant and an operator other than Tenant.

Section 1.10. "City Concession-Using Events" shall be those City Sponsored Events at which Tenant will open, staff and operate its Concession facilities.

Section 1.11. "Concession Rights" means the contractual right to sell any kind of Concession.

Section 1.12. "AFDG" means the Fresno Diamond Group, LLC, a California Limited Liability Company.

Section 1.13. "Force Majeure Event" means any of the following events which prevents a Party from performing any obligation under this Agreement; any act of God, labor strike, lockout or other industrial disturbance during the development or construction only of the Stadium, but not including a labor strike or lockout by Minor League Baseball players or umpires during the development or construction of the Stadium; any act of public enemy, blockade, war, insurrection, civil disturbance, explosion or riot; epidemic; landslide, earthquake, fire, storm, flood, or washout; any act of God, strike, lockout or other industrial disturbance, including a strike or lockout by Minor League Baseball players or umpires (except as expressly provided above); title dispute, or other litigation, including the inability to timely obtain judgments in eminent domain or timely obtain possession through eminent domain; governmental restraint such as rules, policies, resolutions, ordinances and other governmental actions of general application to the City of Fresno and not specifically directed to Tenant or the Stadium, action or inaction, either federal, state, county, civil or military, including the adoption of any new law materially affecting either the ability of the Parties to proceed or the costs of proceeding (); any initiative or referendum; and failure to obtain any necessary federal, state or county governmental approval.

Section 1.14. "Grizzlies" means the Fresno Grizzlies Inc., a California Corporation.

Section 1.15. "Grizzlies Pledge Agreement" means the agreement entered into between the City and the Grizzlies, the same date as this Agreement, wherein the Grizzlies pledge the Tucson Toros' stock for performance of Tenant's obligations under this Agreement.

Section 1.16. "Grizzlies Shop" means a shop within the Stadium premises that features, but is not limited to, apparel bearing baseball team logos, baseball souvenirs and baseball memorabilia, and that is open for business on a year-round basis, even when there are no Stadium Events in progress.

Section 1.17. "Gross Receipts" means the aggregate amount of all sales made and services performed for cash or otherwise, of every kind, name, and nature regardless of when or whether paid for or not, together with the aggregate amount of all exchange of goods, wares, merchandise, and services for like property or services and the selling price thereof, as if the same had been sold for cash or the fair and reasonable value thereof, whichever is greater, without any deduction for any expenditure, cost of operation, or other expense or cost of operation, but excluding therefrom receipts for federal, state, county, or city excise and sales taxes.

Section 1.18. "Major Defects Punch List" means a list of incomplete work that materially affects the ability of Tenant to occupy and use the Stadium for its intended purpose, as further described in Article II.

Section 1.19. "Minor Defects Punch List" means a list of incomplete work that does not materially affect the ability of Tenant to occupy and use the Stadium for its intended purpose, as further described in Article II.

Section 1.20. "Naming Rights" means the contractual right to have a name associated with the Stadium or for specific areas of the Stadium.

Section 1.21. "Non-Concession-Using Events" shall be those City Sponsored Events where the City does not require Tenant to open, staff, and operate its Concession facilities. City shall be entitled, whether it allows Tenant to operate Tenant's Concession facilities or not, to sell food, beverages and Novelties as part of the Non-Concession-Using Event. During a Non-Concession-Using Event, Tenant shall not be required to open, staff or operate the Concession facilities without the written agreement of City and Tenant.

Section 1.22. "Non-relocation and Continuous Operation Agreement" means that agreement entered into between the City and Tenant, dated the same date of this Agreement, wherein Tenant agrees to play all home games of a "AAA" baseball team in the Stadium for a period of approximately 30 years and not to relocate the team to another location during that time.

Section 1.23. "Novelties" means goods sold by City or Tenant other than food or beverages.

Section 1.24. "Party" or "Parties" means a party or the parties, respectively, to this Agreement.

Section 1.25. "Stadium" means real property and improvements consisting of an open-air, natural grass, state-of-the-art baseball Stadium as defined within the Program of Facility Requirements for a new AAA Minor League Baseball Stadium for Fresno, California, attached as Exhibit "A" and incorporated herein by reference as if fully set forth.

Section 1.26. "Tenant" means the Fresno Grizzlies, Inc., a California Corporation and the Fresno Diamond Group, LLC, a California Limited Liability Company, collectively.

ARTICLE II

CONSTRUCTION

Section 2.1. Expenses.

(a) The estimated cost of construction ("Estimated Construction Cost") is \$28,560,048.00 and comprised as follows:

Division 2	-sitework
Division 3	-concrete
Division 4	-masonry
Division 5	-metals
Division 6	-carpentry
Division 7	-roofing & waterproofing
Division 8	-doors & windows

Division 9	-finishes
Division 10	-specialties
Division 11	-equipment
Division 12	-furnishings
Division 13	-special construction
Division 14	-vertical transportation
Division 15	-mechanical
Division 16	-electrical
	-miscellaneous General Contractor Costs,
	-concession equipment
	-interior improvements

and as fully set forth in the Schematic Design Estimate developed by Hunt Construction Group, as of October 10, 2000. The City shall not be obligated to expend an amount in excess of the Estimated Construction Cost for the cost of construction.

(b) In addition to the Estimated Construction Cost, there shall be an Owner's Contingency Construction Allowance of \$2,705,461.00 (the "Construction Contingency Allowance").

(c) The City will use its best efforts to assure that the competitive bidding process for the actual construction of the Stadium, will result in the construction of the Stadium, consistent with Exhibit "A," in the most expeditious manner practicable, and at a cost within the Estimated Construction Cost defined in subsection (a) of this Section.

(d) The City's bid packages shall specify a completion date for the work to be not later than June 1, 2002 (subject to Force Majeure Events). The bid packages shall also specify an alternate completion date for the work to be not later than May 1, 2002 (subject to Force Majeure Events). The City's bid packages shall also require the Contractor(s) to coordinate with Tenant to the end that Tenant can have the Stadium properly stocked and equipped to conduct public events on the scheduled Completion Date.

(e) The Parties agree that during the Architect's Design and Development Phase, as defined within Architect's contract with the City, the Parties will cooperate in good faith to define specific aspects, criteria and design specifications of the Stadium that the Parties mutually agree to be identified as bid package deducts and alternates from the City's contract award to the general contractor hired to construct the Stadium. Said bid package deducts and alternates may be utilized only for the purpose of meeting the Estimated Construction Cost defined within subsection (a) of this Section.

(f) In the event that City, in accordance with its competitive bid process for public works construction, fails to receive any bids, or receives bids that are non-responsive or non-responsible, or receives bids in excess of the Estimated Construction Costs, after consideration of any acceptable alternates and deducts as noted herein above from the general contractor's contract award: (i) the Parties may mutually agree to extend the Construction Completion Date defined in the Development Schedule, attached as Exhibit "B" and

incorporated herein as if fully set forth, thereby authorizing City to redesign and re-bid the Stadium to meet Construction Costs, or (ii) City will be entitled to terminate this Agreement with no obligations of any kind to Tenant. The City will select the May 1, 2002, completion date alternate if it determines that there is a responsive and responsible bidder using that alternate, that is less than or equal to the Estimated Construction Cost.

Section 2.2. Stadium Design and Cost Controls.

(a) Tenant shall designate a design representative, (the "Tenant Design Representative") to perform Tenant's tasks and exercise Tenant's rights under this Agreement. Upon execution of this Agreement, Tenant will notify the City in writing of Tenant's designation of the Tenant Design Representative. Tenant may remove and replace the Tenant Design Representative at Tenant's pleasure, but shall in each instance notify the City in writing that the former Tenant Design Representative has been replaced and provide the name of the new Tenant Design Representative.

(b) The Parties acknowledge that Exhibit "A" is not a set of plans and specifications but sets forth and will serve as the guide for the preparation of final plans and specifications for the Stadium. The preparation of final plans and specifications is expected to require close coordination between the Architect, the City, the Agency and Tenant to assure that the final plans and specifications which will be sent out for competitive bidding and which may result in the award of a contract or contracts are consistent with Exhibit "A," and within the Estimated Construction Cost stated in Section 2.1. The Tenant Design Representative shall be encouraged and permitted to attend all conferences, including telephone conferences, between the Architect, City and Agency representatives where the subject matter is the preparation of the plans and specifications.

(c) The Tenant Design Representative shall be allowed to comment and submit suggestions related to the plan and specifications that identify Tenant's operational needs as defined herein, but it is understood by the Parties herein, that Tenant's Design Representative shall submit comments in an advisory capacity. Notwithstanding provisions to the contrary in this Section, Architect, City and Agency may not approve a plan or specification inconsistent with Exhibit "A" without the written approval of the Tenant Design Representatives.

(d) Upon execution of this Agreement, Tenant shall designate an inspection representative (the "Tenant Inspection Representative") to exercise any rights and perform the tasks assigned to that representative under this Agreement. Tenant will notify the City in writing of Tenant's appointment of the Tenant Inspection Representative. Tenant may remove and replace the Tenant Inspection Representative at Tenant's pleasure, but shall in each instance notify the City in writing that the former Tenant Inspection Representative has been replaced and provide the name of the new Tenant Inspection Representative. The City will cause the Architect and the City's Construction Manager to schedule walkthroughs of the project with sufficient frequency to permit the participating Parties to keep themselves fully and timely apprised of the conditions, quality and progress of the work. Tenant's Design and Inspection Representative will be informed of the walk-through schedule and invited and permitted to participate.

(e) The Assignment of Stadium Design Agreement ("Assignment Agreement"), dated September 15, 2000, between FDG and City, is acknowledged by FDG and City to be in full force and effect on September 15, 2000. Both FDG and City hereby expressly waive any and all conditions precedent, set forth in the Assignment Agreement, to the effectiveness thereof.

Section 2.3. Architect and Preparation of Construction Contract Documents.

(a) The City shall enter into all necessary and appropriate design and construction agreements with the Architect, engineers, construction manager and consultants related to the Stadium;

(b) The City will structure its bid specifications so that the work of grading, sodding, drainage and irrigation of the playing field shall be the responsibility of a single installer who has had substantial, successful experience in the installation of sports stadium fields in other professional sports stadia;

(c) The City will structure its bid specifications so that the selection and installation of the sound system and equipment for all venues of the Stadium, except concert venues, will be the responsibility of a single installer who has had substantial, successful experience in the installation of sound systems in other professional sports stadia.

Section 2.4. Tenant Involvement.

(a) The City shall afford the Tenant Design and Inspection Representative the right to input in the design development, construction documents, bid award and construction administration of the Stadium. The Tenant's Design and Inspection Representative will provide input into the details of the Stadium design such as suites, team offices, boxes, reserved and grandstand seating, picnic/playground/Concession areas, signage and advertising opportunities, scoreboards, sound system, press, and team areas.

(b) The City shall enter into all necessary contracts for construction of the Stadium after receiving input from Tenant's Design and Inspection Representative. Subject to Section 2.1 (e), it is understood by the Parties herein that the function of the Tenant's Design and Inspection Representative is advisory only and the City shall not be obligated to comply with input received by Tenant's Design and Inspection Representative but shall consider his/her recommendations when making any decisions related to City obligations under this Agreement. Additionally, the Parties acknowledge that change orders after City award of the contract for construction of the Stadium, shall be handled as follows:

- (i) Any change orders less than \$10,000.00 may be approved by the City at its sole discretion;
- (ii) Any change orders equal to or greater than \$10,000.00 may be approved by the City with input from Tenant's Design and Inspection Representatives. Tenant's input shall be advisory only;
- (iii) Any change order that would amend or modify Exhibit A will be subject to the approval of Tenant, which approval shall not be unreasonably withheld.

(c) The Parties herein understand that the City, Agency and Tenant have come to an agreement and approved the Stadium design defined within Exhibit "A." Notwithstanding, City shall be entitled to deduct, amend or modify that design only when necessary to construct the Stadium within the Estimated Construction Cost as defined within Section 2.1 or to meet mandatory building codes' requirements, subject to Tenant approval rights defined herein. Tenant's approval shall not be unreasonably withheld.

Section 2.5. Permits.

The City, at its expense, shall obtain or cause to be obtained all development entitlements and building permits required in connection with the construction of the Stadium.

Section 2.6. Competitive Bidding.

Tenant acknowledges that award of all contracts for construction of the Stadium must be awarded by the City pursuant to a public bidding process as required by the Charter of the City of Fresno, the Fresno Municipal Code, and relevant California law.

Section 2.7. Title.

(a) Title to the Stadium or any subsequent capital improvements and all fixtures, furnishings, equipment, and other personal property or improvements either funded, acquired, installed or placed in the Stadium by the City or an authorized representative, contractors, or consultants before or after the Commencement Date shall remain with the City. Title to the Tenant Improvements, notwithstanding that it will be financed, constructed and installed by Tenant, shall pass to the City, free from all liens, claims, interests or any other encumbrances, at the time of installation or placement in the Stadium, and title shall thereafter remain with the City. The City will own and have title to any improvements that are permanently fixed to the Stadium that are acquired, financed, installed or placed in the Stadium by Tenant.

(b) Title to all fixtures, furnishings, equipment, and other personal property either funded, acquired, installed or placed in the Stadium by Tenant, its assignees or concessionaires before or after the Commencement Date shall remain with Tenant. Tenant, its assignees or concessionaires will be entitled to remove such fixtures, equipment, and other personal property referenced in the preceding sentence upon expiration of the Term of this Agreement.

Section 2.8. Development Schedule.

(a) The Parties have set a Development Schedule (see Exhibit "B") covering all activities required to be undertaken in the preparation of the plans and specifications, obtaining permits for construction, financing the project, and constructing the project to completion.

(b) All Parties agree to use their best effort to complete their respective activities in cooperation with the other Parties and within the times established in the Development Schedule.

Section 2.9. Walkthrough and Punchlists.

(a) Prior to taking occupancy, Tenant, the Architect and the City's designated representative shall conduct a final inspection of the premises and shall compile two lists identifying any defects and other deficiencies and incomplete work that are outside the scope of the authority or concern of the Building Official. The two lists shall be designated as the Minor Defects Punch List and the Major Defects Punch List both as defined in Article I. The Parties shall mutually agree on what constitutes a defect, deficiency or incomplete work based upon final plans and specifications as accepted by the City. The City shall diligently undertake the correction or completion of all items on the Major Defects List and the Minor Defects Punch List. The Commencement Date shall not be postponed on account of the Minor Defects Punch List, but, subject to Section 3.3 herein, shall be postponed until the items on the Major Defects List have been corrected or completed, as the case may be.

(b) Prior to the Commencement Date, the City shall cause the electrical, HVAC, plumbing, and other systems that are part of the improvements to be thoroughly tested and checked by qualified persons. The test results, duly certified by the person performing the tests, shall be delivered to Tenant as evidence that the systems are operating satisfactorily and, where relevant, are properly balanced. The delivery of the certificates shall not relieve the City of its obligation to remedy defects as provided for in this Agreement.

ARTICLE III

SUBLEASE TERM AND RENTAL

Section 3.1. Term.

Subject to the terms and conditions hereof, City hereby subleases the Stadium to Tenant for a period of thirty years (the "Term"), commencing on the Commencement Date. The Stadium shall be returned to the City at the expiration of the Term in the same condition existing at the Commencement Date, ordinary wear and tear excepted. Installation of Tenant Improvements and Tenant's fixtures, furnishings, equipment and other personal property will be coordinated with City Staff and any delegated agents or representatives of the City. At its sole and reasonable discretion, City shall define the appropriate timing of Tenant's installation of Tenant Improvements and any of its personal property, fixtures, furnishings and equipment and will afford Tenant sufficient time to install their Tenant Improvements, fixtures, furnishings, equipment and other personal property prior to the Commencement Date. Tenant's Design and Inspection Representative shall timely notify the City regarding the necessary amount of time required for installation of the Tenant Improvements, fixtures, furnishings, equipment, and personal property.

Section 3.2. Extension Option.

The Parties agree that if the City and Tenant do not agree at least one year prior to the Expiration Date to extend the Term of this Agreement, the City shall be entitled to negotiate and

enter into agreements with any third parties regarding future usage of the Stadium and shall have no further obligation to negotiate with Tenant as to extension of the Term.

Section 3.3. Fixed Rental.

In consideration of the costs to construct the Stadium, Tenant hereby agrees to pay to the City a fixed rental of \$1,500,000.00 per year, to be paid in equal monthly installments beginning on the Commencement Date in the amount of \$125,000.00, in advance on the first day of each month (the "Fixed Rental"). Tenant's obligation to commence the payment of the Fixed Rental shall not be delayed beyond the Commencement Date by Tenant's failure to install and have operational the Tenant Improvements or any of Tenant's fixtures, furnishings, equipment or personal property or any other failed responsibilities of Tenant. Tenant's failure to install the Tenant Improvements or any of Tenant's fixtures, furnishings, equipment or personal property shall not preclude the City or its Architect from issuing a Certificate of Substantial Completion or Certificate of Occupancy on the Stadium.

Section 3.4. Bond Defeasance.

In the event that the bonds issued by the Authority related to the Stadium are defeased prior to expiration of the Term, which does not result from a refinancing, the City shall not issue any additional bonds which materially alters the terms and conditions of this Agreement.

Section 3.5. Improvements by Tenant

(a) Tenant shall make no permanent additions or improvements to the Stadium, other than Tenant Improvements as defined herein, without the prior written approval of the City, which shall not be unreasonably withheld.

(b) Tenant shall install within the Stadium all Tenant Improvements. The Architect will not design the concert staging and turf protection system, as those items will be designed by Tenant to meet its particular needs for baseball, soccer and other events. Tenant shall be responsible for all costs and expense for the design, manufacture and installation of the concert staging, turf protection system, (and corporate swimming pool and the Walk of Fame, if built), subject to City review and approval of design and installation. The work to be done by the Architect regarding the scoreboard is described in Exhibit "A." Tenant agrees to comply with Architect's schematic design and to pay all costs and expenses to design, manufacture and install the scoreboard and its foundation. Tenant shall contract for the design, manufacturing and installation of the scoreboard and its foundation, concert staging and turf protection system. The Parties herein agree that additional design, manufacture and installation of the scoreboard by Tenant will include not only the scoreboard, but all foundation requirements, electrical requirements within the scoreboard and out to the rough plumbed electrical located at the base of the foundation, lights, video, computer programming and hardware and any other installation needs necessary for a final working and operational scoreboard consistent with Architect's work as described in Exhibit "A."

(c) The Parties have determined that as a consequence of the unique needs of Tenant, the scoreboard, concert staging, turf protection system, corporate swimming pool and Walk of Fame shall be defined as Tenant Improvements. City's Project Manager shall be allowed to participate in all conferences, including telephone conferences, in which the design and pricing of the scoreboard, concert staging and turf protection system are being considered. City's Project Manager will also be entitled to approval over any design, manufacture and installation of the scoreboard which approval shall not be unduly withheld. Tenant shall be responsible to coordinate with the City's Project Manager the work of the scoreboard, concert staging, turf protection system, corporate swimming pool and Walk of Fame installer with the work of construction of the Stadium. Tenant shall construct and install the Tenant Improvements and assure that they are installed and fully operational upon the Construction Completion Date of the Stadium but Tenant has no obligation to build the corporate swimming pool and Hall of Fame. Tenant will further be responsible for financing, purchasing, acquiring and installing in the Stadium consistent with Exhibit "F" all fixtures, furnishings and equipment necessary to operate a AAA baseball stadium except those fixtures, furnishings and equipment to be provided by City as defined within Exhibit "A."

(d) Tenant shall be entitled to a rent credit for design, manufacture and installation of the scoreboard, concert staging and turf protection system. Tenant's rent credit shall be used for a deduction in rent by the amount of the total actual costs to Tenant of design, manufacture and installation of the scoreboard and foundation, concert staging, and turf protection system, or \$1,395,000.00, whichever is less. Tenant will also be entitled to a rent credit related to reimbursement from City for previous Tenant expenditures related to Stadium design and consulting fees. The Parties herein agree that Tenant shall be reimbursed for previous design and consulting fees that is the sum of the following: (i) \$191,000.00, which the amount of Pre-design Costs that have been reviewed and approved by the City; plus (ii) an amount to be determined in accordance with subsection (e) of this Section, but not to exceed \$212,000.00, with regard to development and design work that has not been reviewed and approved by the City (the "Unresolved Claims"). Tenant's rent credit shall relieve Tenant's rent obligation, as defined within Section 3.3, until such time as the entire rent credit has been amortized. When Tenant's monthly rental obligation has exceeded Tenant's rent credit, Tenant shall commence payment of the normal rent obligations as defined in this Agreement. In the event that this Agreement terminates as a consequence of the default or breach of this Agreement by Tenant, City shall have no further obligation to Tenant for any additional costs, expenses or rent credit related to any Tenant Improvements defined within this Section.

(e) Hunt Construction Inc. ("Hunt") shall meet with the parties and with vendors whose bills are "Unresolved Claims." Hunt shall review the claim, the position of the parties, and all relevant records and documents. If Hunt determines that the work has a value equal to or greater than the amount billed, the full amount claimed shall be paid but not to exceed the \$212,000.00 amount. If Hunt determines that the work has a value related to this Agreement less than the amount billed, the lesser amount determined by Hunt shall be paid. Hunt's review and determination shall be made on or before December 31, 2000, and shall be binding on the

City and Tenant. FDG agrees that each such vendor shall be under no obligation of confidentiality not to disclose information required by Hunt.

Section 3.6. City Sponsored Events.

(a) The Parties acknowledge that the City intends to make the maximum use of the Stadium to generate revenues and to produce events for the benefit of the City subject to the City's obligations to Tenant defined within this Agreement. Collectively these events may be referred to as City Sponsored Events. City shall be entitled to a total of seventeen City Sponsored Events for each calendar year for the duration of the Term. City's entitlement to the seventeen City Sponsored Events shall be prorated during the first and last calendar year of the Term of this Agreement.

(b) "Available Dates" means those dates on which Tenant has not actually scheduled a baseball game, practice, a non-baseball event or, subject to industry practices, scheduled field rest or maintenance, general Stadium maintenance or load-in and load-out requirements for a Tenant event.

(c) The City shall notify Tenant in writing of the City's intent to sponsor an event at the Stadium. Tenant shall notify the City in writing within forty-eight hours of City's notice if the City's proposed date conflicts with Tenant's right to use the Stadium. Tenant will make reasonable efforts to accommodate the City's requested use dates. If the date submitted by the City is not an Available Date, the City shall not use the Stadium on that date. City shall not make any request to sponsor an event at the Stadium between March 1 and September 30 of any calendar year until such time as Tenant has received the final baseball schedule for that calendar year, as established and distributed by the PCL. It is understood by the Parties that the PCL publishes the final baseball schedule for a given calendar year during the month of December of the preceding calendar year. Tenant shall distribute to the City a copy of the final baseball schedule within 30 days of when the PCL publishes and distributes that schedule. If City has not requested and received the final baseball schedule by December 31 of any calendar year, the City will be free to schedule events at the Stadium for the following calendar year.

(d) City shall book City Sponsored Events at the Stadium in a similar manner as the City's Convention Center Operations Department books events at Selland Arena.

(e) On Available Dates, the City may schedule City Concession-Using Events. City shall be entitled to ten City Concession-Using Events from each Sublease Anniversary Date for the duration of the Term. By way of example, and not by way of limitation, these City Concession-Using Events may include athletic, entertainment and music concert events and other similar activities and performances. In consultation with the City, Tenant shall make available and operate the Concession Facilities as Tenant determines to be necessary to support the City Concession-Using Events.

(f) For all City Concession-Using Events, or in the event the City elects to use Tenant Concession Facilities on Non-Concession-Using Events, the City shall be entitled to receive

twenty percent of the Gross Receipts from the Concessions operated by Tenant or other authorized third parties in contract with Tenant ("Concession Revenues"). City shall be entitled to receive and Tenant shall be required to pay City, Concession Revenues on an annual basis. Tenant shall calculate the amount of revenues owed to City by the end of each calendar year and shall pay the amount of Concession Revenues owed to the City no later than January 31, of the following calendar year. City shall be entitled to the sale of novelties that are related to a specific City Sponsored Event. City shall be entitled to retain one hundred percent of the revenue generated from those sales.

(g) On Available Dates, the City may schedule Non-Concession-Using Events in the Stadium that may or may not make use of the Stadium Concessions facilities. City shall be entitled to seven Non-Concession Using Special Events from each Sublease Anniversary Date, throughout the duration of the Term.

(h) Non-Concession-Using Events shall generally be partially or wholly sponsored or contracted for by either the City or other not-for-profit organizations (which are not required to be 501(c)(3) organizations) or for charitable purposes.

(i) Except as otherwise stated herein, the City shall be entitled to one day for each event and a separate day for load-in and a separate day for load-out and clean-up of the event. In the event that a City Sponsored Event is longer than one day, not including load-in or load-out days, each day of the event will count as a separate event for purposes of this Section 3.6. Tenant shall be entitled to require the City to load-in and load-out on the same day of City Sponsored Event if such request is consistent with recognized industry practice for such an event and it is practical to limit the event to one day.

(j) The right to use the Stadium extends to those portions of the Stadium that are generally made available to other persons who hire or rent the Stadium for similar events. City shall have the right to access of Tenant's secured storage areas, skyboxes and other areas where access by third persons will not unreasonably interfere with Tenant's business operations and are generally made available to other persons who hire or rent the Stadium for similar events.

(k) In the event the City schedules a City Sponsored Event, the City will pay Tenant for the costs of use of the Stadium consistent with the model agreement attached as Exhibit "C," Fresno Diamond Group Stadium Rental Agreement, and incorporated herein by reference as if fully set forth.

(l) The City shall be solely responsible for all costs associated with any City Sponsored Event, and the City shall be solely entitled to all revenues from any such event except Concession revenues from City Concession-Using Events which shall be distributed as specified in this Section and Grizzlies Shop Revenues. During any City Sponsored Event, City shall be entitled to use the Tenant Improvements at no cost to the City.

(m) If the City requests in writing that Tenant schedule a City Sponsored Event on a date or dates and Tenant confirms in writing to City that the requested date or dates have been

scheduled for the City use, the scheduled date or dates shall be counted as used by the City, whether or not the City actually uses the Stadium on the scheduled date or dates.

ARTICLE IV

OPERATION OF STADIUM

Section 4.1. Tenant as Operator of Stadium.

(a) Subject to City's rights under Article III of this Agreement, Tenant shall be responsible for the management and all aspects of the operation of the Stadium, including the nature of events to be held in the Stadium other than baseball. Tenant shall develop policies, designed to (i) assure quality control and (ii) assure that the Stadium shall be run in a way that reflects positively on the City and encourages families to attend events. Tenant shall file a copy of such policies, and any amendments thereto with the City of Fresno.

(b) The City shall be responsible for the repair and maintenance of all structural elements of the Stadium, which include the following: (i) the roof; (ii) all bearing walls and members; (iii) the foundation; (iv) all permanently paved surfaces; (v) all pipes, wires and optics located within the bearing walls or under the permanently paved surfaces; and (vi) such other elements of the Stadium that are commonly understood by the Architect to be structural elements.

(c) Tenant shall be responsible for the maintenance and repair of those aspects of the Stadium that are not included within the definition of structural elements, which is set out in this Section.

(d) Subject to City's rights under Article III of this Agreement, Tenant shall further contract and pay for all services to the Stadium throughout the year, including cleaning, ground keeping, electricians, stage hands, security guards, ticket sellers and takers, announcers, utilities and maintenance, repair and replacements to the Stadium other than structural defects to the Stadium as provided in subsection (b) of this Section. The standard of maintenance for the Stadium shall be that which is consistent with the standard of maintenance generally found in other AAA baseball stadiums not more than five years older or five years younger than the Stadium. Throughout the Term, Tenant shall deliver the Stadium to the City in such condition for City's use and City shall deliver the Stadium to Tenant in the same condition upon completion of City's use.

(e) Tenant agrees to do all things reasonably necessary to conduct its affairs and carry on its business and operations in such a manner as to comply in all material respects with any and all applicable laws of the United States and the several states thereof and to duly observe and conform to all valid orders, regulations, or requirements of any governmental authority relative to the conduct of its business and the ownership and/or operations of the Stadium. Tenant shall further comply with any and all provisions and conditions of any development entitlements issued by the City, including but not limited to any Conditional Use Permits related to the Stadium, as amended.

(f) The parties agree to utilize the following process to review the Tenant's obligations for maintaining the Stadium:

- (i) The City shall review the quality of maintenance and maintenance services provided to the Stadium. In furtherance of City's objective to achieve the standard of maintenance as defined herein, the City will conduct a yearly walk through of the Stadium to be conducted during the month of February in each year of the Term. Tenant will be notified of the time that the City intends to conduct the walk through and will be permitted to attend the City's inspection of the Stadium. Notwithstanding the City's yearly inspection in the month of February, the City shall be afforded access at all reasonable times to the Stadium for similar inspections. If Tenant has not maintained the Stadium to the standard set forth in this Section 4.1, the City shall have the right to notify Tenant in writing setting forth specifically the manner in which the City believes that Tenant failed to meet the standard, describing the actions to be taken to cure the same and stating that it will assume the obligation commencing within sixty days after mailing the written notice, if such actions are not taken by such date. If Tenant does not take such actions by such date, the City may immediately assume responsibility for the same for the remainder of that year of the Term at the cost and expense of Tenant, subject to arbitration procedures set forth herein. If Tenant has not taken such actions as requested by City by such date, either Party may request arbitration for final disposition and decision concerning this dispute in accordance with the rules of the American Arbitration Association or other such entity mutually approved by the Parties. The decision of the arbitrator or other such entity shall be final and binding upon the Parties. The arbitrator shall have no power to add to, subtract from, or modify any of the terms of this Agreement.
- (ii) The Party requesting arbitration shall promptly serve a notice on the other Party, advising of its desire for arbitration and shall request the American Arbitration Association to submit a list of proposed arbitrators who are generally familiar with the subject-matter involved in the dispute and from which an arbitrator shall be selected by the following method: each Party shall strike any names from the list deemed unacceptable, number the remaining names in order of preference, and return the list to the American Arbitration Association. The American Arbitration Association shall then invite an arbitrator to serve from among those names remaining on the list, in the designated order of mutual preference.
- (iii) The ruling of the arbitrator shall be binding upon the Parties hereto. The arbitrator shall follow the Commercial Arbitration Rules of the American Arbitration Association. Either Party shall have the right to secure a mandatory injunction in any court of competent jurisdiction to enforce any final order of the arbitrator. If the arbitrator's decision is in favor of the City, all direct costs incurred by the City in making the required maintenance

shall be reimbursed by Tenant to the City within thirty days after presentation of a statement therefor, together with interest at a rate of ten percent per annum. Costs of the Parties shall be paid as determined by the arbitrator.

- (iv) If the City assumes the obligations of Tenant, the City shall use due diligence with respect to providing maintenance, and as long as it uses such care, the City shall have no liability to Tenant by reason of inconvenience, annoyance, interruption or injury to the business of Tenant resulting from the performance of such maintenance in such reasonable manner as is calculated not to unreasonably interfere with the operation of the Stadium.

(g) Tenant shall obtain all necessary licenses and permits for operation of the Stadium, including, but not limited to, licenses and permits to sell food, beverages and alcohol. Tenant shall also be solely responsible for obtaining all necessary permits, licenses or similar authorizations required for the Grizzlies operation.

(h) As operator of the Stadium, Tenant shall be responsible for and pay for all aspects of the operation of the Stadium, except for City Sponsored Events as defined within Exhibit "C," including, but not limited to:

- (i) All ticket operations, ticket sellers and ticket takers;
- (ii) All ushers and parking attendants for parking on site;
- (iii) All non-uniformed and armed security for the Stadium, including security for baseball games and other events;
- (iv) Operating the scoreboard and the public address system;
- (v) Arranging for all communications and broadcasting; and
- (vi) Operating all Concession and catering facilities located at the Stadium.

(i) Specifically, but without limiting the generality of the foregoing in order to provide for a secure, healthy and accessible environment for patrons, Tenant shall provide and pay for at least the following measures at each home game and at all other activities involving paid admission to the Stadium:

- (i) Adequate security guards;
- (ii) Qualified persons to render first aid; and
- (iii) City shall supply police services inside and outside of the Stadium, without charge to Tenant, to the extent determined necessary by the City's Police

Chief or authorized representative. It will be within the sole discretion of the City's Police Chief or authorized representative to determine the level of police services at any event. This Section is not to be construed as obligating the City to supply any level of police services.

(j) Except as otherwise set forth in this Agreement, Tenant shall be responsible for all costs incurred by Tenant in connection with Tenant's operation of the Stadium. Tenant may operate the Stadium itself or hire subcontractors, in compliance with all applicable laws, to perform all or any portion of the operation of the Stadium.

Section 4.2. Concessions.

(a) As operator of the Stadium, Tenant may contract for the lease of any or all Concession area build-out and equipment, except that provided by City in accordance with Exhibit "A." Concession operations may be reviewed and suggestions made by the City.

(b) Tenant will have control over product and brand designation, pricing, quality, merchandising and staffing of Concessions within the Stadium with the objective of ensuring a wide variety of quality foods at reasonable prices served in unique and appealing ways.

Section 4.3. Revenue

Except as otherwise defined or provided in this Agreement, as operator of the Stadium, Tenant shall be entitled to receive all revenue generated at the Stadium, including, but not limited to, all revenues from ticket sales, suite rental, sponsorships, Stadium signage and other advertising, sales of Concessions, Novelties, and clothing, sales of broadcast and telecast rights, league expansion fees and team fundraising; provided, however that the City shall retain any revenue from its permitted use of the Stadium as otherwise provided herein except from the sale of Concessions as set forth in Section 3.6.

ARTICLE V

TAXES

Section 5.1 Tenant Payment of Taxes

(a) Tenant shall be responsible for the payment of all applicable ad valorem and possessory interest taxes legally imposed, assessed or levied against Tenant's property and for the payment of all transaction taxes, privilege taxes, sales taxes, or other similar excise taxes legally imposed, assessed or levied against Tenant on account of ticket, Concession and similar sales or transactions at the Stadium.

(b) Tenant shall pay the periodic food and beverage taxes, if any, to the appropriate governmental agencies. Tenant shall send a copy of each tax return and proof of payment of the tax to the City within five days of filing Tenant's tax return. Tenant shall indemnify the City for any tax liability which indemnification will survive the termination of this Agreement.

(c) NOTIFICATION TO TENANT PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE SECTION 107.6: A POSSESSORY INTEREST SUBJECT TO PROPERTY TAXATION MAY BE CREATED BY ENTERING INTO THIS AGREEMENT AND TENANT MAY BE SUBJECT TO THE PAYMENT OF PROPERTY TAXES LEVIED ON SUCH INTEREST.

ARTICLE VI

INSURANCE

Section 6.1. Tenant's Insurance.

Tenant shall carry and maintain, at its sole cost and expense:

(a) All risk insurance, not including flood and earthquake, subject to reasonable deductibles, but any amounts deducted shall be the responsibility of Tenant, for the Stadium, Tenant's personal property and trade fixtures, with limits sufficient to cover the full replacement cost thereof, covering the Stadium against damage and destruction by fire, vandalism, boiler eruption, and other perils in the amount of the full replacement value of the Stadium, as such value may increase and decrease from time to time. The City and Tenant shall be named as the Loss Payees on all such policies of coverage;

(b) Commercial general liability insurance, including bodily injury, property damage, contractual products liability, and liquor liability coverage (the responsibility for the latter may be assigned to Tenant's vendor), with the following limits:

General Aggregate	\$2,000,000
Products/Complete Operations Aggregate	\$1,000,000
Personal Injury and Advertising Injury	\$1,000,000
Each Occurrence limit	\$1,000,000
Fire Legal (Any one fire)	\$ 50,000
Medical Expense (Any one person)	\$ 5,000

subject to reasonable deductibles, but any amounts deducted shall be the responsibility of Tenant;

(c) Worker's compensation insurance in accordance with the laws of the State of California;

(d) Rental interruption insurance with City as beneficiary, including off-premises service coverage, with exclusions from coverage mutually agreeable to the Parties. Said policy amount shall be equivalent to two years of Tenant's annual rent;

(e) Automobile liability for owned, non-owned and hired vehicles, including uninsured and underinsured with limits of not less than \$1,000,000.00;

(f) Employee dishonesty coverage for funds handled by President, Business Manager, Ticket Manager and Assistant Ticket Manager of Tenant relative to ticket sales in the amount of \$500,000.00; and

(g) A separate policy of umbrella coverage over the coverage's referenced in (b), (c) and (e) above, with limits of not less than \$4,000,000.00 with a deductible of not more than \$10,000.00. Tenant agrees that it shall increase umbrella coverage, if necessary, consistent with its industry. If the City, in good faith, believes that this coverage is inadequate in consideration of the current insurance economy, the City may request that the City review and make a recommendation as to the proper amount of umbrella coverage.

Section 6.2. Waiver of Subrogation.

(a) It is the intent of the Parties that the risk of loss or damage arising out of or relating to this Agreement should be borne by insurance to the extent of available coverage. Accordingly, the City and Tenant waive all rights against each other (and against the agents, employees, representatives and/or insurers of the other) for any loss or damage to any building, structure, or other tangible property, or any resulting loss of income, or losses under worker's compensation laws and benefits, even though such loss or damage might have been occasioned by the negligence of such other Party (its agents, employees and/or representatives); provided, however, that: (a) this waiver of rights shall only be applicable to the extent of insurance proceeds actually paid to the Parties suffering such loss or damage; and (b) this waiver of rights shall in no way diminish the indemnity obligations of City or Tenant as set forth in Section 6.5 hereof.

(b) Said waiver of rights shall be in addition to, and not in limitation or derogation of, any other waiver or release contained in any related agreement with respect to any claim of Tenant or the City. Inasmuch as the waiver of rights shall mean that neither Party shall be liable to the other Party hereto or to any insurance company (by way of subrogation or otherwise) and will preclude the assignment of any of such claim(s) (by way of subrogation or otherwise) to an insurance company (or any other person), Tenant and the City shall give written notice of the terms of this mutual waiver of rights to their respective insurers and shall have their insurance policies endorsed, if necessary, to prevent the invalidation of said insurance coverage by reason of this waiver of rights.

Section 6.3. Insurance Criteria.

All policies of insurance required to be maintained by this Article, Section 6.1 shall be issued by insurance companies admitted to do business in the State of California, qualified in the judgment of the City and having an A.M. Best Rating of A-:IX or S & P AA-; (ii) shall provide that such policies shall not be cancelled or materially modified as to scope or amount of coverage, unless thirty days prior written notice is given to the City; (iii) shall be the primary policies, not contributing with or in excess of the coverage that the City may carry; (iv) shall be permitted to be maintained within a blanket policy or an umbrella policy; (v) shall be maintained during the entire Term, (vi) shall name the City, its officials, officers, agents, employees and volunteers as an additional insured, except with respect to the workers' compensation policies,

and (vii) shall be subject to City's review for proper limits and coverage upon written request therefor.

Section 6.4. Evidence of Insurance.

On or before the Commencement Date and upon the date of renewal of the policies of insurance that it is required to maintain pursuant to this Article VI, Tenant shall deliver to the City certificates of insurance evidencing such insurance. Such certificates shall specify the types and amounts of coverage evidenced thereby, the waiver of subrogation described in Section 6.2 above, and the insurance criteria described in Section 6.3 above. Tenant shall maintain and renew or replace all policies of insurance for which it is responsible pursuant to this Article VI.

Section 6.5. Indemnity.

(a) Tenant agrees to indemnify and hold harmless the City, its officials, officers, agents, employees and volunteers from any and all actions, causes of action, demands, and claims of any nature whatsoever for injury to or death of persons or loss of or damage to property in any way arising out of: (i) the use, occupancy, maintenance, and operation of the Stadium after the Commencement Date by Tenant or any other third party; and/or (ii) installation and placement of Tenant Improvements, or any of Tenant's fixtures, furnishings, equipment or other personal property for the period prior to or after the Commencement Date.

(b) The City agrees to indemnify and hold harmless Tenant from any and all actions, causes of action, demands and claims of any nature whatsoever for injury to or death of persons or loss of or damage to property in any way arising out of: (i) the construction of the Stadium for the period prior to the Commencement Date; and/or (ii) the City's use of the Stadium set forth in Section 3.6.

ARTICLE VII

LOSS OF FACILITIES

Section 7.1. Condemnation.

(a) If all of the Stadium or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings, this Agreement shall automatically terminate on the earlier to occur of (i) the date on which title to the Stadium vests in the condemning authority; or (ii) the date on which Tenant is dispossessed of the Stadium.

(b) If a portion of the Stadium or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and such taking materially affects Tenant's ability to utilize the Stadium, Tenant shall have the right to terminate this Agreement effective as of the earlier to occur of (i) the date on which title to the condemned portion of the Stadium vests in the condemning authority; or (ii) the date on which Tenant is dispossessed of

the portion of the Stadium, by giving written notice to the City within sixty days after Tenant's receipt of notice of the partial condemnation from the City.

(c) If a portion of the Stadium or the use thereof is taken by power of eminent domain, condemned or sold in lieu of condemnation proceedings and Tenant does not terminate this Agreement pursuant to the terms and conditions of subsection (b) above: (i) this Agreement shall be deemed terminated with respect to only the condemned portion of the Stadium or use thereof; (ii) the rental payable hereunder shall be equitably reduced, as determined by the Parties in good faith taking into account Tenant's prior use of the condemned portion of the Stadium or use thereof and the potential of such portion to generate revenue for Tenant based upon attendance over the previous three year period; and (iii) the City shall, at its sole cost and expense, promptly make any repairs and restoration that Tenant deems reasonably necessary as a result of such condemnation.

(d) Each Party shall have the right to seek, at its sole cost and expense, any award to which it might be entitled as a result of any condemnation of all or any portion of the Stadium or the use thereof. Neither Party shall have any rights to any award made to the other.

(e) If all or a portion of the Stadium or the use thereof is temporarily condemned, this Agreement shall remain in full force and effect, but all of Tenant's rental obligations hereunder shall abate on a pro rata basis as determined by the Parties in good faith until such temporary condemnation shall cease based upon revenue lost by Tenant as a result of such temporary taking based upon attendance over the previous three year period.

Section 7.2. Damage to the Stadium.

(a) If the Stadium or any portion thereof is damaged or destroyed by fire or any other casualty, then neither Party shall have the right to terminate this Agreement but City shall promptly employ its best efforts to restore and repair the Stadium as soon as reasonably possible to a condition substantially similar to that prior to such damage or destruction and the Term shall be extended by the period of restoration and repair. To that end, City shall use all insurance proceeds available for such purposes and Tenant shall assign any applicable proceeds to the City. City's obligation hereunder shall not exceed the insurance proceeds. The restoration and repair details shall be undertaken in the same manner involved in the original construction of the Stadium.

(b) During any period that the Stadium is totally unusable by Tenant, the entire rental shall abate so long as the rental interruption insurance required by Section 6.1 has been maintained. If only a portion of the Stadium is rendered unusable by the damage or destruction, rental shall be reduced as determined by the Parties in good faith based upon attendance over the previous three-year period.

ARTICLE VIII

DEFAULTS AND REMEDIES

Section 8.1. Default by Tenant.

(a) An event of Default by Tenant shall be deemed to have occurred under this Agreement if:

- (i) Tenant fails to make the payment of rental and other amounts owed as set forth in Article III hereof within thirty days after it is due;
- (ii) Tenant fails to observe or to perform any obligation, condition or covenant on its part to be performed or observed in accordance with this Agreement, and such failure remains uncured for more than thirty days after Tenant's receipt of written notice of such failure from the City (or such longer period as may be reasonably necessary to effect such cure, if such cure cannot be effected within such thirty day period using reasonable efforts);
- (iii) Tenant's interest in and to the Stadium or this Agreement is taken by process of law directed against Tenant, or is subject to attachment by any creditor or claimant of Tenant, and such attachment is not discharged or disposed of within thirty days after levy thereof;
- (iv) Tenant admits in writing its inability to pay debts generally as they become due; makes an assignment for the benefit of creditors; applies for or consents to the appointment of a receiver, trustee or liquidator of Tenant or substantially all of Tenant's assets; files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization under any bankruptcy or insolvency laws; or files an answer admitting the material allegations of a petition filed against Tenant in any bankruptcy, reorganization or insolvency proceedings;
- (v) A court enters an order, judgment or decree, without the application, approval or consent of Tenant, approving a petition seeking reorganization of Tenant under any bankruptcy or insolvency law; appointing a receiver, trustee or liquidator for Tenant or substantially all of Tenant's assets; or adjudicating Tenant as bankrupt or insolvent, and such order, judgment or decree is not vacated, stayed or set aside within forty five days after its date of entry;
- (vi) Tenant loses any rights, licenses or other interest in the baseball franchise due to its negligence, willful misconduct or material violation of league rules;

- (vii) Tenant or the Grizzlies fail to observe or perform any obligations, conditions or covenants on their part to be performed or observed within the Assignment Agreement, Parking Agreement, Non-relocation and Continuous Operation Agreement, Grizzlies Guaranty Agreement or the Grizzlies Security Agreement.

(b) If Tenant shall be deemed in default under this Agreement pursuant to the terms and conditions of subsection 8.1 (a) above, the City shall be entitled to seek any rights and remedies available to it in law, or at equity including, but not limited to, the right: (i) to seek monetary damages, including interest on the unpaid rental at the maximum legal per annum rate (which interest shall for purposes of subsection 8.1 (a) above begin to accrue without regard to the thirty day grace period); (ii) to terminate this Agreement; and (iii) to cure such default on behalf of Tenant and bill Tenant for all costs incurred by the City to effect such cure. Additionally, the City shall have the right to proceed against the security provided by Tenant pursuant to Article IX hereof.

(c) In the event that City should terminate this Agreement in accordance with Section 8.1 (b), Tenant shall assign to City any and all right, title and interest in any contracts entered into by Tenant for supplies, services, concessionaires, or other similar agreements necessary for the daily operation of the Stadium. Tenant shall require in all such contracts that in the event that City terminates this Agreement in accordance with Section 8.1, Tenant shall have the right to assign the contract and any interest therein to the City.

Section 8.2. Default by the City.

(a) An Event of Default by the City shall have occurred under this Agreement if the City fails to perform or observe any obligation or condition on its part to be performed or observed in accordance with this Agreement that relates to Tenant's right to use and operate the Stadium, subject to the rights of use by the City; or and such failure remains uncured for more than thirty days after the City's receipt of written notice of such failure from Tenant (or such longer period as may be reasonably required to effect such cure if such cure cannot be effected within such thirty day period using reasonable efforts).

(b) If the City shall be deemed in default under this Agreement pursuant to the terms and conditions of subsection 8.2 (a) above, Tenant shall be entitled to seek all rights and remedies available to it at law, or in equity, including, but not limited to, the right: (i) to seek monetary damages; (ii) to terminate this Agreement; and (iii) to cure such default on behalf of the City and bill the City for all costs incurred by Tenant to affect such cure.

(c) Notwithstanding anything to the contrary contained in this Article, in no event shall the inability of the City to cause substantial completion of the Stadium by the Commencement Date give Tenant cause to declare an Event of Default.

Section 8.3. Remedies Cumulative.

(a) Except as expressly limited in this Article VIII, the remedies described herein are

cumulative and are not intended to be exclusive of any other remedies to which the Parties may be entitled at law or in equity. The failure of a Party to (i) insist in any one or more instances upon the strict performance or observance of any of the obligations or conditions of this Agreement by the other Party; or (ii) exercise any remedy contained herein for any nonperformance or nonobservance of any obligation or condition by the other Party shall not be considered a waiver of such Party's rights to later insist upon performance of observance or to exercise its remedies. Additionally, the exercise or commencement of the exercise of any right or remedy by either Party shall not preclude the simultaneous or later exercise of any or all other rights and remedies available to such Party.

ARTICLE IX

SECURITY FOR TENANT'S PERFORMANCE

Section 9.1. Tenant's Pledge.

Tenant shall assure the performance of this Agreement and shall pledge all of the outstanding shares of Tucson Toros, Inc. and all other assets subject to being pledged by Tenant as identified within the Pledge Agreement, as security for its pledge. The obligations of Tenant under this agreement shall be secured pursuant to a Pledge Agreement in accordance with the Grizzlies Pledge Agreement, substantially in the form of Exhibit "D" attached hereto, and incorporated herein by reference as if fully set forth.

ARTICLE X

SALE OF TEAM SHARES OR ASSETS

Section 10.1. Sale of Shares.

The shareholders of Tenant may sell their shares at any time without restriction. Such transferability of shares of Tenant shall in no way affect the enforceability of this Agreement.

Section 10.2. Sale of Assets.

Tenant may not sell or otherwise transfer all or substantially all of its assets (including the franchise) to another entity without approval of the Pacific Coast League and the Office of the Commissioner of Baseball and the acceptance of an assignment of this Agreement by such transferee; provided, however, that the Parties expressly agree that the transfer of Tenant's assets shall in no way entitle the transferee to avoid performance of any term hereof, including but not limited to the obligation of Tenant to play its home games in the Stadium as required by Article XIV hereof.

Section 10.3. Tenant's Right to Terminate Agreement.

Tenant shall have no further obligations under this Agreement, including future Fixed Rental payments, in the event of one of the following:

- (i) A major league baseball franchise is located in the Fresno County area and Tenant is therefore prohibited from continuing a minor league franchise in the Fresno area, Fresno County. Tenant shall pay to City twenty percent of the net award paid to Tenant, less City's proportionate share of reasonable expenses incurred by Tenant in collecting the award, by the league or the then present value of the remaining payments of Fixed Rental and Fund payments discounted at a prime rate of interest charged by Bank of America, N.A. at the time of the award of the major league franchise, whichever is less.
- (ii) The obligations under this Agreement are assumed by another entity upon a transfer of the franchise as provided in Section 10.2 above, or
- (iii) The Pacific Coast League, or any other league in which Tenant is a member, ceases operations; provided Tenant shall make good faith efforts to continue to play professional baseball, in which case this Agreement shall remain in effect.

ARTICLE XI

ASSIGNMENT AND SUBLETTING

Section 11.1. Assignment.

This Agreement may not be assigned by Tenant except as part of the sale of the assets of Tenant as provided for in Section 10.2 hereof. The City shall have no authority to deny the assignment as defined in Section 10.2 unless: (a) it determines that the prospective assignee is not creditworthy to fulfill its obligations hereunder as determined by a third party qualified credit analyst, such as a financial institution, selected by Tenant and the City; and/or (b) it finds that the prospective assignee or its controlling principals have felony convictions or have controlling interests in businesses which engage in pornography or related enterprises. In the event that the City denies the assignment for the reasons set forth in this Article XI, Tenant shall continue to perform its obligations hereunder until a suitable assignee is selected by Tenant and approved by City.

Section 11.2. Sublease.

Tenant shall obtain the approval of the City, not to be unreasonably delayed or withheld, of the sub-sublease of any areas of the Stadium, by way of example and not limitation, restaurants and related retail facilities.

ARTICLE XII

RIGHT TO NAME STADIUM AND ADVERTISING RIGHTS

Section 12.1 Naming Rights

The Parties agree that Tenant shall have the right to name the Stadium and that such name shall be submitted to City for its review and recommendation.

ARTICLE XIII

CITY RIGHTS

Section 13.1 City Season Tickets and Skybox.

City will have the rent-free use of a twelve-seat skybox. Tenant shall provide the City with twelve season tickets for use with the skybox for Grizzlies regular season home games. City may use the skybox for other events, but City must purchase the tickets for those events. If the City elects not to purchase the skybox tickets for any event, Tenant may use the skybox for that event.

ARTICLE XIV

COVENANTS OF TENANT AND CITY

Section 14.1 Tenant Covenants

Tenant makes the following additional covenants for the entire term of this Agreement:

- (a) Tenant shall assure the Grizzlies shall maintain their good standing with the Pacific Coast League or its successor(s);
- (b) Tenant shall assure the Grizzlies shall conduct its play as a AAA baseball team;
- (c) Tenant agrees that pricing of baseball tickets and concessions shall be in amounts so as to encourage and to facilitate attendance by families to all baseball games in the Stadium;
- (d) Tenant agrees to make reasonable efforts to initiate a system that will result in a wider distribution of tickets within California;
- (e) Tenant shall preserve its corporate or other separate legal existence and all its rights and licenses to the extent necessary or desirable in the operation of its business and affairs and to be qualified to do business in the County of Fresno, State of California; and
- (f) During the term of this Agreement, Tenant covenants to use all reasonable and financially feasible means to comply with the above covenants enumerated within this Article.

In the event of the dissolution of the Pacific Coast League, or in the event of the Tenant's or Grizzlies loss of membership therein through no fault of its own, Tenant agrees to assure the Grizzlies use all reasonable and financially feasible means to obtain membership in another such organization and maintain the status of, or equivalent to, a class AAA ball club. If Tenant and the Grizzlies fail to use all such reasonable and financially feasible means to maintain either its membership in the Pacific Coast League or its status as a class AAA ball club, or if Tenant or the Grizzlies fail to use all reasonable and financially feasible means to obtain a membership in another such association and a status therein equivalent to a class AAA ball club, Tenant shall be deemed to be in default of this Agreement.

(g) Tenant covenants for Tenant, Tenant's heirs, executors, administrators, successors and assigns, and all persons claiming through this Agreement, that: (a) there shall be no discrimination against or segregation of, any person or group of persons because of race, color, creed, religion, sex, sexual orientation, age, marital status, national origin or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the land herein subleased, and (b) neither the Tenant nor any person claiming under or through the Tenant, will establish or permit any such practice of discrimination or segregation in the selection, location, number, use or occupancy of tenants, lessees, subtenants or vendees in the Stadium.

Section 14.2 City Covenants

The City, and its successors or assigns, covenants that for the Term of this Agreement and any extension thereof, it shall not offer any financial incentives, or assist in establishing or locating, any other professional baseball franchise within Fresno County. Financial incentives shall include, but not be limited to, cash payments, tax abatements, transferring interests in real estate or personal property, loans, guarantees, or any other form of financial accommodations. Provided, however, that this covenant shall not apply in the event that Tenant receives an award pursuant to Section 10.3 (i).

ARTICLE XV

QUIET ENJOYMENT

Section 15.1

The City covenants that, subject to the terms and conditions of this Agreement, Tenant shall peaceably and quietly have, hold and enjoy the Stadium for the Term and any extension of the Term. City represents that there are currently no liens, judgments or claims to the Stadium that will affect Tenant's right to occupy and enjoy the Stadium.

ARTICLE XVI

NOTICES

Section 16.1

All notices permitted or required to be made hereunder shall be in writing and delivered by hand, overnight courier or certified mail. Notices shall be deemed given (a) when actually received if delivered by hand; (b) one business day after delivery to an overnight courier if delivered by an overnight courier; or (c) three business days after deposit with the United States Postal Service if delivered by certified mail. All such notices shall be addressed to the appropriate Party as follows:

If to City:

City Manager
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3602

If to Tenant:

Fresno Diamond Group
700 Van Ness
Fresno, CA 93721

Either Party may from time to time designate a different address for notices by giving notice to that effect to the other Party in accordance with the terms and conditions of this Article XVI.

ARTICLE XVII

MISCELLANEOUS

Section 17.1. Force Majeure.

Wherever there is provided in this Agreement a time for the performance of any obligation other than the payment of a sum certain, the time provided therefor shall be extended for as long as and to the extent that delay in compliance with such time limitation is due to an event of Force Majeure.

Section 17.2. Partial Invalidity.

If any Section of this Agreement or its application to any Party or circumstance shall be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of such Section to persons or circumstances, other than those as to which it is so determined invalid or enforceable to any extent, shall not be

affected thereby, and each Section hereof shall be valid and enforceable to the fullest extent permitted by law.

Section 17.3. Obligations of the City and Tenant.

The obligations and undertakings of the City and Tenant under or in accordance with this Agreement are and shall be the obligations solely of the City and Tenant. No recourse shall be had, whether in contract, in tort or otherwise against any officer, director, employee, agent, member, volunteer or representative of the City or Tenant in his or her individual capacity on account of any obligation or undertaking of or any act or omission by the City or Tenant under or pursuant to this Agreement.

Section 17.4. Time of the Essence.

Time is of the essence with respect to all Sections of this Agreement. Accordingly, subject to applicable grace and cure periods provided for herein and the terms and conditions of Article VIII above and any other Section of this Agreement to the contrary, the failure of either Party to perform any act strictly within the applicable period specified herein shall entitle the other Party to exercise all rights and remedies contemplated hereby.

Section 17.5. Successors and Assigns.

This Agreement and all terms and conditions contained herein shall inure to the benefit of and be binding upon the successors and assigns of each of the Parties hereto.

Section 17.6. Entire Agreement.

This Agreement, together with all exhibits attached hereto, constitutes the entire and exclusive agreement between the City and Tenant relating to the Tenant's use of the Stadium. Each exhibit and attachment referenced in this Agreement is by reference, incorporated and made a part of this Agreement. This Agreement may not be modified or terminated, nor any of its Sections waived, except by an agreement in writing signed by the Party against whom the enforcement of any such modification, termination or waiver is sought. All prior agreements and understandings relative to the development, use, possession or occupancy of the Stadium by Tenant are deemed merged herein or hereby revoked. The Sections of this Agreement shall prevail and supersede any inconsistencies between the Sections of this Agreement and any exhibits attached hereto and incorporated by reference.

Section 17.7. Representations.

Each Party hereby represents and warrants to the other that it has all necessary right, power and authority to enter into this Agreement. Additionally, each Party represents and warrants that the execution and delivery of this Agreement and the performance and observance of all obligations and conditions to be performed or observed by each Party hereunder have been duly authorized by all necessary action of Tenant and the City.

Section 17.8. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event of any proceedings regarding this Agreement, the parties agree that the venue shall be the state courts of California located in Fresno County or the U.S. District Court for the Eastern District of California, Fresno Division. All Parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedure prescribed by law.

Section 17.9. Maintenance of Records and Audit

Records of Tenant pertaining to any obligations of Tenant hereunder shall be kept on a generally recognized accounting basis and shall be available to the City or its authorized representatives upon request during regular business hours throughout the life of this Agreement and for a period of three years thereafter. In addition, all books, documents, papers, and records of Tenant pertaining to any obligation of Tenant pursuant to this Agreement shall be available for the purpose of making audits, examinations, excerpts, and transcriptions for the same period of time. If an audit by the City discloses underpayment in excess of one percent of any monies due the City hereunder, reasonable audit costs shall be reimbursable by Tenant to the City. This Section shall survive expiration or termination of this Agreement.

Section 17.10. Joint and Several Liability

Grizzlies and FDG shall be joint and severally liable under all terms and conditions of this Agreement.

Section 17.11. Attorney's Fees

If either Party files any action or brings any proceeding against any other Party arising out of this Agreement, or is made a party to any action or proceeding relating to this Agreement brought by any person or entity, then as between the Parties hereto, the prevailing Party shall be entitled to recover as an element of its costs of suit and not as damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be a party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. A Party not entitled to recover its costs shall not recover attorneys' fees. No sum for attorneys' fees shall be counted when calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.

Section 17.12. Subordination of Tenant's Interest

(a) It is understood by the Parties that the City is entering into this Agreement in anticipation of financing the Construction Costs and other related City expenses through a Bond Transaction. The City and the Fresno Joint Powers Financing Authority intend to enter into numerous financing documents for the purpose of issuing lease revenue bonds to fund the Construction Costs. Tenant agrees that any interest created in this Agreement of any kind shall

be subordinated and junior to any interest in bondholders, underwriters or other third parties commercially necessary for City to issue municipal bonds. Tenant further agrees to execute and sign any agreement necessary to subordinate any interest Tenant may have under this Agreement for purposes of the Bond Transaction.

(b) City agrees that Tenant's possession of the Stadium shall not be disturbed by bondholders, underwriters, trustees or other third parties ("Bond Parties") related to the Bond Transaction during the Term of this Agreement, and City shall not join Tenant in any action or proceeding for the purpose of terminating this Lease, except upon the occurrence of a default by Tenant under this Lease and the continuance of such default beyond any cure period given to Tenant under this Lease.

(c) If Bond Parties obtain possession of the Stadium, Tenant shall attorn to any rights of the Bond Parties acquired in accordance with the Bond Transaction, be bound to the Bond Parties in accordance with all of the provisions of this Lease and related documents and agreements for the balance of the Term of this Agreement, and recognize Bond Parties as the City under this Lease for the unexpired Term. Such attornment shall be effective without Bond Parties being: (i) subject to any offsets or defenses, or otherwise liable, for any prior act or omission of City; (ii) bound by any amendment, modification, or waiver of any of the provisions of this Agreement, or by any separate agreement between City and Tenant relating to the Stadium or Property, unless any such action was taken with the prior written consent of the Bond Parties; (iii) liable for the return of any security or other deposit unless the deposit has been paid to the Bond Parties; (iv) bound by any payment of rent or other monthly payment under this Agreement made by Tenant more than one (1) month in advance of the due date; or (v) bound by any option, right of first refusal, or similar right of Tenant to lease any other property (other than the Stadium) or to purchase all or any portion of the Property.

Section 17.13. Counterparts.

This Agreement may be executed in counterparts, each of which when executed and delivered will be deemed an original, and all of which together will constitute one instrument.

IN WITNESS WHEREOF, the Parties have executed this Sublease Agreement as of the date first written.

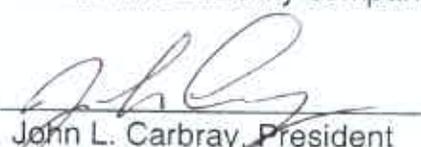
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TENANT

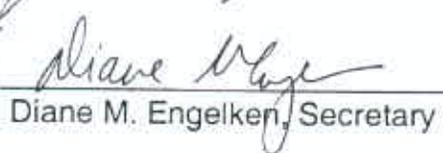
City of Fresno

Fresno Diamond Group, LLC, a
California limited liability company

By 

By 
John L. Carbray, President

Andrew T. Souza, Interim City Manager
(Printed Name & Title)

By 
Diane M. Engelken, Secretary

FRESNO GRIZZLIES, INC. a California
corporation

By 
John L. Carbray, President

By 
Diane M. Engelken, Secretary



EXHIBITS

- | | |
|-----------|---|
| Exhibit A | Program of Facility Requirements for a New AAA Minor League Baseball Stadium for Fresno, California |
| Exhibit B | Development Schedule |
| Exhibit C | Fresno Diamond Group Stadium Rental Agreement |
| Exhibit D | Pledge Agreement |

Program of Facility Requirements for a New AAA Minor League Baseball Stadium for Fresno, California

Based on the requirements by Major League Baseball for minor league teams and ADA requirements, HOK with the City of Fresno has prepared a program statement for the proposed stadium. This facility program is an outline of the actual physical requirements related to seating, stadium configuration, parking and other support amenities. The actual physical layout of the facility may vary from this program due to constraints encountered during the design process.

A. SPECTATOR FACILITIES

A.1 Seating

A minimum of approximately 12,500 seats will be provided for viewing minor league baseball as well as other events, which may include football, softball, soccer, and concerts. Approximately two thirds of these seats will be located in the lower seating bowl with the balance in the upper bowl, suites, and club. In the seating bowl seats shall be self rising stadium armchairs and "equal access" foldaway chairs for the physically disadvantaged. Seating will be divided into seats in the lower bowl, the upper bowl, club seats, and suite seats

Seating areas for physically disadvantaged wheelchair patrons plus an equal number of companion seats as well as an equal number of ambulatory disabled aisle seats shall be provided and evenly dispersed throughout the stadium. Spaces shall be provided with choice of admissions and sightlines shall be comparable to general public seating

- All seating sections except skewed or radial bay sections shall include, whenever possible, an even number of seats between rows. Aisles with seats on both sides shall be 48 inch minimum width and aisles serving seats only on one side shall be 36" minimum width, except when serving less than 5 rows in which case single loaded aisles may be 23" minimum width.
- Minimum seat width shall be 20 inches for armchair seating except aisle seats may be 19 inches for coursing. Club level shall be 22" wide. Suites level seats shall be 22 inches wide.
- Minimum tread width shall be 34 inches in the upper and lower bowl seating areas. Tread width in suite seating areas shall have 36 inches minimum tread width. The club level seats shall have a minimum tread width of 45 inches and a maximum of 48 inches.

- The first row of seats shall be approximately 6" above the field. The maximum number of seats per row shall be 24 except that "box seats" behind home plate in the lower bowl shall be a maximum of 18 seats between aisles.
- Handrails and guardrails shall be provided as required at all vertical aisles, portals, in front of raised wheelchair seating sections, and behind the back row of seats adjacent to concourses and cross aisles. Front guardrails shall be approximately 30" high except at the front of aisles where they shall be 42" high. Railings in the seating bowl shall be hot dipped galvanized steel.

A.2 Stadium Suites

Thirty luxury suites will be provided with enclosed lounge spaces and outdoor fixed seating. In addition to the thirty luxury suites there will be one suite for the City of Fresno. All outdoor seats shall be self-rising stadium arm chairs with a minimum width (See section A.1). The suites shall be composed of a mixture of sizes. Each suite shall include two rows of outdoor seating with seating treads a minimum of (See section A.1). A deeper tread will be provided for wheelchair access. One large suite shall be designated as the Team Owner's suite.

- Suites shall be provided with electrical power including 110 volt duplex outlets appropriately distributed plus G.F.I. outlets located on the rear wall to provide power for an under counter refrigerator/ice maker and located above the countertop for general power. A phone jack for mounting a wall phone shall also be provided.
- Lighting in the suites shall be recessed fluorescent fixtures or incandescent can light fixtures or a combination of both. The total minimum light level shall be 30 foot candles.
- General air conditioning and heating will be provided with a separate thermostat control in each suite. Suites also shall include cold water service.
- TV jacks with wall blocking to support TV mounting brackets and TV and recessed ceiling speaker with volume control also shall be provided (TV and bracket not included).
- Suite furnishings to include built-in back cabinet with (cold water only) wet bar and cut out for under counter combination refrigerator / ice maker (refrigerator / ice makers not included) and matching overhead wall cabinets. Along the front glazed suite wall a fixed 8" to 12" wide plastic laminate drink shelf shall be installed at a height designed to allow wheelchair access.

A.3 Club Lounge (approximately 2,000 square feet)

A Club Lounge shall be provided at a level below the Suite level for use by the Club seating fans. The club lounge shall include a bar and be adjacent to a minimum 1000 sq. ft. pantry. The pantry shall be a staging area for food prepared by the commissary. Light utensil storage and cleaning as well as ice storage may be provided in the pantry.

- Club lounge finishes shall include carpeted floor, 4" straight vinyl base, vinyl wallcovering on walls, aluminum curtain wall with tinted glass and 2'x4' suspended acoustical tile ceilings at 9'-0" or exposed ceiling.
- Interior doors if needed shall be 3'0"x7'0" solid core wood doors in painted hollow metal frames. Exterior doors shall be hollow metal or aluminum medium stile glazed storefront. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops and vision lites.
- Club lounge shall be provided with electrical power including 110 volt duplex outlets appropriately distributed.
- Lighting in the club lounge shall be recessed fluorescent fixtures, incandescent can light fixtures or a combination of both. The total minimum light level shall be 30 foot candles.
- General air conditioning and heating will be provided with a separate thermostat control.
- TV jack(s) with wall blocking to support TV mounting brackets and TV and recessed ceiling speaker(s) with volume control also shall be provided (TVs and brackets not included).

A.4 Club Seating

Club seating shall consist of a minimum of 500 (See section A.1) wide armchair seats with flip-up seats. Seat treads shall be a minimum of (See section A.1). Access to the club seats shall be through the club lounge. The Club Seating will have either a drink rail or a cup holder and that decision will be made in consultation with the Tenant.

A.5 Swimming Pool and Jacuzzi Area

A location on the site plan for a swimming pool shall be located between the outfield and the alley adjacent to the Kern Mall entrance. Space shall be allocated for the swimming pool and whirlpool on the Site Plan, but design and construction of the swimming and whirlpool area, including all equipment, shall be by the tenant. Water, power and sewer will be provided to the pool location. City of Fresno will work with Tenant on the location of restroom facility if required.

B. PUBLIC FACILITIES

B.1 Public Toilets

Toilet rooms shall be provided and appropriately distributed for men and women at the concourse. The ratio of spectators to fixtures shall be based on 50% male and 50% female attendance. Fixtures shall be provided based on the following recommendations:

		Recommended Lower level	Recommended Suite Level
Lavatories	Men (1/200)	30	2
	Women (1/200)	30	2
Water Closets	Men (1/400)	15	1
	Women (1/100)	59	4
Urinals	Men (1/135)	44	3

- At each pair of public toilets on the concourse a custodial closet of approximately 50 sq. ft. will be provided with a janitor's floor sink with vacuum break, hose bib, mop rack and two 48" long x 12" deep shelves.
- Individual urinals shall be provided in men's toilets while women's toilets shall include stainless steel purse shelves above lavatories and a coin operated sanitary napkin dispenser. All water closets will include pre-finished floor mounted baked enamel metal toilet partitions with bulk roll toilet paper dispensers and in the women's water closets a sanitary napkin disposal bin will be provided. Polished stainless steel mirrors will be provided above individual and gang lavatories with a liquid soap dispenser next to each. Paper towel dispensers, trash receptacles will be included in each toilet as well
- At least one fully accessible water closet stall with grab bars, accessible urinal (men's toilets), and accessible lavatory with mirror shall be provided at each public toilet room. At public toilet rooms with 6 or more fixtures an alternate 36" wide accessible water closet for the physically disadvantaged shall be provided including grab bars. Men's public restrooms with 8 or more urinals shall include two accessible urinals for the physically disadvantaged and/or children. Mirrors at accessible lavatories shall also meet ADA requirements for the physically disadvantaged.
- Gang lavatories may be used in public restrooms with four or more fixtures.
- Public toilet room finishes shall include sealed concrete floors, epoxy painted walls and painted exposed structure above.

- Large public concourse toilets shall have painted hollow metal 3'0"x7'0" entry and exit doors with all necessary hardware such as keyed cylinder locks, closers, push plates, kickplates and door stops.
- Smaller toilets shall have a single 3'-0" x 7'-0" painted hollow metal door with keyed cylinder locks, closer and push/pull hardware. Single fixture toilet doors shall have keyed thumb turn latches.
- Public toilet rooms shall be equipped with vandal resistant wet location 30 foot candle general industrial fluorescent lighting with shatterproof lenses or sleeves, G.F.I. receptacle, overhead speakers, 1" key operated wash down hose bib, floor drains, cold water service and general exhaust ventilation.
- Toilets shall be equipped with a diaper changing station.

B.2 Family Toilets

Two separate family toilet rooms of approx. 50 sq. ft. each will be provided for assistance of the physically disadvantaged and other special needs such as parents with small children.

- Family toilets shall be equipped with a diaper changing station, an accessible water closet with grab bars and an accessible lavatory with a polished stainless steel mirror. A bulk roll toilet paper dispenser, recessed paper towel dispenser, liquid soap dispenser and coin operated sanitary napkin dispenser shall also be included.
- Family toilet room finishes shall include sealed concrete floors, 4" vinyl cove base, epoxy painted masonry block walls, or 4"X4" wall tile on sheathed metal stud walls, and painted exposed structure above.
- Family toilets shall have painted hollow metal 3'0"x7'0" doors including all necessary hardware such as keyed thumb turn latch, lockset, closers, push/pulls, kickplates and door stops.
- Family toilet rooms shall be equipped with vandal resistant wet location 30 foot-candle general industrial fluorescent lighting with shatterproof sleeves, floor drain, cold water service and general exhaust ventilation.

B.3 Suite Level Toilets

One central public toilet for men and women suite patrons accessible to the physically disadvantaged and located off the suite corridor near the Press Box. At each suite toilet a custodial closet of approximately 50 square feet will be provided with a janitor's floor sink with vacuum break, hose bib, mop rack and two 48" long x 12" deep shelves.

- women's suite toilet shall include a minimum of five water closets and three lavatories and each men's suite toilet shall include two water closet, three urinals and three lavatories.
- Individual urinals shall be provided in men's suite toilets while women's suite toilets shall include stainless steel purse shelves above lavatories and a coin operated sanitary napkin dispenser. All water closets will include baked enamel floor mounted metal toilet partitions with bulk roll toilet paper dispensers and in the women's water closets a sanitary napkin disposal bin will be provided. Large mirrors will be provided above lavatories with a liquid soap dispenser next to each lavatory. Paper towel dispensers, recessed trash receptacles and fixed or fold down diaper changing stations will be included in each suite toilet as well.
- At least one accessible water closet stall including grab bars and one accessible lavatory shall be provided at each suite toilet room. Mirrors at accessible lavatories shall also meet ADA requirements for the physically disadvantaged.
- Suite toilet finishes shall include ceramic tile floors and base, vinyl wall covering, plastic laminate lavatory counter and 2'x4' suspended acoustical tile.
- Doors to the suite toilets shall be 3'0"x7'0" solid core wood doors in painted hollow metal frames and shall have privacy wall to prevent direct views into the toilets. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates and door stops.
- Each suite toilet shall be provided with a 110 volt G.F.I. duplex outlet located above the lavatory countertop for general power and a recessed ceiling mounted speaker.
- Lighting in the suite toilets shall be vandal resistant wet location recessed fluorescent fixtures and fluorescent light coves. The total minimum light level shall be 30 foot candles.
- General air conditioning, heating and exhaust will be provided along with cold and hot water service in mixing faucets in the lavatories and drain(s) in the floors.

B.4 Drinking Fountains

Non-refrigerated drinking fountains shall be included along the concourse and suite level dispersed in groups at each pair of public toilets. At each location one drinking fountain shall meet all ADA requirements for the physically disadvantaged.

On the suite/press level one stainless steel non-refrigerated drinking fountain will be located in the corridor at each pair of suite toilets. These drinking fountains shall meet all ADA requirements for the physically disadvantaged.

One stainless steel refrigerated drinking fountain shall be located in the administration area, preferably close to the administration toilets and this drinking fountain shall meet all the requirements of the ADA for the physically disadvantaged. A G.F.I. 110 volt wall outlet will also be provided at this fountain.

One stainless steel refrigerated drinking fountain shall be located in the maintenance area and the corridor outside the concession and stadium personnel locker rooms and this drinking fountain shall meet all the requirements of the ADA for the physically disadvantaged.

B.5 Public Telephones

Locations and conduit with pullstrings for 8 public telephones shall be provided on the concourse plus one in each of the clubhouses and one at exterior ticket office. Phones to be provided and installed by local phone company with at least one phone at each location accessible to the physically disadvantaged.

C. CONCESSIONAIRE FACILITIES

Items included in Base Bid:

Concrete floor, metal stud walls with out gypsum board, painted hollow metal door, a crank operated steel overhead coiling shutter door, fly fan/air curtains at openings if required, an electrical sub-panel, a phone jack with conduit and pullstring, 1 1/2 inch cold water taps, 4 inch sanitary drain, and 1 inch gas service.

Items included in Concessionaire's Interior Finishes and Food Service Equipment Bid:

Kitchen and food handling equipment for concession, vending and catering operation including menu boards, exhaust hoods, fans and ductwork, grease interceptors, cookers, warmers, beverage storage, beverage pumping systems, freezers, walk-in coolers, water heaters (supplying concession areas), hand sinks (in concession areas), floor sinks and drains and the hook up of all equipment, sanitary ceiling and lighting. All other equipment as may be required to provide a workable concession, catering and vending operation.

C.1 Concession Stands

It is intended that the concession stands will provide soft drinks, beer and a specialty menu of easily prepared or precooked food items such as hot dogs, nacho chips and polish sausages. Space in each stand will be allocated to allow a storage and food warming area, which is intended to be separated from the serving area. Menus will be developed by the food service company.

The following shall reasonably describe the suggested concession requirements:

- Concession stands shall be located and appropriately distributed on the concourse level. Space for one serving station of approximately five linear feet shall be provided for each 250 spectators.

- Wall construction on the concourse side of the concession stands above 7 feet will accommodate concession signage and shall include openings with overhead painted steel coiling shutter doors and a full width stainless steel serving counter located at an accessible height for the physical disadvantaged.
- Some concession stands will accommodate a limited amount of food preparation; however, much of the food preparation will be accomplished in a central kitchen.
- Space for a stainless steel condiment counter shall be provided adjacent to each concession stand to hold relish, mustard, catsup, napkins, etc
- Concessions shall include sealed concrete floors, cmu and metal stud/gypsum board walls, and exposed structure above. Concessionaire shall provide all portable equipment.
- Each stand will include one 3'-0" minimum width x 7'-0" painted hollow metal door to allow necessary access and deliveries. At each serving opening a painted steel overhead coiling shutter door will be provided that is crank operated. Doors shall include all necessary hardware such as locksets, closers, push/pulls, kickplates, door stops, weather stripping and thresholds.
- Each concession stand shall be provided with appropriate electrical power distribution panels.
- Each concession stand includes a phone jack with conduit and pullstring, 1 1/2" cold water taps and 4" sanitary drain. In addition fly fan/air curtains will be installed the full width of front openings to meet local health codes.
- A 1" gas service will be available in all cooking areas as needed.
- Electric outlets for portables on the concourse shall be provided and wall mounted at the field wall as required.

C.2 Central Kitchen and Storage

The main central kitchen will prepare most fried and long order food items. This kitchen will be designed to meet local health department requirements. A general commissary storage area for dry and cold storage will be on the service level.

- Space shall include sealed concrete floor, cmu and metal stud/gypsum board walls, and exposed structure above. Concessionaire shall provide all portable equipment.
- Doors shall include 3'-0" x 7'-0" painted hollow metal single doors; pairs of doors and a minimum 8 foot by 8 foot painted steel power operated overhead coiling dock door. Doors shall include all necessary hardware such as locksets, closers,

push/pulls, kickplates, door stops, vision lites where appropriate and weather stripping and thresholds on exterior doors.

- The commissary kitchen and storage shall be provided with electrical power distribution panels as required for the estimated electrical load of the kitchen.
- The kitchen includes a phone jack with conduit and pullstring, 1 1/2" cold water taps, 4" sanitary drain and 1" gas service. At overhead coiling door openings fly fan/air curtains will be installed the full width of openings as required to meet local health codes.

C.3 Commissary Loading Area

A truck loading area shall be provided with access to the Commissary and promotional storage facilities

- This loading area shall be equipped with a minimum 8' x 8' power operated overhead coiling door as well as a 3'-0" x 7'-0" painted hollow metal man door with a vision lite and appropriate hardware.

C.4 Concessionaire's Offices (approximately 400 square feet)

A shell space for concessionaire's office area providing space for concessions manager, an assistant, a secretary, general storage and a money room provided near the commissary and the concession personnel locker rooms.

- Room finishes shall include concrete floors; concrete, masonry block, or metal stud walls and exposed structure above.
- Doors shall include 3'-0" x 7'-0" painted hollow metal doors. Doors shall include all necessary hardware such as locksets, closers, push/pulls, kickplates and door stops.
- A money room shall be located adjacent to the service level corridor.

C.5 Concession Personnel Lockers and Toilets

- Locker room space shall be provided for concession personnel. Allowance for separate locker rooms of approximately 200 square feet each for 60 men and 60 women shall be provided with each having an adjoining dedicated accessible toilet.
- Concession personnel toilets shall be equipped with an accessible water closet with grab bars and an accessible lavatory with a polished stainless steel mirror with purse shelf. A bulk roll toilet paper dispenser, recessed paper towel

dispenser, liquid soap dispenser and clothes hooks. A coin operated sanitary napkin dispenser also will be provided in the women's toilets.

- Locker rooms shall include sealed concrete floors, masonry block and/or metal stud and gypsum board walls and exposed structure above.
- Toilet room finishes shall include sealed concrete floors, 4" vinyl cove base, epoxy painted walls and painted exposed structure above.
- Doors shall be painted hollow metal 3'0"x7'0" doors including all necessary hardware such as keyed thumb turn latch, lockset, closers, push/pulls, kickplates and door stops.
- Toilet rooms shall be equipped with vandal resistant 30 foot-candle wet-location general industrial fluorescent lighting with shatterproof sleeves.
- General power 110 volt duplex wall outlets shall be provided as appropriate in the locker rooms and one 110 volt G.F.I. duplex outlet shall be provided in each toilet.
- A floor drain and cold water service shall be provided in the toilets. Exhaust shall be provided in toilets.

C.6 Vendors' Commissary

One vendor facility for food distribution and storage shall be located on the main concourse. It shall be designed to provide service space for approximately one vendor per 350 seats

- Finishes shall include sealed concrete floor, masonry block or metal stud walls. Concessionaire shall provide portable equipment.
- Doors shall be bypass minimum 3'4" x 7'0" or a pair of 3'0"x7'0" painted hollow metal doors with all necessary hardware such as locksets, closers, push/pulls, kickplates, door stops, small vision lites and weather stripping and thresholds.
- The vending commissary shall be provided with general electrical power distribution panel as required for the electrical load.
- The vending commissary will include a phone jack, 1 1/2" cold water taps and 4" sanitary drain hookup
- Fly fan/air curtains may be required at door openings to meet local health codes.
- Power for portable vending kiosks shall be located at columns on the main concourse at designated columns.

C.7 Suite Pantry

One pantry will be provided on the suite level for food service to the suites. Pantry will be approximately 600 sq. ft. and will accommodate food serving and bussing functions only. All food preparation will occur in the Central Kitchen.

- Space shall include sealed concrete floor, metal stud and gypsum board walls and exposed structure above. Concessionaire shall provide portable equipment.
- Doors shall be bypass 3'4" minimum x7'0" painted hollow metal doors. Doors set in jambs with offset door stops shall include all necessary hardware such as lockset, closer, pushplate, small vision lites, mid-height stainless steel kickplates and door stop.
- The pantries shall be provided with general electrical power distribution panels as required for the electrical load
- The pantry includes a wall mounted phone jack with conduit and pullstring, 1 1/2" cold water tap, 4" sanitary drain and 1" gas service.

C.8 Picnic Area

- A paved picnic area shall be located on the concourse level. A shading canopy of cloth or plant material on trelliswork shall be provided.
- A shaded area for a buffet line shall be located adjacent to the picnic area. A space for a concession area or portable trailer shall be located adjacent to the buffet line.
- Space for a small stage/bandstand shall be provided adjacent to the picnic area. Bandstand shall be provided by tenant.

D. STADIUM AMENITIES

D.1 Novelty Store

The main novelty store facility of approximately 1,200 sq. ft with an additional 300 sq. ft. for storage and 150 sq. ft. office. will have direct access to both the concourse and parking so as to be open for business even during non-event times and shall be operational year round. Facility shall merchandise local and national sports souvenirs.

- Room finishes in novelty store shall include carpeted floors, 4" straight vinyl base, painted walls with solid insert slatwall for display, aluminum and insulated glass storefront and 2'x 4' suspended acoustical tile ceiling at 10'0" A.F.F.
- Interior doors shall be 3'0"x7'0" solid core wood doors in painted hollow metal frames and exterior doors shall probably be set in pairs with each door a minimum 3'0"x7'0" "medium stile" aluminum and glass door in aluminum storefront system.

Doors shall include all necessary hardware such as locksets, closers, push/pulls, kickplates, door stops, vision lites where appropriate, panic hardware and weather stripping and thresholds on exterior doors.

- The novelty store shall be provided with electrical power including 110 volt duplex outlets and phone jacks appropriately distributed throughout the space including the floor at the check out area.
- Lighting for the store display area shall consist of recessed minimum 50 foot candle general fluorescent fixtures with additional track lighting to accent each display wall.
- General air conditioning and heating will be provided on a year round basis with a separate thermostat control. TV jacks with wall blocking to support TV mounting brackets and recessed ceiling speaker(s) also shall be provided.

D.2 Novelty Cart Locations

Space and G.F.I. power will be provided for portable novelty carts. Carts shall be provided by the tenant.

D.3 Ticket Windows/Ticket Office

At the Main Entry, eight exterior ticket windows will be provided. One window shall be located on the concourse, accessible from within the stadium. Two window shall be located outside of left field at the Kern Mall entrance

A lobby with an exterior entrance and an interior secured door to the ticketing office shall be provided. A counter will be located in the lobby. One private office shall be provided for the manager. An approximately 8'x8' secure ticket storage room/vault shall also be located in the Ticket Office. It shall be constructed of concrete masonry walls with a secure roof/ceiling.

- Room finishes in the main ticket windows adjacent to the offices shall include carpeted floors, 4" straight vinyl base, painted metal stud and gypsum board walls, aluminum and security glass ticket windows with counter pass through and 2'x4' suspended acoustical tile ceiling at 8'6" A.F.F.
- Room finishes in the secondary center field ticket window room shall include sealed concrete floors, 4" vinyl cove base, painted masonry block or metal stud and gypsum board walls, aluminum and security glass ticket windows with counter pass through and 2'x4' vinyl faced suspended acoustical tile ceilings at 8'6" A.F.F.
- Doors shall include a 3'0"x7'0" solid core wood door in a painted hollow metal frame between the main ticket windows room and the ticket offices. All other doors shall be 3'0"x7'0" painted hollow metal doors in painted hollow metal frames. Doors shall include all necessary hardware such as locksets, closers,

push/pulls, kickplates, door stops, vision lites in wood door, peek holes in hollow metal doors and weather stripping and thresholds on exterior doors.

- The ticket window spaces shall be provided with electrical power including 110 volt duplex wall outlets plus a continuous plug mold along the front wall below the counters. In addition one dedicated circuit will be provided at each ticket window and one telephone jack in each ticket room will be provided. Lighting shall be recessed fluorescent fixtures with a minimum of 50 foot candles. Each window shall be provided with a dedicated circuit, conduit connecting all windows for a phone line modem and a dedicated phone line for modem hookup with main ticket master system to allow for future hook up.
- General air conditioning and heating will be provided in all ticket spaces with the main ticket window space conditioned on a year round basis and the remote windows designed to be shut down in the off season. Each ticket window shall be equipped with a battery operated speak hole.
- Furnishings shall include an "L" shaped built-in work counter with a cash drawer at each ticket window, changeable letter panels visible to patrons standing in line to purchase tickets.

D.4 Courtesy/Information Booth (approximately 130 square feet)

Space shall be provided for lucky number giveaways, customer service and fan comments and complaints.

- Finishes shall include sealed concrete floors, 4" vinyl cove base, painted masonry block or metal stud walls and painted exposed structure above.
- Door shall be a 3'0"x7'0" painted hollow metal door and frame and shall include all necessary hardware such as lockset, closer, pushplate, kickplates, door stop, weather stripping and threshold. In addition an approximately 5'x4' crank operated overhead painted steel shutter door shall be provided at the give away window with all appropriate hardware.
- Courtesy/Information Booth shall be provided with electrical power including 110 volt duplex outlet appropriately distributed within the space along with one phone jack.
- Lighting shall be industrial fluorescent fixtures with a minimum of 30 foot-candles.

D.5 Security Office (approximately 145 square feet)

Provide office facility for the permanent stadium security force. Space can also serve as a command post for the game day security force. Security should be located adjacent to first-aid in an accessible area off the concourse. (Security may be combined with first-aid).

- Room finishes in office shall include vinyl tile floor, 4" vinyl cove base, painted walls and painted exposed structure above.
- Doors shall include 3'0"x7'0" painted hollow metal doors. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops, vision lites and weather stripping and threshold on exterior doors.
- Security office shall be provided with electrical power including 110 volt duplex outlets appropriately distributed and a phone jack.
- Lighting shall be vandal proof fluorescent fixtures providing a minimum 30 foot candle with shatterproof lens.
- Security office shall be provided with general air conditioning and heating which can be either shut down during the off-season or provided on a year round basis with a separate thermostat control and a ceiling speaker with volume control in the office area.

D.5.1 Security

Appropriate security against illegal entry to or improper access within the stadium shall include fencing, walls, gates and doors to completely enclose stadium.

- Conduit with pull strings to allow for an electronic intrusion alarm.
- A fire resistant money room / ticket storage room in the ticket office will be provided as well as security glass at all ticket windows.
- Doors shall include locksets as required with stair exit doors and all other exit-only doors provided without exterior hardware to allow entry.

D.6 First Aid

Approximately 140 square feet for first-aid treatment. First-aid office shall contain space for an EMT, space for a cot, a hand sink and an additional 40 to 50 square foot accessible toilet room for the physically disadvantaged with lavatory and water closet (may use one of the family toilets). First-aid shall be located adjacent to security. (First-aid may be combined with security).

- Room finishes in first-aid office shall include vinyl tile floor, 4" vinyl cove base, painted walls and exposed painted structure above.
- Room finishes in toilet shall include vinyl tile floor, 4" vinyl cove base, epoxy painted walls and painted exposed structure above.

- Doors shall include 3'0"x7'0" painted hollow metal doors. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops, vision lites where appropriate and weather stripping and threshold on exterior doors.
- First-aid office shall be provided with electrical power including 110 volt duplex outlets appropriately distributed and a phone jack plus a 110 volt G.F.I. outlet in the toilet.
- First-aid lighting shall be a vandal proof fluorescent fixture providing a minimum of 20 foot candles in the toilet. Lighting for the first-aid office shall be recessed minimum 50 foot candle general industrial fluorescent fixtures with shatterproof lenses.
- First-aid office shall be provided with general air conditioning and heating which can be completely shut down during the off-season.
- Toilet shall be provided with an accessible water closet and an accessible lavatory with a mirror with purse shelf. A bulk roll toilet paper dispenser, recessed paper towel dispenser/trash receptacle, sanitary napkin dispenser, liquid soap dispenser, floor drain and clothes hook.
- Within the first-aid office a hand sink built into a plastic laminate base cabinet with hot and cold water service, recessed paper towel dispenser/trash receptacle and liquid soap dispenser shall be provided.

D.7 Walk of Fame

Outside of the main entry to the concourse an area shall be designated for brick pavers to be sold by the team. Space for 20,000, nominally 4" x 8", brick pavers. Design and construction of Walk of Fame shall be by tenant. Space shall be stubbed for water and power.

D.8 "Kids" Play Area

On the site outside the concourse entrance, an area of approximately 7,000 sq. ft. shall be dedicated to auxiliary entertainment. Electrical power will be stubbed as required, all play equipment shall be supplied by tenant.

E. STADIUM FACILITIES

E.1 Turnstiles

There shall be space provided for nine portable, reversible, registering turnstiles and space for ticket takers with hot dipped galvanized railings for crowd control provided. A minimum 30" wide space shall be provided for each 1500 seats. At least one accessible entry shall be provided at all entry locations. Turnstiles shall be supplied by tenant.

E.2 Sound Systems

A complete distributed sound system, which may include a combination of directional, and distributed speakers shall serve the entire stadium to include distributed speakers for concourses, lockers, offices, suites, toilets, and other spaces.

E.3 Signage and Graphics

Provisions shall be included for signage and graphics for the stadium. The signage and graphics shall be coordinated to create a consistent system throughout the stadium. The following list identifies these items:

- Identification of stadium entrances, including ticket booths (with ticket price board) and special entrances.
- Signage within the stadium to indicate concourse levels, seating sections, seating aisles, seating rows and seat numbers.
- Identification of toilet rooms, first aid, security, team administration, fan accommodations, exits and other public facilities.
- Identification of concession and novelty facilities (may be lighted).
- Signage for the physically disadvantaged, including Braille signage and wheelchair access signage
- Stadium I.D. signage (may be lighted).
- Warning signage regarding foul balls and thrown bats.
- Does not include specific advertising signage and scoreboard.

E.4 Stadium Lighting

General illumination throughout the stadium (concourses, hallways, stairs and portals) is provided with lighting levels commensurate with activity of space. Emergency lighting capable of being shut off during non-event days will be provided as required by local and national building safety codes.

E.5 Fire Protection

Fire protection equipment such as fire sprinklers, standpipes, etc., shall be provided as required by applicable building and safety codes. Care shall be taken to allow system to function year round in areas where heating and ventilation either do not exist or are shut down. Security and fire panels shall be located in or near the administration area on the ground level with direct exterior access for the fire department.

All enclosed areas shall be sprinkled. Finished ceilings shall receive recessed painted whiteheads and enclosed areas with exposed structure above shall receive standard sprinkler heads and exposed piping.

E.6 Elevators

Two passenger elevators shall serve the concourse, administration and press levels of the stadium and shall include a finished elevator lobby on each level. Passenger elevators shall be located at the stadium VIP / Suite and Press entry. Passenger elevators shall be a hydraulic type with a cab size of (approximately) 5'-4" x 8'-5", 3,500 pound capacity and a travel speed of 200 F.P.M.

In addition, one hydraulic "hospital" type elevator shall serve all levels of the stadium with a 3,500 to 5,000 pound minimum capacity and a travel speed of 200 F.P.M. "Hospital" type elevator shall serve to move freight, food service, large delivery items, stadium personnel and the press.

- Elevator controls shall meet all ADA requirements.
- Elevator finishes shall include stainless steel doors and standard finish cab interiors with one set of freight pads provided for each. Elevators shall all have standard finish illuminated ceilings. Ceiling heights shall be 7'0" minimum in passenger elevators and 9'0" minimum in "hospital" type elevator.
- All elevators shall be provided with emergency power, emergency phone and a minimum of 20 foot candle lighting.
- Elevator shafts shall include all necessary structural support including spreader beams.

E.6.1 Passenger Elevator Lobbies

A minimum of 200 square feet shall be provided in front of the elevators at each level served.

- Elevator lobby finishes shall include carpeted floors, 4" straight vinyl base, vinyl wallcovering on walls, aluminum curtain wall with insulated tinted glass at the exterior and 2'x 4' suspended acoustical tile ceilings.
- Doors shall be 3'0"x7'0" single and or pairs of solid core wood doors in painted hollow metal frames into other interior spaces and medium stile aluminum and glass pairs of minimum 3'0" x7'0" exterior doors. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops, panic hardware and vision lites where appropriate.
- Lobbies shall be provided with electrical power including 110 volt duplex outlets appropriately distributed.

- Lighting in the lobbies shall be recessed fluorescent fixtures or incandescent can light fixtures or a combination of both. The total minimum light level shall be 30 foot candles.
- General air conditioning, heating and ventilation will be provided with the ability to operate on a year round basis (suite/press level lobby may be shut down during off season and will need special protection of plumbing and finishes).
- Recessed ceiling speakers also shall be provided in each elevator lobby

E.6.2 Freight ("hospital" type) Elevator Lobby

A separate freight elevator lobby shall be provided on the concourse and service level in front of the freight elevator. A minimum of 100 square feet will be provided on each level. Lobby shall be located close to the promotional storage; commissary and the commissary loading dock area.

- Finishes shall include sealed concrete floors, 4" vinyl cove base, painted masonry block walls and painted exposed structure above.
- Doors shall include 3'0"x7'0" painted hollow metal pairs of doors. Doors shall include all necessary hardware such as locksets, closers, push/pulls, kickplates and door stops.
- Lighting for the freight lobbies shall be industrial fluorescent fixtures with wire shields and a minimum of 20 foot candles. Space shall include a 110 volt duplex wall outlet and general heating and ventilation shall be provided to all levels with the ability to shut down the suite / press level during the off season.

F. PRESS FACILITIES

F.1 Press Box - Approximately 2,600 Net Square Feet

Press box facilities accommodating the news media shall be located above the main concourse level and centered on the "home plate" axis. Press box shall be separated from the rest of the stadium by means of a separate private corridor with a controlled door(s) off of the suite corridor.

Shall include the following areas and approximate sizes:

- Writing Press.....	600 sq. ft.
- TV Broadcast Booth.....	120 sq. ft.
- Radio Broadcast Booth.....	2 @ 100 sq. ft. each
- Alt. Broadcast Booth.....	120 sq. ft.
- Public Address/Scoreboard/Message Board/Sound.....	250 sq. ft.
- Press Toilets.....	150 sq. ft. each
- Copy Room/Workroom/Lounge/Storage.....	150 sq. ft.
- Equipment Room.....	150 sq. ft.

- Finishes in the broadcast, public address (P.A.) sound room, writing press and press copy/storage room shall include carpeted floors, 4" straight vinyl base, painted walls, aluminum and 1/2" laminated safety operable single hung glass wall facing the playing field and 2'x4' suspended acoustical tile ceilings.
- Finishes in the press corridor shall include carpeted floors, 4" straight vinyl base, painted gyp. board walls and 2'x4' suspended acoustical tile ceilings.
- Finishes in equipment room shall include sealed concrete floors, 4" vinyl cove base, painted gyp. Board walls and 2'x4' suspended acoustical tile ceilings.
- Interior doors in the press area shall be 3'0"x7'0" solid core wood doors in painted hollow metal frames. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops, vision panels where appropriate and sound seal stripping at broadcast booths.
- Press areas shall be provided with electrical power including 110 volt duplex outlets appropriately distributed plus continuous plugmold under each work counter with 110 volt duplex outlets and phone jacks at 18" O.C. G.F.I. outlets shall be located on the rear wall of the press workroom / lounge to provide power for a refrigerator along with other G.F.I. outlets located above the lounge serving countertop for general power. In addition to the phone jacks in the plug mold a phone jack for mounting a wall phone shall also be provided in the press lounge/workroom and the copy room.
- Lighting in the press area shall be recessed fluorescent fixtures or incandescent can light fixtures or a combination of both. The total minimum light level shall be 30 to 50 foot candles.
- General air conditioning and heating will be provided throughout the press area. Press lounge also shall be provided with cold water service and sanitary drain line for bar sink and ice machine (ice machine not included).
- TV jacks with wall blocking to support TV mounting brackets and TV shall be located in the writing press area and/or press lounge / workroom. Recessed ceiling speaker(s) with volume control also shall be provided (TV and bracket not included).
- Open-tray and/or enclosed conduit for TV cables shall be provided from all TV camera and broadcasting booth locations to the TV van parking location.
- Coat hooks, televisions, loose chairs, food service equipment, refrigerator, book lockers for writers and other loose fixtures are not included.

F.1.1 Writing Press/Press Workroom and Lounge @ Approximately 600 sq. ft.

Stations for up to 10 writers and the official scorer shall be provided. The writing press shall be located adjacent to the scoreboard operator and to the copy/lounge/storage area.

- This area shall contain built-in plastic laminate writing counters with cable drop holes at 18" O.C. At least one writing press counter shall be provided for a physically disadvantaged writer.
- Space will include 24" deep counters and 30" wide writing stations.
- Space adjacent to the writing press shall be provided for statisticians, document reproduction and telecopy equipment. In addition within the work room area, space will be provided for a buffet service.

F.1.2 Copy/Workroom/Lounge/Storage 150 sq. ft.

Press copy/workroom lounge to include a built-in back cabinet with (cold water only) wet bar and cut out for refrigerator (refrigerator, ice maker and other equipment not included) and matching overhead cabinets. This space could be combined with F.1.1.

F.1.3 TV Broadcasting @ approximately 120 sq. ft. each

One TV broadcasting booth with built-in 24" deep plastic laminate fold-down counter to allow optional camera operation. Cable drop holes shall be provided at 18" O.C. in the front counter. Conduit for ISDN lines shall be provided.

- An operable or removable clear front ball-resistant window will be included to allow obstacle free TV angles (if removable, window shall include a safety line to prevent window from falling)
- TV networks shall be consulted regarding all aspects including booth, platforms, conduit, telephone and electrical requirements.

F.1.4 Radio Broadcasting Booths @ approximately 120 sq. ft. each

Two radio broadcasting booths with built-in 24" deep plastic laminate counters with cable drop holes at 18" O.C. will be provided. Conduit for ISDN lines shall be provided.

F.1.5 Alternate Broadcasting/Camera Booth @ approximately 120 sq. ft.

One alternate broadcast booth will be provided for TV broadcasting when a second TV booth is required. Space shall also double as an extra radio broadcast booth or promotion booth.

- Booth shall be furnished with built-in 24" deep plastic laminate fold-down counter to allow optional camera operation. Cable drop holes shall be provided at 18" O.C. in the front counter.

- An operable or removable clear front ball-resistant window will be included to allow obstacle free TV angles (if removable, window shall include a safety line).

F.1.6 Public Address Announcer/Scoreboard Operator/Message Center/Sound Room @ approximately 250 sq. ft.

This space for announcer, scoreboard operator, message board operating center, sound system controls and assistants will be located in the press box adjacent to the writing press and will include an operable window between the writing press space.

Space will contain controls required for a public address and sound system serving the stadium as well as the scoreboard and message center operations equipment.

- Space will contain built-in 33" deep plastic laminate counters containing cable drop holes at 18" O.C. for the public address system.
- Space shall be provided for wiring, control panels and other equipment required for operation of the scoreboard sound and message center equipment. Space will include a 30" deep built-in counter containing cable drops at 18" o.c. at the scoreboard message center and sound operators space.

F.1.7 Press Toilets

Men's and women's toilet facilities for the press shall be provided which are accessible to the physically disadvantaged and located off the Suite Level corridor near the Press area. These toilets will be shared with the Suite patrons.

F.1.8 TV/Still Camera Platforms

TV camera and photo cage locations shall be provided at the following locations: boxes at high third base, high first base and space for centerfield platform camera and TV / still photo cages at low first base and low third base outside each dugout.

An elevated TV camera / radar gun platform behind home plate located in the press box or on the roof of the press box shall also be provided.

Each camera location shall be provided with conduit or open cable tray to integrate with the press box and the TV truck location. Provide space for one or more TV camera at each location.

- Each camera location shall be provided with at a minimum one 110 volt G.F.I. duplex outlet with weatherproof cover for general power.

G. STADIUM & FRANCHISE MANAGEMENT FACILITIES (minimum 6,500 Square Feet)

Facilities accommodating the stadium and team administration and sales staff shall be located on and/or above the concourse level. Administration areas shall be separated from the rest of the

stadium by means of a controlled door off of the elevator lobby and/or concourse. The administrative functions shall be grouped into four areas: Executive, Baseball, Support, and Stadium. The total gross square footage for the administrative area shall be a minimum 6,500. The Architect will work with the tenant on the floor plan of the administrative area.

G.5 Administration Finishes

(Furniture, equipment and cash safe are not included.)

- Finishes in the reception areas, private offices, clerical and conference room shall include carpeted floors, 4" straight vinyl base, and painted walls. Vinyl wallcovering shall be included in the Executive Offices, General Manager's Office, reception area and conference rooms. Fenestration shall be aluminum curtain wall with tinted glass on the exterior and 2'x4' suspended acoustical tile.
- Finishes in the administration corridors and mail room shall include, 4" straight vinyl base, painted gypsum board walls and 2'x4' suspended acoustical tile ceilings.
- Interior doors in the administration areas shall be 3'0"x7'0" solid core wood doors in painted hollow metal frames. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops and vision panels where appropriate.
- Administration areas shall be provided with electrical power including 110 volt duplex outlets and phone jacks appropriately distributed.
- Lighting in the administration area shall be recessed fluorescent fixtures or incandescent can light fixtures or a combination of both. The total minimum light levels shall be 50 foot candles in offices, conference room, and clerical and reception areas.
- General air conditioning and heating will be provided throughout the administration area on a year round basis
- TV jacks shall be located in the executive offices, general manager's office, and the conference rooms. Recessed ceiling speaker(s) with volume control also shall be provided as needed. (TVs not included.) Conduits for ISDN lines will be provided as required.

G.6 Administration Toilets

Separate single occupant men's and women's toilet facilities for the administration staff shall be located in the administration area. Club Lounge shall have separate men's and women's toilet facilities.

- Each toilet shall include one water closet with grab bars and one lavatory with each being fully accessible to the physically disadvantaged.

- The women's toilet shall include a sanitary napkin dispenser. A large mirror and stainless steel shelf will be provided above lavatories with a liquid soap dispenser next to lavatory. Paper towel dispensers, recessed trash receptacles, clothes hooks and bulk roll toilet paper dispensers shall also be provided in each toilet.
- Toilet finishes shall include ceramic tile floors and base, painted gyp. board walls, plastic laminate lavatory counter with base and painted gyp. board ceilings.
- Doors to the administration toilets shall be 3'0"x7'0" solid core wood doors in painted hollow metal frames. Doors shall include all necessary hardware such as privacy locksets, closers, pushplates, kickplates and door stops.
- Each toilet shall be provided with a 110 volt G.F.I. duplex outlet located above the lavatory countertop for general power.
- Lighting in the toilets shall be wet location recessed fluorescent fixtures and/or fluorescent light coves. The total minimum light level shall be 20 foot candles.
- General air conditioning, heating and exhaust will be provided on a year round basis along with cold and hot water service in mixing faucets in the lavatories and drains in the floors.

H. TEAM FACILITIES

Home team facilities shall be located below the main concourse on the service level and have direct access to dugout and the playing field. Access will be provided to the team facilities to accommodate the arrival and departure of each team's equipment. At least one elevator ("hospital" type freight elevator) shall access this level as well as direct or ramped access to exterior grade.

H.1 HOME BASEBALL CLUBHOUSE

Space	Approximate Area
Locker Room	1,200 sq. ft.
Shower and toilet room.....	625 sq. ft.
Training room	500 sq. ft.
Coaches' locker room.....	220 sq. ft.
Video Room	225 sq. ft.
Equipment Manager/Storage.....	300 sq. ft.
Weight training	500 sq. ft.
General storage (Near Dugout).....	100 sq. ft.
Manager's office and locker room	175 sq. ft.
Manager / coaches, shower and toilet	200 sq. ft.
Custodial	30 sq. ft.
Family waiting and toilet	200 sq. ft.

Team lounge / buffet with kitchenette200 sq. ft.

Home team locker facilities accommodating the home team shall be located on the first base side of the service level.

- Finishes in the home team locker room, training room, coaches locker room, weight training, manager's office, player's lounge and family waiting room shall be: spike proof carpeted floors, 4" straight vinyl base, epoxy painted masonry block walls and 2'x4' vinyl faced suspended acoustical tile.
- Finishes in the home team shower and toilet, family waiting toilet, hydrotherapy space and coaches and manager's shower and toilet shall include: resinous floors with 4" resinous base.
- Finishes in the home team equipment manager/ storage room, general storage room and custodial room shall include: sealed concrete floors, 4" vinyl cove base, painted masonry block walls and painted exposed structure above
- Doors in the home team locker room area shall be minimum 3'0"x7'0" painted hollow metal doors in painted hollow metal frames. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops, vision panels where appropriate and on doors leading directly to the exterior weather stripping.
- Home team locker spaces shall be provided with general electric power including 110 volt duplex outlets appropriately distributed plus 110 volt duplex G.F.I. outlets located at each lavatory, the hydrotherapy space and as required at other wet areas. On the rear wall of the kitchenette in the lounge, power for a refrigerator shall be provided along with other G.F.I. outlets located above the kitchenette serving countertop.
- Phone jacks in the home team manager's, coaches locker rooms and trainer's office shall be provided along with a phone jack for mounting a wall phone in the player's lounge. A pay phone jack shall be provided in the family waiting room.
- Lighting in the home team locker facility shall be recessed wet condition shielded fluorescent fixtures. The total minimum light levels shall be 20 foot candles in the storage rooms, 50 foot candles in the manager, coaches and trainers offices and lockers and 30 foot candles in all other spaces. Industrial fluorescent light fixtures with wire screens shall be used in spaces with painted exposed structure above.
- General air conditioning, heating and exhaust will be provided as required throughout the home team locker facility. Player lounge kitchenette, toilet / shower areas and hydrotherapy area shall all be provided with hot and cold water service and sanitary drains as required.

- TV jacks and recessed ceiling speakers also shall be provided in the coaches' and players' locker room, manager's office and the players' lounge with volume controls. (TVs not included).

H.1.1 Locker Room

Locker room shall include up to 33 wood lockers 30" x 30" each plus two "catcher's" lockers 30" deep x 36" to 42" wide.

H.1.2 Team Shower and Toilet Room

- Toilets shall include two water closets, four urinals and eight to ten lavatories with a continuous mirror above. One water closet, one urinal, and one lavatory shall be accessible to the physically disadvantaged including grab bars.
- In the shower room eight to ten showerheads will be provided with a soap dish at each location. Shower room will contain a continuous trench drain along the walls and a drying bench and towel bars shall be provided just outside the shower entry. One shower shall be accessible to the physically disadvantaged including grab bars, seat and controls.
- Individual urinals shall be provided and all water closets will include floor mounted solid phenolic toilet partitions with bulk roll toilet paper dispensers. Lavatories shall be set in continuous plastic laminate counter with continuous matching shelf above and a liquid soap dispenser next to each lavatory. Paper towel dispensers and recessed trash receptacles shall also be included along with floor drains.

H.1.3 Training Room

Includes trainer's office of approximately 140 square feet and a separate enclosed whirlpool area of approximately 125 square feet.

- Whirlpool room shall include up to two whirlpools, a trench drain and an epoxy painted masonry block and aluminum and glass enclosure to contain humidity.
- In the training room space shall allow for two to four taping tables.
- Wall dividing the trainer's office and the training room shall contain a large painted hollow metal framed window for supervision.

H.1.4 Coaches' Locker room

- Coaches locker room shall include four wood lockers 30" x 30" each.

H.1.5 General Storage

Space located off of the dugout tunnel to store game equipment.

H.1.6 Weight Training

- Weight training room shall provide space for weight and training equipment supplied by the team franchise.

H.1.7 Manager's Office and Locker Room

- Manager's locker room shall include one wood locker 30" x 30".

H.1.8 Manager/Coaches' Shower and Toilet

- Toilets shall include one water closet, one urinal, two showers and two lavatories with a continuous mirror above. Water closet, one lavatory, and shower shall be accessible to the physically disadvantaged including grab bars, location of controls, and seat.
- Shower and toilet area shall be shared by the manager and the coaches and shall be accessed by both spaces.
- Two fiberglass shower stalls shall be provided with one being accessible to the physically disadvantaged.
- Toilet room will contain a drying bench, clothes hook, and towel bars.
- All water closets will include floor mounted solid phenolic toilet partitions with bulk roll toilet paper dispensers.
- Lavatories shall be set in a continuous plastic laminate counter with continuous matching shelf above and a liquid soap dispenser next to each lavatory. Paper towel dispensers and trash receptacles shall also be included along with a floor drain.

H.1.9 Custodial

- Custodial space will contain a janitor's floor sink with vacuum break, hose bib, mop rack and two 4'0" long x 12" deep shelves.

H.1.10 Family Waiting Room with adjacent Toilet

- Toilet shall include one water closet and one lavatory with mirror above. Water closet and lavatory shall be accessible to the physically disadvantaged including grab bars.
- Toilet shall be directly accessed from the family waiting area.

- Paper towel dispenser and recessed trash receptacle shall also be included along with a floor drain.
- Toilet room will contain a coin operated sanitary napkin dispenser and bulk roll toilet paper dispenser.
- Lavatory will include a stainless steel purse shelf and a liquid soap dispenser.

H.1.11 Video Room

Room for up to four individuals to sit and view video for training and evaluation.

- Space shall include 110 volt wall outlets, cable TV jack and a phone jack.

H.1.12 Team Lounge/Buffer Including Kitchenette

- Kitchenette shall include a base cabinet with matching wall cabinet above and a break in the base cabinet to accept a refrigerator. (Refrigerator not included.)
- Base cabinet shall include a bar sink with hot and cold water service.

H.1.13 Equipment Manager/Storage

Approximately 300 square feet shall be provided for the Equipment Manager and equipment storage. The space shall be lockable and contiguous with the home team clubhouse.

H.2 LAUNDRY

A central common laundry and storage of approximately 550 square feet shall be provided for use by the home team, visiting team, stadium and concessions personnel. It shall be located on the service level and be accessible from a common corridor.

- Laundry area shall include space for 2 industrial washing machines and dryers, and 1 residential washer and dryer with hot and cold water hookup, sanitary drain hookup gas and electric hookup including 220 volt outlet(s).
- A raised equipment pad for the laundry equipment shall be provided along with a trench drain in front of the equipment.
- A work table and service sink shall be provided.

H.3 VISITOR CLUBHOUSE

Space	Approximate Area
Locker room	1,000 sq. ft.
Shower and toilet room.....	675 sq. ft.
Training room	400 sq. ft.

Coaches' locker room.....	160 sq. ft.
Manager's office and locker room.....	120 sq. ft.
Manager / coaches, shower and toilet.....	225 sq. ft.

Visiting team locker facilities accommodating the visiting team shall be located on the first base side of the service level. Visiting team locker room shall be separated from the rest of the stadium by means of a separate private corridor with controlled doors off of the service corridor.

- Finishes in the visiting team locker room, training room, coaches locker room and manager's office shall be: spike proof carpeted floors, 4" straight vinyl base.
- Finishes in the visiting team shower and toilet, hydrotherapy space (with trench drain) and coaches and manager's shower and toilet shall include resinous floors with 4" resinous base.
- Doors in the visiting team locker room area shall be minimum 3'0"x7'0" painted hollow metal doors in painted hollow metal frames. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates, door stops, vision panels where appropriate and on doors leading directly to the exterior weather stripping.
- Visiting team locker spaces shall be provided with general electric power including 110 volt duplex outlets appropriately distributed plus 110 volt duplex G.F.I. outlets located at each lavatory, the hydrotherapy space and as required at other wet areas.
- Phone jacks in the visiting team manager's and coaches locker rooms shall be provided along with a phone jack for mounting a wall phone in the training room.
- Lighting in the visiting team locker facility shall be recessed wet condition shielded fluorescent fixtures. The total minimum light levels shall be 20 foot candles in the storage rooms, 50 foot candles in the manager and coaches lockers and 30 foot candles in all other spaces. Industrial fluorescent light fixtures with wire cages shall be used in spaces with painted exposed structure above.
- General air conditioning, heating and exhaust will be provided as required throughout the visiting team locker facility. Team and manager / coaches toilet / shower areas and hydrotherapy area shall all be provided with hot and cold water service and sanitary drains as required.
- TV jack with wall blocking to support TV mounting bracket and TV shall be located in the visiting team locker room. Conduits for television shall be provided back to the main television terminal board. Recessed ceiling speaker(s) also shall be provided in the locker room with volume control. (TV and bracket not included).

H.3.1 Locker Room

- Locker room shall include 28 wood lockers 30" x 30" each plus two "catcher's" Lockers 30" deep x 36" to 42" wide.

H.3.2 Shower and Toilet Room

- Toilets shall include two water closets, two to four urinals and seven to eight lavatories with a continuous mirror above. One water closet and one lavatory shall be accessible to the physically disadvantaged including grab bars.
- In the shower room eight showerheads will be provided with a soap dish at each location. Shower room will contain a continuous trench drain along the walls and a drying bench, robe hooks and towel bars shall be provided just outside the shower entry. One shower shall be accessible to the physically disadvantaged including grab bars, seat and controls.
- Individual urinals shall be provided and all water closets will include floor mounted solid phenolic toilet partitions with bulk roll toilet paper dispensers. Lavatories shall be set in continuous plastic laminate counter with continuous matching shelf above and a liquid soap dispenser next to each lavatory. Paper towel dispensers and trash receptacles shall also be included along with floor drains.

H.3.3 Training Room

Includes space for trainer's desk and a separate enclosed whirlpool area of approximately 100 square feet.

- Whirlpool room shall include space for up to two whirlpools, a floor drain and an epoxy painted masonry block and aluminum and glass enclosure to contain humidity.
- In the training room space shall allow for two to three taping tables.

H.3.4 Coaches' Locker Room

- Coaches locker room shall include four wood lockers 30" x 30" each.

H.3.5 Manager's Office and Locker Room

- Manager's locker room shall include one wood locker 30" x 30".

H.3.6 Manager / Coaches' Shower and Toilet

Shower and toilet area shall be shared by the manager and the coaches and shall be accessed by both spaces.

- Toilets shall include one water closet, one urinal, two showers and two lavatories with a continuous mirror above. Water closet and one lavatory shall be accessible to the physically disadvantaged including grab bars.
- Two fiberglass shower stalls shall be provided with one being accessible to the physically disadvantaged.
- Toilet room will contain a drying bench, clothes hook, and towel bars.
- All water closets will include floor mounted solid phenolic toilet partitions with bulk roll toilet paper dispensers.
- Lavatories shall be set in continuous plastic laminate counter with continuous matching shelf above and a liquid soap dispenser next to each lavatory. Paper towel dispensers and recessed trash receptacles shall also be included along with a floor drain.

H.4 OFFICIALS LOCKER FACILITY (approximately 440 square feet)

Official's locker facilities accommodating the umpires shall be located on the service level and shall be separated from the team locker rooms to the greatest extent possible. Official's locker room shall have direct access to the dugout tunnels via the service corridor.

H.4.1 Officials Locker

Officials locker room shall include locker room space for four wood lockers 36" wide x 30" deep, and shall be adjacent to the shower / toilet area.

- Finishes in the officials locker room shall be: spike proof carpeted floor, 4" straight vinyl base.
- Officials locker room shall include a 20" to 24" deep plastic laminate mud shelf for baseball preparation prior to each game. Shelf shall be approximately 4'0" wide.
- Door into the officials locker room shall be 3'0"x7'0" painted hollow metal door in a painted hollow metal frame. Door shall include all necessary hardware such as lockset, closer, pushplate, kickplates and door stop.
- Officials locker room shall be provided with general electric power including 110 volt duplex outlets appropriately distributed including a 110 volt duplex outlet above the mud shelf.
- A phone jack for mounting a wall phone in the locker area shall be provided along with conduit and a pull string.

- Lighting in the officials locker room shall be recessed wet condition shielded fluorescent fixtures. The total minimum light level shall be 30 foot candles in the locker area.
- General air conditioning, heating and exhaust will be provided as required.
- A recessed ceiling speaker shall be provided in the officials locker room with volume control.

H.4.2 Officials' Shower and Toilet

- Toilets shall include one water closet, one urinal and two lavatories with a continuous mirror above. Water closet and one lavatory shall be accessible to the physically disadvantaged including grab bars.
- Two fiberglass shower stalls shall be provided with one being accessible to the physically disadvantaged.
- Toilet room will contain a drying bench, clothes hook and towel bars.
- All water closets will include floor mounted solid phenolic toilet partitions with bulk roll toilet paper dispensers.
- Lavatories shall be set in continuous plastic laminate counter with continuous matching shelf above and a liquid soap dispenser next to each lavatory. Paper towel dispensers and trash receptacles shall also be included along with a floor drain.
- Finishes in the officials shower and toilet shall include: resinous floor with 4" resinous base.
- Toilet / shower room shall be provided with 110 volt duplex G.F.I. outlets located at each lavatory.
- Lighting in the toilet / shower area shall be recessed wet condition shielded fluorescent fixtures. The total minimum light levels shall be 20 foot candles in the toilet and shower area.
- General air conditioning, heating and exhaust will be provided as required and toilet and shower area shall be provided with hot and cold water service and sanitary drains as required.
- Space shall be air conditioned and heated for year round use, but care shall be given to allow complete shutdown during the off-season and during periods of non use, if desired.

H.5 AUXILIARY LOCKER FACILITY (approximately 1000 square feet)

Auxiliary locker room shall include 30 metal lockers 18" wide x 24" deep, and shall be adjacent to a shower / toilet area.

- Finishes in the auxiliary locker room shall be: spike proof carpeted floor, 4" straight vinyl base.
- Doors into the auxiliary locker room shall be 3'0"x7'0" painted hollow metal doors either single or in pairs in painted hollow metal frames. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates and door stops.
- Auxiliary locker room shall be provided with general electric power including 110 volt duplex outlets appropriately distributed.
- A phone jack for mounting a wall phone in the locker area shall be provided along with conduit and a pull string and other phone jacks and TV jacks if required.
- Lighting in the auxiliary locker room shall be recessed wet condition shielded fluorescent fixtures. The total minimum light level shall be 30 foot candles.
- General air conditioning, heating and exhaust will be provided as required.
- A ceiling speaker shall be provided in the auxiliary locker room with a volume control.

H.5.1 Shower and Toilet Room

- Toilets shall include two water closets, two to four urinals and seven to eight lavatories with a continuous mirror above. One water closet and one lavatory shall be accessible to the physically disadvantaged including grab bars.
- In the shower room eight showerheads will be provided with a soap dish at each location. Shower room will contain a continuous trench drain along the walls and a drying bench, robe hooks and towel bars shall be provided just outside the shower entry. One shower shall be accessible to the physically disadvantaged including grab bars, seat and controls.
- Individual urinals shall be provided and all water closets will include floor mounted solid phenolic toilet partitions with bulk roll toilet paper dispensers. Lavatories shall be set in continuous plastic laminate counter with continuous matching shelf above and a liquid soap dispenser next to each lavatory. Paper towel dispensers and trash receptacles shall also be included along with floor drains.

H.6 TALENT DRESSING FACILITIES (approximately 1150 square feet)

H.6.1 Four Talent Dressing Rooms (2 @ 280 and 2 @ 300 square feet)

Two of the four dressing rooms shall be located adjacent to the auxiliary locker room to allow "tandem" functions as coaches and managers lockers for other teams such as high school and college baseball teams using the auxiliary locker room. Each star dressing room shall include a dressing area and a shower/toilet area as outlined below.

H.6.2 Talent Dressing area (2 @ 180 and 2 @ 200 square feet)

The two large dressing rooms shall include three wood lockers 30" wide x 30" deep and the smaller two shall include at least one wood locker of the same size. Dressing area shall be adjacent to the shower / toilet area.

- Finishes in the dressing rooms shall be: spike proof carpeted floor, 4" straight vinyl base.
- Talent dressing rooms shall include a 20" to 24" deep plastic laminate lavatory counter with lavatory and large mirror above with make-up lighting. Lavatory shall be a minimum of 4'0" wide and a liquid soap dispenser may be located next to the lavatories.
- Talent dressing rooms shall include a robe hook and a towel bar located next to the lavatories.
- Doors in the dressing rooms shall be 3'0"x7'0" painted hollow metal doors in a painted hollow metal frames. Doors shall include all necessary hardware such as locksets, closers, pushplates, kickplates and door stops.
- The talent dressing room shall be provided with general electric power including 110 volt duplex outlets appropriately distributed and a 110 volt G.F.I. duplex outlet above the lavatory counter.
- A phone jack for mounting a wall phone in each dressing room shall be provided along with conduit and a pull string.
- Lighting in the dressing rooms shall be shielded fluorescent fixtures with a total minimum light level of 30 foot candles. In addition make-up lighting shall be provided at the vanity counter to provide a minimum of 50 foot candle incandescent light at a point approximately 24" above the countertop.
- General air conditioning, heating and exhaust will be provided as required and lavatory shall be provided with hot and cold water service and sanitary drain.

H.6.3 Talent Dressing Room Showers and Toilets (approximately 100 square feet each)

- Toilets shall include one water closet and one fiberglass shower stall, both accessible to the physically disadvantaged including grab bars.

- Toilet / shower room will contain a drying bench clothes hook and towel bars.
- Water closet will include grab bars and a bulk roll toilet paper dispenser.
- Finishes in the star shower and toilet shall include: resinous floor with 4" resinous base.
- Toilet / shower room shall be provided with a 110 volt duplex G.F.I. outlet.
- Lighting in the toilet / shower area shall be shielded fluorescent fixtures and total minimum light levels shall be 20 foot candles.
- General air conditioning, heating and exhaust will be provided and toilet and shower area shall be provided with hot and cold water service, floor drain and sanitary drains as required.

H.7 BATTING TUNNEL

One batting / pitching tunnel shall be provided beyond the right center field fence. Tunnel shall have minimum dimensions of 20' x 100'. Tunnel to have access to both home team and visiting team clubhouses. Tunnel shall have two home plates and two pitching mounds in tandem to allow both pitching machine and pitcher to use without change over. The Architect will work with the Tenant on the Batting Tunnel.

- Batting tunnel furnishings to include a bat and helmet rack, appropriate netting and space provided for a wall mounted water jug to be supplied and installed by the team.
- Batting tunnel shall be provided with general electric power including 110 volt duplex outlets to power pitching machines and other power as appropriate.
- A phone jack for mounting a wall phone shall be provided along with conduit and a pull string located at the batter's end.
- Lighting in the batting tunnel shall be provided by metal halide fixtures producing a minimum light level to PBA Standards for AAA baseball.

I. STADIUM SERVICE FACILITIES

The stadium service facilities shall be located within the stadium on the service level as appropriate.

I.1 Stadium Personnel Facility

Provide a secured office area at the employee entrance with adjacent personnel lockers and access to shared laundry facility. Office shall include space in the adjoining entry hallway for a time clock and bulletin board, which will be supplied by the team.

I.2 Stadium Personnel Office (approximately 160 square feet)

- Office finishes shall include vinyl tile floor, 4" vinyl cove base, painted masonry block walls and suspended 2'x4' acoustical tile ceiling.
- Door shall be painted hollow metal 3'0"x7'0" door with vision lite including all necessary hardware such as keyed thumb turn latch, lockset, closers, pushplate, kickplates and door stop.
- Lighting shall be recessed 50 foot-candle general fluorescent lighting.
- General power 110 volt duplex wall outlets shall be provided as appropriate.
- Personnel office shall be equipped with two phone jacks and conduit with pull string.
- General air conditioning and heating shall be provided in the office.

I.3 Stadium Personnel Lockers and Toilets (approximately 500 square feet)

- Locker rooms provided for 120 total stadium personnel. Allow separate locker rooms of approximately 200 square feet each for 60 men and 60 women with each having an adjoining dedicated accessible toilet of approximately 60 square feet each.
- Stadium personnel toilets shall be equipped with an accessible water closet and an accessible lavatory with a polished stainless steel mirror with purse shelf. A bulk roll toilet paper dispenser, recessed paper towel dispenser / trash receptacle, liquid soap dispenser and clothes hooks will also be provided. A coin operated sanitary napkin dispenser also will be provided in the women's toilets.
- Locker and toilet room finishes shall include sealed concrete floors, 4" vinyl cove base.
- Each locker room shall be provided with 60 12 inch x 12 inch x 12 inch prefinished metal lockers for storing personnel valuables.
- Doors shall be painted hollow metal 3'0"x7'0" doors including all necessary hardware such as keyed thumb turn latch, lockset, closers, push/pulls, kickplates and door stops.
- Locker and toilet rooms shall be equipped with vandal resistant 30 foot-candle wet location general industrial fluorescent lighting with shatterproof sleeves. Janitorial closet with mop & tub sink and storage of approximately 100 square feet.

- General power 110 volt duplex wall outlets shall be provided as appropriate in the locker rooms and one 110 volt G.F.I. duplex outlet shall be provided in each toilet above the lavatory. 220 volt as required for special equipment.
- A floor drain and cold and hot water service shall be provided in each toilet.
- General ventilation, heating and exhaust shall be provided in both lockers and toilets.

I.4 Stadium Maintenance Shop and Storage

Stadium maintenance area will be provided for general maintenance of the stadium and for general storage.

- A storage area of 200 sq. ft. shall be provided for maintenance equipment and supplies.
- Stadium Maintenance finishes shall include sealed concrete floors, and unpainted walls and exposed structure above.
- Doors shall be painted hollow metal minimum 3'0"x7'0" doors including all necessary hardware such as keyed thumb turn latch, lockset, closers, pushplates, kickplates, vision panels where appropriate and door stops.
- Storage area shall be equipped with vandal resistant 30 foot-candle general industrial fluorescent lighting with shatterproof sleeves.
- General power 110 volt duplex wall outlets shall be provided as appropriate.
- General ventilation and exhaust shall be provided.

I.5 Stadium Maintenance Office (approximately 180 square feet)

Office for stadium supervisor with adjacent toilet facilities and shower space.

- Office finishes shall include carpeted floor, 4" straight vinyl base, painted masonry block walls and suspended 2'x4' acoustical tile ceilings.
- Doors shall be painted hollow metal 3'0"x7'0" doors with vision lites including all necessary hardware such as keyed thumb turn latches, locksets, closers, pushplates, kickplates and door stops.
- Lighting shall be recessed 50 foot-candle general fluorescent lighting.
- General power 110 volt duplex wall outlets shall be provided as appropriate.
- Office will be provided with a phone jack with conduit and pull string.

- General air conditioning and heating shall be provided in the office.

I.6 Promotional Storage

One main promotional storage area of approximately 1000 square feet will be provided on the service level A separate day of game promotional closet approximately 60 net square feet will be provided on the concourse level and. Both promotional storage rooms shall have access to the freight elevator.

- Finishes shall include sealed concrete floors, 4" vinyl cove base, painted masonry block or metal stud walls and painted exposed structure above.
- Doors shall include 3'0"x7'0" painted hollow metal single doors and pairs of doors. Doors shall include all necessary hardware such as locksets, closers, push/pulls, kickplates, door stops and weather stripping and thresholds on exterior doors.
- Lighting for the promotional storage areas shall be industrial fluorescent fixtures with wire shields and a minimum of 20 foot candles. Storage rooms shall each contain a 110 volt duplex wall outlet.

I.7 Concert Operations, Staging, and Storage (approximately 750 square feet)

Concert operations shall consist of an office for the production manager, a concert crew room, and a tuning room. The production manager shall be accessed directly from the service level corridor.

- The production manager's office and the tuning room shall be approximately 150 square feet each. The crew room shall be approximately 450 square feet.
- Storage for the temporary field cover shall be off site.
- Room finishes shall include sealed concrete floors, painted masonry block walls and overhead exposed structure in storage areas with painted metal stud and gypsum board walls in other areas. Offices, crew room, and tuning room will have acoustical tile ceilings and carpet. The Production manager's office shall have 2 phone jacks. Power as required.
- Heating and cooling shall be provided to offices, toilets, kitchen and lounge.

I.8 Field Maintenance Shop and Storage (Approximately 1500 - 1800 Square Feet)

Field maintenance area of approximately 1,100 square feet will be provided for general maintenance of the playing field and for general storage of field maintenance equipment and supplies required for maintenance of the playing field. An office shall be located in the Maintenance building. This area should provide direct access to the playing field. An additional

700 square feet of exterior space will be provided to house 3 material storage bins for storage of field materials

- Maintenance area shall be adjacent to maintenance office.
- Field maintenance finishes shall include sealed concrete floors, and painted exposed structure above.
- Toilet room finishes shall include sealed concrete floors, 4" vinyl cove base, epoxy painted masonry block walls and painted exposed structure above
- Doors shall be painted hollow metal minimum 3'0"x7'0" doors including all necessary hardware such as keyed thumb turn latch, lockset, closers, pushplates, kickplates, vision panels where appropriate and door stops. In addition a powered painted steel coiling overhead door approximately 8'0"x8'0" will be provided for equipment.
- Entire area shall be equipped with vandal resistant 30 foot-candle wet location general industrial fluorescent lighting with shatterproof sleeves.
- General power 110 volt duplex wall outlets shall be provided as appropriate throughout the maintenance area and one 110 volt G.F.I. duplex outlet shall be provided in the toilet.
- Area drains and hose bibs as required shall be provided in the maintenance area.
- If required by local codes an oil separator shall also be provided in the floor
- General ventilation, heating and exhaust shall be provided with care taken in the approach to completely shutting down the maintenance area during the off season if desired.

1.9 Maintenance Loading Area

A truck loading area shall be provided with direct access to the maintenance facilities. Space shall be visible from the field maintenance office.

1.10 Refuse Collection Facilities

Outdoor space for trash compactor and trash bin will be located at exterior of stadium on the service level. Concrete pads shall be provided to accommodate the trash compactor and bins.

- Exterior trash area(s) shall include space as appropriate to allow for future recycling programs as well as provide adequate ventilation to reduce odors. Trash bins shall be located to allow quick pick-up and drop-off of bins and adequate security.

- Facilities should be provided for wash down of bins with at least one 1" freeze-proof hose bib provided.
- Designated spaces for large attractive trash receptacles shall be provided on the concourse and the outfield walkway as appropriate, as well as in each large public toilet.
- General 20 foot candle lighting shall be provided and area shall include adequate power as required to operate trash compactor.

I.11 Multipurpose Equipment Storage (approximately 1,250 square feet)

Provide outdoor storage space for staging equipment, batting cage, shag screen, and portable stage. This area must provide access to the field as well as the street and may be located directly off of the field. This space will be used for loading and unloading equipment.

- Space shall include general lighting at a safe minimum level with 110 volt G.F.I. outlets as required to provide power.
- Area should include concrete or asphalt paving for maintenance purposes.

I.12 Miscellaneous Equipment

Space for mechanical, electrical, sound and telephone equipment shall be provided, as required, throughout the stadium as well as access and power for equipment and field performances.

I.13 TV Van Parking

Parking for two TV vans shall be provided adjacent to the stadium as close to the press box facilities as feasible. Area shall allow space for one semi-tractor trailer unit.

- Adjacent electrical and telephone terminal cabinets and cable access shall be provided.

I.13 Parking

Parking shall be provided adjacent to the stadium with a total capacity of 44 parking spaces.

- Parking lot shall include an adequate percentage of ADA compliant spaces for the physically disadvantaged.
- Parking lot shall be paved and lighted with a minimum of 2 foot candles. All lighting shall be controlled by a light sensor with the perimeter half provided with an override switch to allow operators to switch off.

J. PLAYING FIELD

A natural grass playing field system shall be designed for the stadium with a playing field designed as an asymmetrical ballpark that shall also accommodate football and soccer (not to include FIFA soccer).

- The playing field area shall be designed for a baseball field with dimensions for outfield and warning track equal to or exceeding Professional Baseball Standards. Field dimensions shall be a minimum of 320 feet down the foul lines, 360 feet in the power alleys and 400 feet to centerfield. (Actual field dimension may vary based on site constraints and shall be verified at a later date).
- Playing field shall include 15 foot wide warning tracks along each side with a 20 foot wide warning track in the outfield along the outfield wall.
- Warning tracks shall be constructed of crushed brick or similar material compacted to proper consistency and the infield shall be constructed of "infield mix" materials.
- The pitchers mound, bases, base paths and foul lines shall all meet professional baseball rules and standards and the infield shall be elevated and sloped slightly to assure proper drainage of the infield tarp with "speed drains" provided as required.
- Top and side dugout railings and exposed hard surface field walls shall be padded.
- An underdrain and recessed pop-up head irrigation system shall be provided as required to help assure proper maintenance and quick drainage of the playing surface.
- Quick coupler, key activated 1" hose bibs will be located in each dugout, recessed behind the pitching mound, and as appropriate for proper maintenance of the playing field.

J.1 Pitcher's Bull Pens

Warm-up bull pens for both home and visiting teams will be provided with each bullpen including space for two pitchers to warm up simultaneously.

- Each bullpen shall include official height and slope pitchers mounds with pitching rubbers and batters boxes with home plates.
- Bullpens shall both be visible to both dugouts and spectators and shall be lighted with a minimum of 75 foot candles of light.
- Bullpens will be located in foul territory in the warning track down each foul line.
- Direct contact to the associated dugout may be provided by phone jacks in weatherproof boxes and each dugout will have a G.F.I. 110 volt wall outlet.

- Each bullpen shall include an aluminum players bench of 12 foot minimum length.

J.2 Game Equipment

Fixed game equipment shall be provided including two minimum 40 foot tall foul ball poles, one set of 3 bases, pitching rubbers and home plates.

- A minimum 30 foot tall by 80 foot wide batter's eye shall be provided in center field directly in line with home plate.
- A standard black nylon backstop screen shall be provided behind home plate which is a minimum of 25 feet tall and extends to the edge of each dugout.

J.3 Covered Dugouts

Covered dugouts with the home team having direct access to the team locker rooms and visiting teams having access from the field shall be provided. Both dugouts shall have a 30 player capacity, an adjacent dugout toilet and storage area of approximately 100 square feet.

- Dugout and storage area finishes shall include sealed sloping concrete floors with removable 2 x 6 treated wood plank flooring, no base, epoxy painted concrete walls (dark color to match field wall pads) and exposed concrete structure above.
- Doors to close off tunnel shall be painted hollow metal single or pairs of 3'0"x7'0" doors including all necessary hardware such as panic hardware, lockset, closers, pushplates, kickplates, weather-stripping and door stops.
- Each dugout will include wood bench seating, a bat and helmet rack and space for a large water cooler (supplied by team). The dugout bench will be designed to allow players to sit on the seat back as well as the seat itself.
- The front of each dugout shall include a 36" to 42" high hot dipped galvanized steel railing with padded top rail and an intermediate railing with a metal screen on both the lower half and the top halves.
- Stairs shall be provided from the dugout to the playing surface at the ends of each dugout which are a minimum of 5 feet wide as well as all necessary steps down to the dugout tunnel. All steps shall include a non-slip surface and handrails.
- Access for the physically disadvantaged to the dugouts and from the dugouts to the playing field shall be provided via a stainless steel wheelchair lift or stair lift.
- Provide floor drains with strainers and a 1" freeze proof keyed hose bib in each dugout.

- Provide 110 volt G.F.I. general power wall outlets above the player's bench at 25 feet O.C. as well as power below the bench for possible heat panels. Dugout lighting shall all be provided by field light spill over.
- Dugouts shall be provided with weather resistant phone boxes with phone jack and conduit as well as possible conduit to the bullpen.

J.4 Dugout Toilets (Approximately 60 Square Feet Each)

Toilet rooms shall be provided in the dugouts for home and visiting teams.

- Dugout toilets shall be equipped with a stainless steel water closet and a stainless steel lavatory with polished stainless steel mirror. A bulk roll toilet paper dispenser, recessed paper towel dispenser / trash receptacle and liquid soap dispenser also will be provided.
- Toilet finishes shall include sealed concrete floors, 4" vinyl cove base, epoxy painted masonry block and concrete walls and painted exposed structure above.
- Doors shall be painted hollow metal 3'0"x7'0" doors including all necessary hardware such as keyed thumb turn latch, lockset, closers, pushplates, kickplates and door stops.
- Toilet room shall be equipped with vandal resistant 30 foot-candle wet location general industrial lighting with shatterproof sleeves.
- A general power 110 volt G.F.I. duplex outlet shall be provided above lavatory.
- Floor drains and cold water service shall be provided.
- General ventilation and exhaust shall be provided in the toilets.

J.5 Field Entrances

Gates in the outfield wall shall provide access to the playing field from the stadium exterior.

- The field access gate clear opening shall be a minimum of 55 feet wide. The opening shall include an accordion type gate and a 12 foot wide swinging gate which match the look of the remaining field walls plus a man door shall also be provided
- Gates shall be designed to swing freely as well as be anchored in place against strong winds and player collisions.

J.6 Outfield Wall

The outfield wall shall be a height of approximately 8 to 10 feet to the top railing to encourage exciting defensive outfield play and the infield and sideline field walls shall vary in height.

- All hard surfaces and dugout rails shall be padded as required to prevent player injury.
- Wall surfaces shall be designed to accept painted or silk screened signage and / or graphics.
- Outfield walls shall have painted or silk screened yellow foul ball markings as well as distances indicated for foul line, power alley and center field dimensions.
- Power for four Trivision boards (each 8' high x 30' long) shall be located along the outfield wall. (Trivision boards and mounting by others)

J.7 Field Lighting

A complete field lighting system providing illumination comparable to AAA League play field light level and other amateur events shall be provided.

- Light levels measured 3'-0" above the playing field shall be equivalent or better than:

Infield 1.5 to 1 - 100 footcandles minimum maintained vertically.
Outfield/Bullpens 2.0 to 1 - 75 footcandles minimum maintained vertically
- Adequate pole mounted security / emergency and clean-up lighting shall also be provided.
- Poles shall each be hot dipped galvanized poles with a total minimum elevated height above the field of approximately 120 feet with hot dipped galvanized catwalks and climbing rungs.
- Lighting shall be designed for reasonable cut off at the field walls and the bullpens to minimize overflow into the seating areas.

J.8 Scoreboard

The scoreboard general power and control cable conduit(s) with pull string(s) shall be provided to the scoreboard location. The City of Fresno will work with the Tenant and scoreboard supplier for the location and placement of the scoreboard foundations.

- The main Scoreboard shall be provided by the ballclub.
- Power and control cable conduits are designed to accommodate a scoreboard supplied by others.

J.9 Concert

Ballpark shall include concert power capable of supporting most concert events.

- 400 amp/480 volt power shall be supplied to a box located behind the outfield wall. Box shall include a disconnect switch.
- Any power required beyond that provided shall be the responsibility of the promoter using portable generators. Eye bolts will be provided for concert rigging in the upper deck structural steel.

K. Building Materials

- The structure shall consist of cast-in-place concrete up to the floor of the concourse and from there up shall consist of structural steel. It is anticipated that the majority of the structural steel frame will be exposed and painted with a urethane coating system to resist weathering and rust. The exposed steel shall be constructed in a manner to be complimentary to the rest of the facility.
- All exposed concourse walls shall be integral color masonry block and/or stucco on metal studs.
- The exterior facade of the stadium shall be faced with curtain wall of metal stud and stucco, face brick, integral color masonry and metal or steel open framework, with most of the void spaces between the suite / press level and the concourse roof line open for air circulation.
- The roof canopy shall be painted steel frame or a louvered sunscreen.
- The lower seating bowl shall be constructed of slab-on-grade concrete treads and risers with a cast-in-place concrete field wall. Hot dipped galvanized handrails at aisles and behind last row of seating shall be provided.
- The upper seating bowl shall be constructed of structural precast treads and risers with galvanized handrails at aisles, vomitories and front railings. Front railings shall be 30" tall, except at the ends of aisles where they shall be 42" tall. At the rear of the upper seating bowl a safety railing/fence shall be included constructed of painted or hot dipped galvanized metal tube frame and metal screen infill with a total height of four to five feet.
- Roofs other than the suite level shall be standard built-up roofing, or PVC where required over concession stands, roofs tapered or sloped for drainage. Roof over the suite level shall be standard built-up roofing or ribbed metal.
- Exterior doors shall be painted hollow metal doors or aluminum medium stile glazed doors.

- Exterior glazing systems shall be: Insulated tinted glass in aluminum frames when not facing the playing field, clear single pane 9/16" laminated safety glass where facing the playing field and tinted safety glass at ticket windows.
- Unless noted otherwise all exterior doors shall be hollow metal or aluminum metal stile glazed doors. All interior doors at the press and administration areas and novelty store shall be solid core stain-grade wood in painted hollow metal frames. All man doors shall be 36" wide unless noted otherwise. Doors into vending, concession stands, laundry rooms, equipment rooms and other spaces containing large equipment shall be hollow metal and sized appropriately. All exterior doors shall contain weather stripping, corridor doors shall all have closers and all doors shall contain appropriate door hardware including panic hardware and appropriate fire resistive ratings.

L. ITEMS OF WORK NOT INCLUDED

The following items are not included and shall be provided in F.F.E. budget by The Team Franchise and / or Concessionaire:

- Any movable furniture, loose fixtures or equipment in interior spaces. (Lockers, bat and helmet racks, player benches and all built in cabinetry are included as noted.)
- Maintenance equipment such as carts, tractors, wagons, tools, trash carts, hoses, etc.
- Portable or free-standing novelty and/or concession booths and/or display cabinets and racks including loose display fixtures and loose slatwall display accessories.
- Portable or temporary stages.
- Portable food handling equipment for concession, vending and catering operation.
- Misc. equipment such as suite refrigerator / ice makers and refrigerators and icemakers in the administration, press lounge and team lounge.
- Cash registers and computers including ticket computers ticket printers, ticket racks and any other misc. business equipment.
- Game equipment such as portable batting screens, field batting cage, pitching machines, tarps, etc.
- Water jugs in dugouts and in batting / pitching tunnel.
- Satellite dish(s) and Antennae(s), Telephone system other than conduit and phone jacks.

- Time clocks, clocks, bulletin boards and black boards.
- Security system other than fences, gates, walls, doors, and conduit for electronic system.
- Safes and other loose security items.
- Training equipment such as whirlpools and taping benches.
- Laundry equipment such as washers, dryers utility sinks, etc.
- Weight training equipment including stair steppers, incline benches, free weights, weight machines, stationary bikes, rowing machines, etc.
- Portable Turnstiles.
- Cots and other misc. medical supplies in the first-aid office.
- Cup holders for all fixed seating including suites.
- Picnic tables, benches and any tent structures or free standing temporary railings associated with the picnic areas.
- Televisions including press monitors, television brackets and closed circuit television system including wiring other than conduit, jacks and wall blocking.
- Main scoreboard and controls except general power and conduit.
- Trash dumpsters or bins and loose free standing trash receptacles along the concourse and in the large public toilets.
- Shelf and storage units other than those listed.
- Advertising signage.
- Playground equipment, arcade games, speed pitch or any other similar items.
- Pay phones (to be supplied by Phone Company).

Legal description

That Real property located in the City of Fresno, County of Fresno, State of California, lying within the "Town of Fresno" as shown on the entitled "Map of the Town of Fresno", recorded June 8, 1876, filed in Book 1, Page 2 of Plats, in the office of the Recorder for said County, more particularly described as follows:

Beginning at the southwesterly corner of Block 59, of said Town of Fresno;

Thence, along the westerly boundary of said Block 59, North 41 Degrees 40 Minutes West, 11.33 feet,

Thence, North 86 Degrees 40 Minutes West, 16.97 Feet;

Thence, along a line lying parallel with and 12 feet westerly of the westerly boundary of said Block 59, North 41 Degrees 40 Minutes West, 746.67 feet;

Thence leaving said parallel line, North 39 Degrees 56 Minutes 54 Seconds West, 85.87 feet;

Thence, North 04 Degrees 11 Minutes 32 Seconds West, 13.13 feet, to the westerly boundary of Block 60 of said Town of Fresno;

Thence, along the westerly boundary of said Block 60, North 41 Degrees 40 Minutes West, 5.02 feet, to a point from which the northwesterly corner of said Block 60 bears North 41 Degrees 40 Minutes West, 10.00 feet;

Thence, along a line parallel with and 10.00 feet southerly of the northerly boundary of said Block 60, North 48 Degrees 20 Minutes East, 320.00 feet, to a point from which the northeasterly corner of said Block 60 bears North 41 Degrees 40 Minutes West, 10.00 feet;

Thence, continuing, North 48 Degrees 20 Minutes East, 80.00 feet, to a point on the Westerly Boundary of Block 73 of said Town of Fresno, from which the northwesterly corner of said Block 73 bears North 41 Degrees 40 Minutes West, 10.00 feet;

Thence, continuing North 48 Degrees 20 Minutes East, 10.00 feet;

Thence, along a line lying parallel with and 10 feet easterly of the southwesterly boundary of said Block 73, South 41 Degrees 40 Minutes East, 112 feet;

Thence, along a line parallel with and 3 feet northerly of the southerly boundary of said Lot 28, North 48 Degrees 20 Minutes East, 140.00 feet, to the westerly boundary of the alley in said Block 73;

Thence, along the westerly boundary of said alley, South 41 Degrees 40 Minutes East, 758.00 Feet, to the southeasterly corner of Block 74 of said Town of Fresno;

Thence, along the southerly boundary of said Block 74 and Block 60, South 48 Degrees 20 Minutes West, 550.00 feet, to the Point of Beginning.

Containing 472,760 Square Feet/10.9 Acres More or Less.

End Legal Description

PR

Phil Reimer P.L.S 6391

August 25, 1999

Date



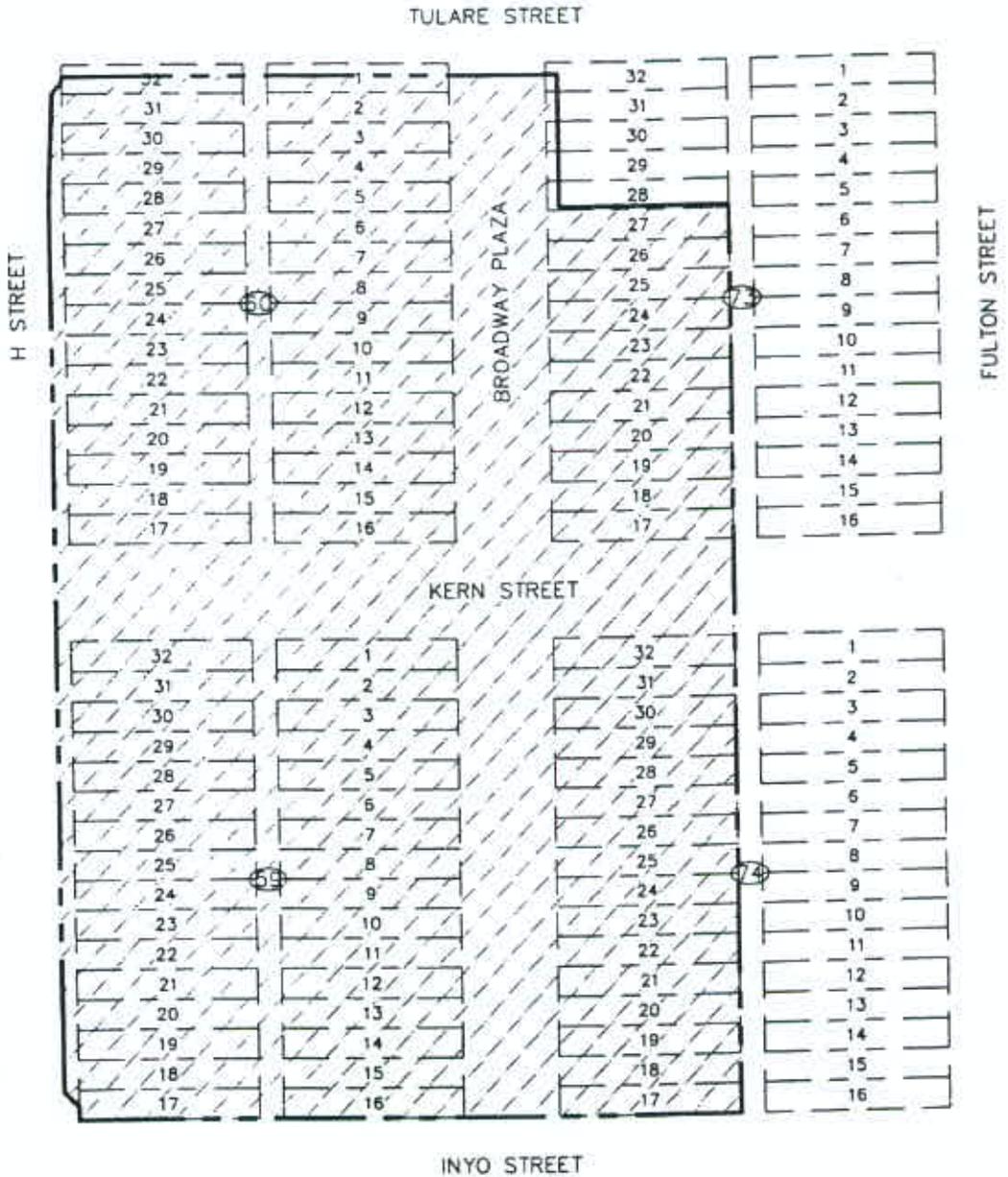


EXHIBIT "B"



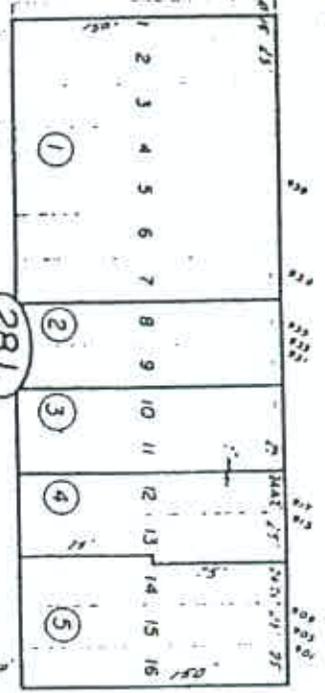
LARS ANDERSEN AND ASSOCIATES, INC
CIVIL ENGINEERS - LAND SURVEYORS - PLANNERS
 4630 WEST JACQUELYN AVE, SUITE 119, FRESNO, CA 93722
 559-276-2790 FAX 559-276-0850

JOB NO: 99-118
 DR. BY: PR
 CH. BY: PR
 DATE: 08-11-99
 SCALE: 1"=120'

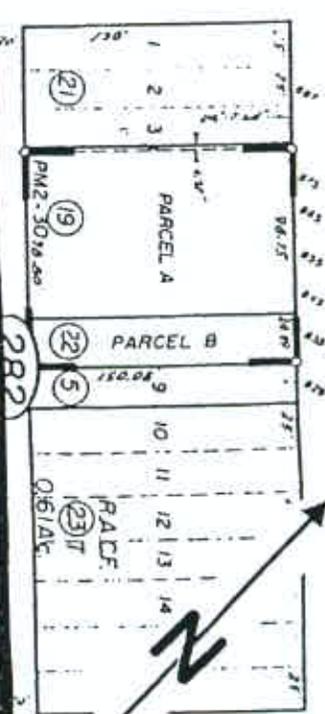
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FULTON

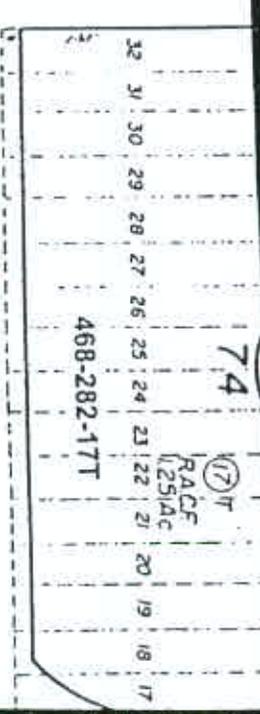
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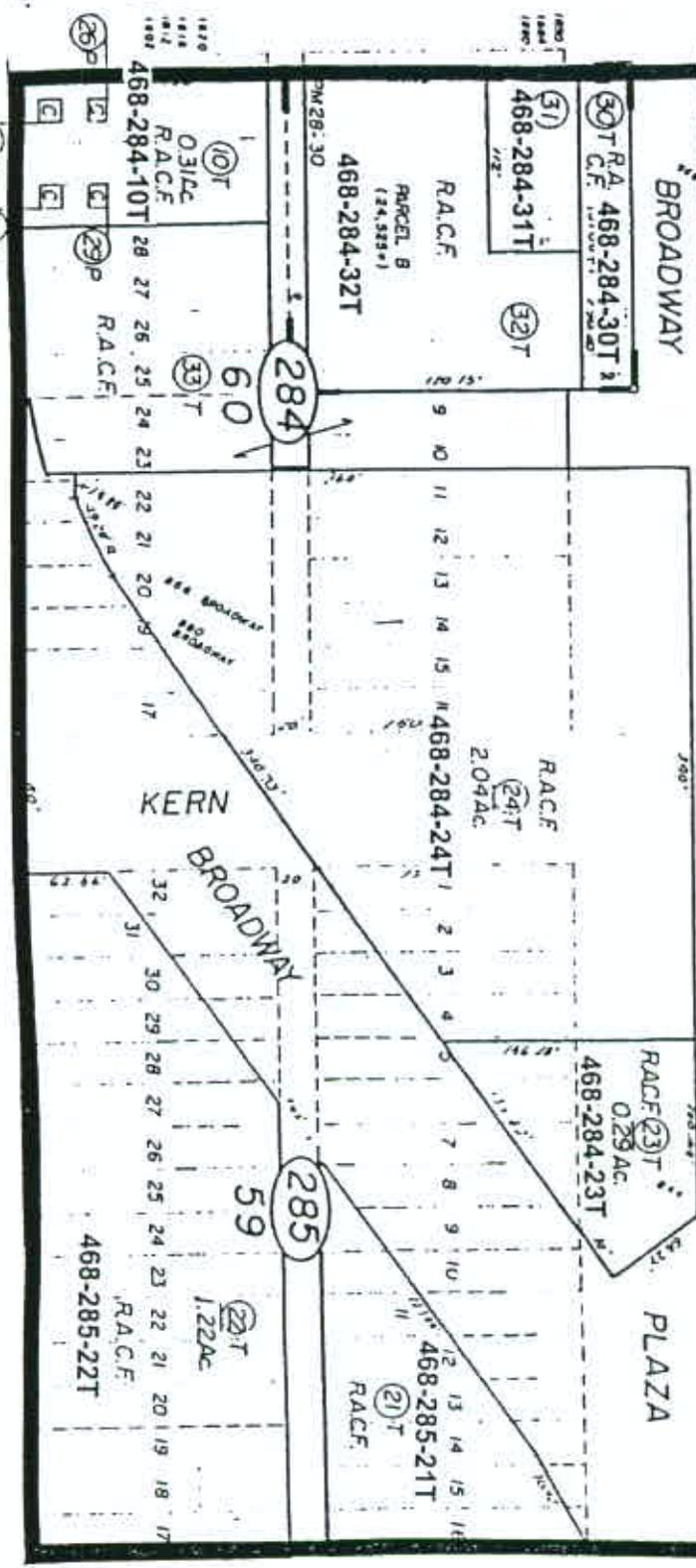
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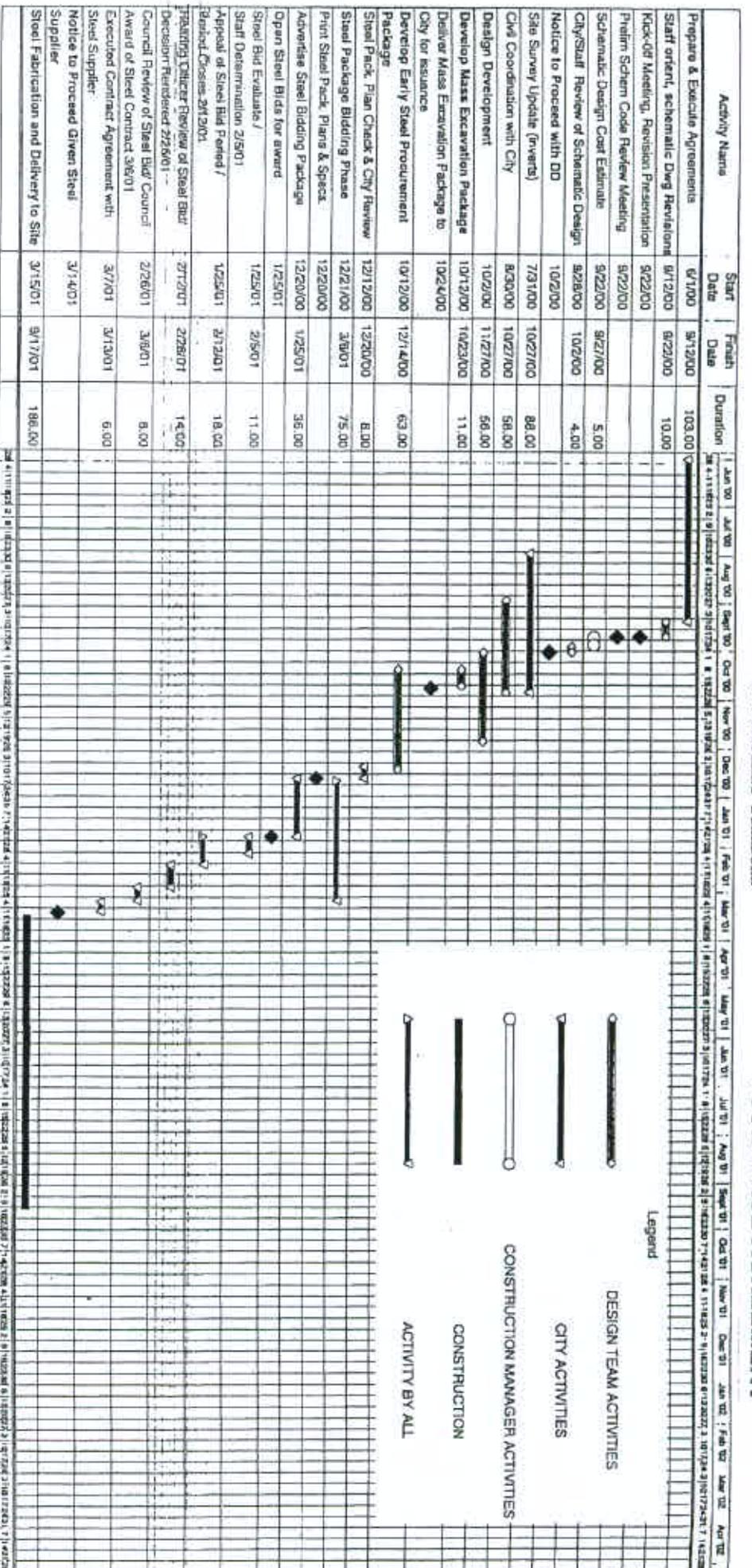


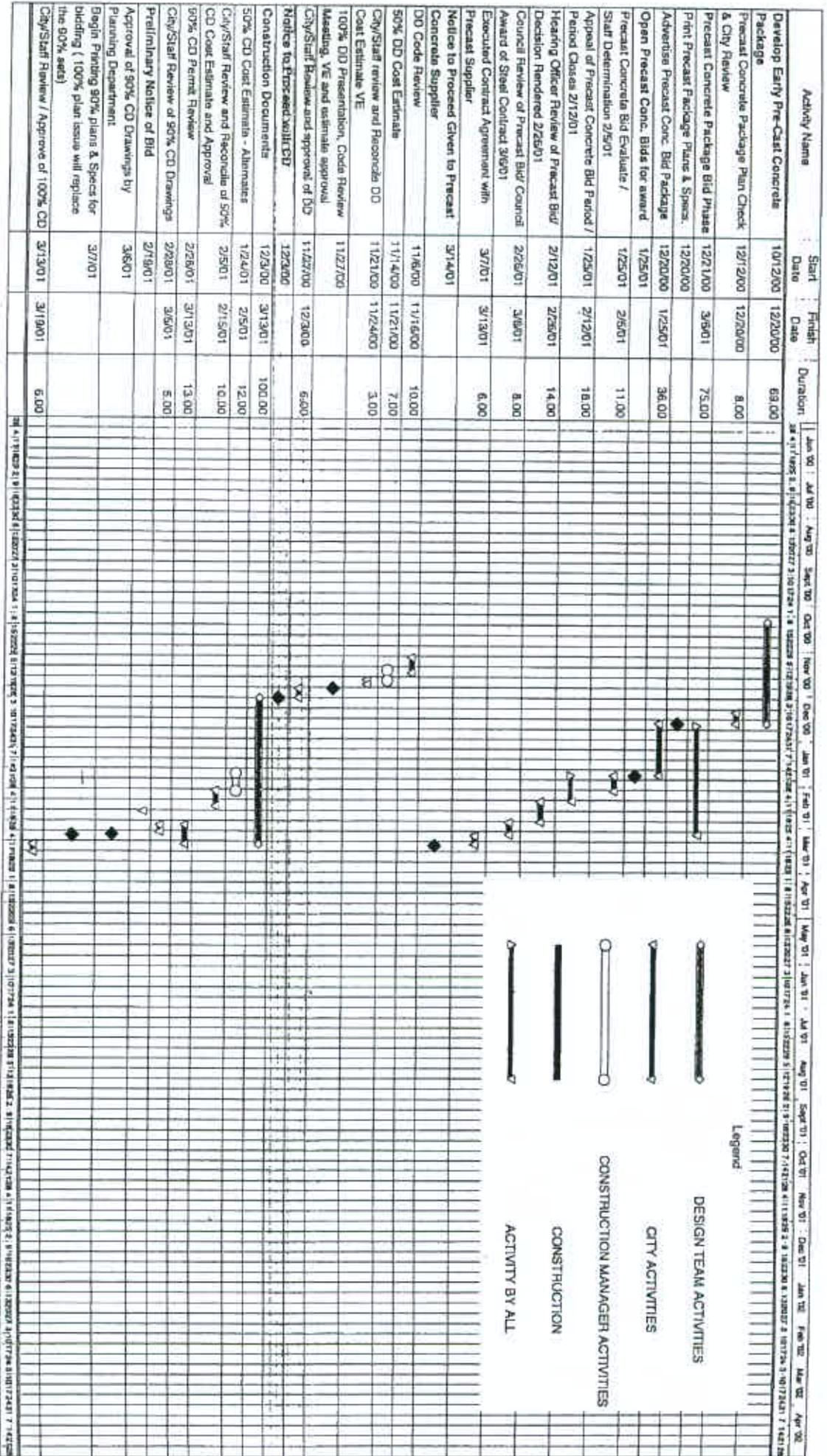
TULARE



INYO

PROPOSED STADIUM SITE





Activity Name	Start Date	Finish Date	Duration	Jan 00	Jul 00	Aug 00	Sep 00	Oct 00	Nov 00	Dec 00	Jan 01	Feb 01	Mar 01	Apr 01	May 01	Jun 01	Jul 01	Aug 01	Sep 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02
Bidding Phase	2/19/01	5/29/01	99.00																							
Advertisement to Bidders of 100% Plan Availability Data & Fee Schedule	2/19/01	3/2/01	11.00																							
Advertisement for Bid First day Plans & Specs Available to Bidders	3/19/01																									
Bid opening	4/19/01																									
Post Staff Determination	4/20/01	4/30/01	10.00																							
Mandatory Appeal Period	4/20/01	5/7/01	17.00																							
2 Day Appeal Hearing	5/18/01	5/23/01	5.00																							
Hearing Officer's Decision Rendered	5/23/01																									
Contract Award By Council	5/29/01																									
Executed Contract With GC Returned	5/30/01	6/9/01	10.00																							
Construction	6/9/01	6/1/02	357.00																							
Substantial Completion	6/1/02																									
Punch List	6/1/02	6/15/02	14.00																							
Verification of Punch List Completion	6/15/02	6/23/02	14.00																							
Occupancy	6/1/02																									



Legend

DESIGN TEAM ACTIVITIES

CITY ACTIVITIES

CONSTRUCTION MANAGER ACTIVITIES

CONSTRUCTION

ACTIVITY BY ALL

FRESNO DIAMOND GROUP
STADIUM RENTAL AGREEMENT

700 Van Ness; Fresno, CA 93721 • (559) 442-1994 • FAX: (559) 264-0795

This Stadium rental agreement is made and entered into this _____ day of _____, in the year _____ by and between the Fresno Diamond Group, LLC, a limited liability company, hereinafter called "FDG", and facility user, known as "Licensee", whose name and address is as follows:

Name: _____ Phone #: _____
Address: _____
City: _____ State: _____ Zip: _____
Fax #: _____ Email Address: _____

Whenever used in this rental agreement the term "Stadium" shall mean and refer to the Stadium located in downtown Fresno on the corner of Tulare & H Sts., and the term "Manager" shall mean and refer to the Fresno Stadium Manager, or authorized representative of FDG.

In consideration of the covenants and agreements herein expressed and subject to all the terms, conditions, and limitations herein contained, FDG and Licensee agree as follows:

1. **PREMISES USED:**

Permission is granted to Licensee to use and occupy designated areas of the Stadium, as scheduled below:

Area	Date	Time Period	Days
_____	_____	_____	_____
_____	_____	_____	_____
Non-Performance Days			
_____	_____	_____	_____
_____	_____	_____	_____

for the following purpose(s) only: _____

This rental agreement shall have no force and effect whatsoever unless and until it has been executed by FDG and Licensee, and by its execution, Licensee covenants and agrees to faithfully perform and abide by each and every term, condition, limitation and restriction of this rental agreement, each of which shall be a condition subsequent to the continuance in effect of this permit. Said conditions, terms, restrictions and limitations are as follows;

2. **PAYMENT.** Licensee shall pay FDG for the use and occupancy of said Stadium, the following sums:

Fee: \$ _____ Percentage _____ Total _____

Deposits: (_____) _____

Reimbursable charges for:

- Equipment/Service:

- Utility Service Fee: (utilities includes costs of normal heat, water, light, air conditioning, cleaning, maintenance, and labor): \$ _____;

and if for any reason, said fees are not paid as aforesaid, it is agreed that any Box Office receipts in possession of FDG may be applied to the payment of said fees, and Licensee waives all rights to that portion of the Box Office receipts necessary to pay said fees.

Unless indicated otherwise in this agreement, Licensee shall pay all rent and expenses within ten (10) days after the end of this event.

Gross receipts, if used pursuant to Section 2, shall include all money derived by Licensee from the use and occupancy of the premises whether received or to become due. Gross receipts shall not include, however, admissions taxes, sales tax, possessory interest taxes, or excise taxes of the City, County State or Federal Governments or any refund made on admissions. All deductions from gross receipts shall be substantiated to the satisfaction of the Manager.

Use of the facilities in excess of the time set forth above may, at the discretion of the Manager, result in an overtime fee being charged for additional labor expenses.

3. **DEPOSITS:** By _____ (date) Licensee shall deposit with FDG the sum \$ _____ Dollars, which sum shall be credited towards the above charges. In addition thereto, at the option of Manager, Licensee shall furnish the Manager by _____ (date) the sum of \$ _____ Dollars.

4. **EXTRA SERVICES.** Licensee shall pay to FDG, on demand, such other and further sums as may become due to FDG on account of special facilities or extra services furnished by FDG, the compensation for which is not included in the amounts specified under subdivision (2) hereinabove. Such charges shall be based upon a schedule of charges on file in the office of the Manager. Special facilities or extra services may include, but shall not be limited to the following.

Installation and removal of portable chairs and risers; special Club Lounge setup; Stadium Suite catering or set up; public address system: outside amplification; any special seating arrangements; rehearsal occupancies; use of forklift and operator; change in seating arrangements; special mechanical or electrical connections; equipment and service; employee work beyond regularly scheduled hours; erection of platform and stands other than those usually furnished; decoration and installation or removal of fixtures; admission attendants including ticket sellers, ticket takers, ushers, medical personnel, guards, police protection; sod replacement or field repair; and restoration fee.

5. **INDEMNIFICATION.** Licensee agrees to indemnify and hold harmless FDG, its officers, employees, and agents, against any and all claims, demands, causes of action, damages (including damages to the Stadium facilities, the City of Fresno's property, or FDG's property), cost and liabilities (including cost and liabilities of FDG with respect to its employees), in law or in equity, of every kind and nature whatsoever, directly or proximately resulting from or caused by the use and occupation of the facilities hereinabove described, whether such use is authorized or not, regardless of whether FDG is actively negligent or passively negligent, or from in any act or omission of Licensee or any of its officers, agents, employees, guests, patrons, or invitees and the Licensee shall, at its sole risk and expense, defend any and all suits, actions, or other legal proceedings which may be brought or instituted against FDG, its officers, partners, and employees on any such claim, demand or cause of action, or other legal proceedings, except for those claims, demands, causes of action, damages, cost and liabilities caused by sole negligent or willful misconduct of FDG; and Licensee shall pay for any and all damages to the property, for loss or theft of such property, done or caused by Licensee, its officers, agents, employees, guests, patrons, and invitees.

Insurance: Each Licensee shall obtain and keep in force during the period of use covered by the license, or any extension thereof, public liability and property damage insurance, the comprehensive general liability policy under such insurance to be not less than:

\$2,000,000 for combined single limit of bodily injury and property damage

\$2,000,000 for aggregate products, and completed operations coverage

\$2,000,000 for liquor legal liability insurance.

In the policy or policies providing such insurance both FDG and any such Licensee shall be named as insured, with FDG, its officers, employees, and agents, named as additional insured with primary coverage, whether or not such insured shall have other insurance against any loss covered by said insurance. Additionally, the certificate must include the specific dates of coverage and the following statement: "All operations or activities conducted in the Stadium facilities are summarily covered at all times during any period of occupancy."

Said policy shall contain a standard cross-liability endorsement, and shall provide that the policy shall not be cancelled prior to the termination of the license agreement, or until ten days following the date the Manager shall have received written notice of such cancellation whichever shall first occur.

A certificate of insurance including an additional insured endorsement shall be delivered to FDG at least thirty days before the date on which said Licensee takes possession of the use and occupancy of the said facilities showing the policy to be in full force and effect.

6. **EGRESS.** Licensee shall remove from the facilities, on or before

Time: _____ am/pm on Date: _____, 2000

all property, goods, and effects belonging to Licensee or caused to be brought upon said premises. If any such property is not removed within the above-stated time, the Manager shall have the right to sell the same in such manner as he may deem advisable and to hold the proceeds thereof for Licensee, or the Manager may store, or caused to be stored, any such property, for which Licensee shall pay a reasonable fee and all expenses incurred therefore.

7. **EXTRA LABOR.** The Manager shall have the right to require whatever extra labor is deemed necessary to accommodate the public and the public's safety during Licensee's use of the aforesaid facilities. Any such labor required by the Manager, including ticket sellers, ticket takers, ushers, stagehands, medical and security guards, may be supplied by FDG or the Licensee at the Manager's discretion.

8. **EXPIRATION OF LICENSE.** At the expiration of the time of use of the facilities hereinabove set forth, Licensee shall quit the facilities of the FDG and return to the Manager all equipment and facilities procured from the Manager, which premises, equipment, and facilities shall be in as good condition and repair as before Licensee's use thereof except for ordinary wear and tear.

9. **COMPLIANCE WITH LAWS.** Licensee, its agents, and employees, shall comply with all rules and regulations prescribed by the Manager for the use and occupancy of the facilities of FDG, and with all applicable laws, ordinances, and rules or regulations adopted or established, from time to time, by any government agency, or any department thereof.

10. **TAXES AND ASSESSMENTS.** In addition to the rentals, fees and charges provided for herein, Licensee shall be liable for any possessory interest taxes, and special assessments pertaining thereto, belonging to the City of Fresno or FDG, or Licensee agrees to protect and hold harmless FDG and the leased premises and all interest therein and improvements thereon, from any and all said taxes and assessments, including any interest, penalties and other expenses which may be thereby imposed, and from any lien therefor or sale or other proceedings to enforce payment thereof.

11. **ASSIGNMENT.** No assignment of this license shall be made by Licensee without the prior written consent of FDG.

12. **TICKETS.** FDG reserves the right to sell tickets, and therefore, requires the

Licensee to enter into an agreement with the Stadium's Box Office for the purpose of selling tickets and other services, as said Box Office is authorized to provide, under Stadium Ticket Manager's direction. The Box Office conducts both advance and event time ticket sales and charges as are required. Licensee will be responsible for any miscellaneous charges that the Box Office may accrue for extra services required or requested.

Licensee shall furnish all admission tickets which shall be in a form approved by the Manager. Said tickets shall be purchased from a bonded licensed printing company and a certified copy of the ticket printers manifest shall be delivered directly to the Manager. Licensee shall utilize the Stadium facility ticketing system under the direction of the Stadium Ticket Manager. Licensee shall direct that any printed or consigned tickets received be delivered directly to the Manager. Licensee is required to sell all tickets at the prices advertised, and no deviation will be allowed, provided, however, that Licensee may issue _____ free passes.

Where Licensee is authorized by FDG to furnish additional admission tickets, and if, pursuant to the terms of this license, FDG is to receive a share of the receipts derived from the use of facilities by Licensee, Licensee shall render an accounting of such receipts and pay to FDG the portion of such receipts to which FDG is entitled and shall, upon completion of the performance or attraction, deliver to the Manager all unused tickets.

No cash for expenses shall be released from the Box Office until final settlement begins. All facility expenses, including but not limited to rent, personnel, equipment, and other expenses which the Licensee may accrue, shall be deducted prior to final settlement. With regards to advance ticket sales, sponsorship sales involving tickets, or season ticket sales, Licensee is not authorized to collect and utilize those revenues for expenses prior to the substantial completion of said events.

Licensee does hereby assign, transfer, and set over any funds in possession of ticket sellers, sufficient funds to pay FDG any sums due FDG, pursuant to the terms of the license, and Licensee hereby authorizes said ticket seller(s) to deliver any such sum to FDG. Licensee shall allow a representative of Manager to audit ticket sales and associated records at any time.

13. **LICENSEE HANDLING FUNDS.** In the handling control custody and keeping of funds, whether the same are received through the Box Office or otherwise, FDG is acting for the accommodation of Licensee, and as to such funds, FDG shall not be liable to Licensee or to any other person for any loss, theft, or defalcation thereof, whether such loss, theft or defalcation is caused or done by employees of FDG or otherwise, nor shall any officer or employee of FDG be liable for any loss, theft or defalcation of such funds unless FDG willfully caused or permitted the same, or unless it was proximately caused by FDG's gross negligence.

14. **REFUNDS OF TICKETS REVENUE.** FDG retains the right to determine when ticket refunds shall be made for cause. Sufficient cause shall include, but not be limited to, seats blocked by equipment when exchange for comparable location is not possible; failure of projection equipment; inclement weather causing cancellation of event or performance where no make-up date can be scheduled; and failure to act, to show, or to go on stage within a reasonable time of the schedule provided by Licensee.

15. **DEFAULT.** Should Licensee default in the performance of any of the terms and conditions of this license, the Manager, may terminate the same. Upon such termination, Licensee shall be

liable for all Box Office expenses incurred for Licensee's event, including, but not limited to, expenses for ticket printing and personnel charges associated with the advance sale of the event.

16. **SEATING CAPACITY.** Licensee shall not sell or distribute, or permit to be sold or distributed, tickets or passes in excess of the seating capacity of the facility or facilities hereinabove described; nor admit a larger number of persons that can safely and freely move about therein. The decision of the Manager in this respect shall be final. Licensee may, however, sell standing room when, and only when, all seats have been sold and permission to sell such standing room has been granted, in writing, from the Manager.

17. **PROGRAM REQUIREMENT.** LICENSEE SHALL FILE WITH THE MANAGER, AT LEAST THIRTY (30) DAYS PRIOR TO HOLDING THE PERFORMANCE OR ATTRACTION FOR WHICH THE STADIUM IS BEING USED, A FULL AND DETAILED OUTLINE OF ALL EQUIPMENT AND FACILITIES REQUIRED, ALL STAGE REQUIREMENTS, THE CONCOURSE, FIELD AND/OR CHAIR SET-UP, AND ANY SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE MANAGER CONCERNING SUCH EVENT OR ATTRACTION.

18. **ENTERTAINMENT MORALS.** No performance, exhibition shall be given or held in the Stadium which is illegal, indecent, obscene or immoral.

19. **LICENSES.** Licensee shall obtain all permits or licenses required by all applicable laws, ordinances, and rules or regulations, including those mentioned therein.

20. **DISRUPTIVE PERSONS.** The Manager reserves the right to eject or cause to be ejected from the premises, any person or persons engaging in disruptive, belligerent or threatening conduct; and neither FDG nor any of its officers, employees, or agents shall be liable to Licensee for any damages that may be sustained by Licensee through the exercise by FDG of such right.

21. **BROADCASTING.** No performance or event presented on the premises shall be broadcast or televised, or in any manner recorded for reproduction, by Licensee without a permit issued by the Manager, and then only upon the expressed written condition that all expenses pertaining thereto will be paid in advance.

22. **SIGNS AND POSTERS.** Licensee shall not post or exhibit or allow to be posted or exhibited any signs, advertisements, show bills, lithographs, posters, banners or cards of any description, that are not in compliance with FDG's signage contracts including the regular billboards, scoreboard signage, and concourse signage in the Stadium. Such use of Stadium signage shall be a non-exclusive right and must be approved by the Manager.

23. **CONCESSION SALES.** FDG reserves the sole right to contract for the sale of souvenirs, event-related merchandise, programs, books, magazines, newspapers, soft drinks, flowers, the taking and/or sale of photographs, tobaccos, candies, food, novelties or any related merchandise commonly sold or dispensed in stadiums, and for the catering of food, and all advertising, radio and television broadcasting, transcription and recording rights, and parking are hereby expressly reserved to FDG and Licensees may not engage in or contract for any of said rights except as may be provided under Paragraph 37 below.

FDG reserves the right to operate the stadium Club Lounge, stadium suites, stadium parking lot, food and beverage, and all other operational areas provided, however, that the Manager may, in writing, authorize a Licensee to do any of the aforesaid upon such terms as may be deemed proper under the circumstances, subject to the provisions of existing contracts in effect at that time.

24. **CONTROL OF BUILDING.** The entrances and exits of the premises subject to this license shall be locked and unlocked at such times as may be required for Licensee's use. Licensee shall at all times place proper watchpersons at all entrances and exits when the same are unlocked. The keys to the premises shall at all times be in the possession and control of the Manager. The Manager and other duty authorized representatives of FDG, shall have the right to enter the Stadium, and all parts thereof, at all times.

25. **STORAGE.** In the receipt, handling, care, or custody of property of any kind shipped or otherwise delivered to the premises either prior to, during, or subsequent to the use of the stadium facility by any Licensee hereunder, FDG and its officers, employees and agents shall act solely for the accommodation of Licensee; and neither FDG nor its officers, employees, or agents shall be liable for any loss, damage, or injury to such property.

26. **OBSTRUCTIONS.** No portions of the sidewalks, entries, concourse, passages, halls, elevators, or ways of access to public utilities of the premises shall be obstructed, or caused to be obstructed, by Licensee, or caused or permitted to be used for any purpose other than ingress and egress to and from the stadium facility. The doors, skylights, stairways or openings that reflect or admit light into any portion of the building, including hallways, corridors and passageways, radiators, and house-lighting attachments, shall in no way be obstructed by Licensee. Loading area access shall remain clear and open for access for truck or other deliveries to stadium for vendors, food and beverage, and all others as required by the Manager.

The water closets and water apparatus shall not be used for any purpose other than that for which they were constructed, and no sweepings, rubbish, rags, papers or other substances shall be thrown therein. Any damage resulting on account of any misuse of any portion of the facility or equipment of the facilities, of whatsoever character, shall be paid for by Licensee.

27. **FLAMMABLE MATERIALS.** No flammable materials such as bunting, tissue paper, crepe paper, nitrocellulose film, etc., will be permitted to be used for decorations, unless pre-approved by the manager. All materials used for decorative purposes must be flame retardant and approved by the Manager prior to use by Licensee.

28. **UTILITY CONNECTIONS.** Unless otherwise authorized by the Manager, all plumbing, electrical, or carpenter work required to be done on the premises in connection with Licensee's use thereof, and all electrical current or domestic gas required for Licensee's use shall be done or furnished by FDG, for which Licensee shall pay FDG on the basis of the rates set forth in the schedule of rates on file in the office of the Manager.

29. **POSSESSORY INTEREST TAX.** A possessory interest subject to property taxation may be created by virtue of this agreement. In the event that a possessory interest is created, Licensee agrees to pay all such possessory interest taxes and FDG shall not be liable for the payment of

such taxes. Licensee further agrees that the payment of such taxes shall not reduce any consideration paid to FDG pursuant to this agreement or any other agreement Licensee has with FDG for the sharing of revenue generated by the use of the stadium authorized pursuant to this agreement.

30. **STADIUM ACCESS.** All articles, exhibits, fixtures, materials, displays, etc., shall be brought into or out of the building only at such entrances as may be designated by the Manager.

31. **OPENING HOURS.** Licensee must open the doors to the event or attraction as advertised unless otherwise agreed upon.

32. **INTERMISSION.** Every public performance, which is not completely staged within the period of one (1) hour, shall be so staged to provide an intermission of not less than fifteen (15) minutes, unless pre-approved by Manager.

33. **LOST ARTICLES.** The Manager or a representative thereof, shall have the sole right to collect and have the custody of articles left in the building by persons attending any performance, exhibit, or entertainment given or held on the premises, and Licensee or any person in Licensees employ shall not collect nor interfere with the collection or custody of such articles.

34. **OCCUPANCY INTERRUPTION.** Should the Stadium be destroyed or damaged to such an extent that such damage will substantially interfere with the use of the facilities by Licensee, or should a strike, public emergency, or other unforeseen occurrence beyond the control of the Licensee prevent Licensee from using said facilities, the Licensee shall have the right to terminate this license; however, Licensee shall be liable for charges due at the time of such occurrence. Should the license be terminated for any such cause, FDG waives any claim for damages or additional compensation.

35. **CANCELLATION BY FDG.** In addition to the right to terminate this License Agreement upon Licensee's default, the Manager shall have the right to terminate part or all of this license, without liability to FDG, upon thirty (30) days written notice, provided, however, that this agreement may be terminated at any time when the facilities are required for public necessity or emergency use.

36. **COPYRIGHTS.** Licensee agrees, represents, and warrants that nothing contained in the program, sporting event, performance, or exhibition, or in any other way connected with Licensee's activities under the license shall violate or infringe upon any copyright, patent, right of privacy, or other statutory or common law right of any person, firm, or corporation. Licensee shall obtain all ASCAP, BMI and similar copyright licenses and right to use patented and/or copyrighted music, materials, equipment, devices, or dramatic rights used in conjunction with the presentation of the performance(s) described in Paragraph 1 hereof, deliver proof of the copyright license to the FDG ten (10) days prior to performance. Licensee shall indemnify and hold harmless FDG, the Fresno Stadium, their officers, employees, and agents as provided in Paragraph 4 of this License Agreement, for any infringement or violation of any copyright or other proprietary right in the performance(s) described in Paragraph 1.

37. MISCELLANEOUS PROVISIONS:

Dated at Fresno, California _____, 20____

Licensee _____

Approved and agreed to:

By _____
Licensee

By _____
Fresno Stadium Manager

Title: _____

Title: _____

Dated _____, 20____

Dated _____, 20____

**EXHIBIT D TO
SUBLEASE AGREEMENT**

**PLEDGE AGREEMENT
(Fresno Grizzlies, Inc.)**

This Pledge Agreement ("Agreement") is entered into by and between FRESNO GRIZZLIES, INC., a California corporation ("Owner"), the Fresno Diamond Group, LLC, a California limited liability company ("FDG"), and the City of Fresno, a Municipal Corporation ("Secured Party").

Owner, FDG and Secured Party hereby agree as follows:

1. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:

1.1 **Additional Secured Property.** "Additional Secured Property" means any and all (i) additional capital stock or other equity securities of Tucson Toros, Inc., an Arizona corporation ("TTI"), whether certificated or uncertificated, (ii) warrants, options or other rights entitling Owner or FDG to acquire any interest in capital stock or other equity securities of TTI, (iii) securities, property, interest, dividends and other payments and distributions issued as an addition to, in redemption of, in renewal or exchange for, in substitution or upon conversion of, or otherwise on account of the Pledged Shares or such additional capital stock or other equity securities, and (iv) any membership or economic interest created in any subsidiary entity in accordance with Section 12 of this Agreement.

1.2 **Pledged Shares.** "Pledged Shares" means all of the issued and outstanding shares of capital stock, whether certificated or uncertificated, of TTI now owned by Owner or FDG, including the shares specifically described in Section 3.1.

1.3 **Secured Property.** "Secured Property" means (i) the Pledged Shares and Additional Secured Property, and (ii) all rights, interests and claims with respect to the Pledged Shares and Additional Secured Property, including under any and all related agreements, instruments and other documents. The Secured Property shall include all proceeds, including whatever is receivable or received when any of such property or proceeds of such property are sold, collected, exchanged or otherwise disposed of, whether voluntary or involuntary.

2. **Creation of Security Interest.** Owner and FDG, for a valuable consideration, receipt of which is hereby acknowledged, grants to Secured Party, and Secured Party accepts from Owner and FDG, a security interest under the provisions of the California Commercial Code in the Secured Property.

3. **Secured Property.**

3.1 **Assignment and Delivery - Pledged Shares.** Owner and FDG hereby assigns and delivers to Secured Party the Pledged Share consisting of Certificate No. 19 representing seven thousand nine hundred (7,900) shares of the Class A stock of TTI and Certificate No. 10 representing two thousand one hundred (2,100) shares of the Class B stock

of TTI.

3.2 Delivery of Additional Secured Property. Except as provided in Section 3.6, if Owner or FDG becomes entitled to receive or receives any Additional Secured Property, Owner or FDG shall (i) accept any such Additional Secured Property as the agent for Secured Party, (ii) hold it in trust for Secured Party, (iii) segregate it from other property or funds of Owner or FDG, and (iv) deliver all Additional Secured Property and all certificates, instruments and other writings representing such Additional Secured Property immediately to or for the account of Secured Party, all in suitable form for transfer by delivery, or accompanied by duly executed instruments of transfer or assignment in blank, all in form or substance satisfactory to Secured Party.

3.3 Stock Power Forms. Concurrently with the execution of this Agreement, Owner and FDG shall endorse and deliver to Secured Party an irrevocable stock power form separate from the Pledged Shares. The irrevocable stock power shall be in the form attached hereto as Exhibit "A".

3.4 Proceeds. In the event Owner or FDG receives any proceeds of any Secured Property, Owner or FDG will hold such proceeds in trust on behalf of and for the benefit of Secured Party and will immediately deliver all such proceeds to Secured Party in the exact form received with all necessary or appropriate endorsements.

3.5 Full Performance. The Secured Property is to be held by Secured Party as security for the timely and full performance of the obligations set forth in Section 4 below. Owner, FDG or Secured Party shall not dispose of the Secured Property nor shall it be encumbered except as allowed in this Agreement. Upon full and timely performance of all obligations set forth in Section 4 below, Secured Party shall cause the Secured Property to be returned to Owner upon Owner making a written request therefor to Secured Party.

3.6 Dividends. As long as there is no duly given notice of default outstanding under this Agreement or any of the obligations secured by it, ordinary cash dividends payable on account of the Pledged Shares may be paid to Owner for Owner's own use and benefit. As long as Owner and FDG are not in default under this Agreement or any of the obligations secured by it, ordinary cash dividends shall not be considered Secured Property or Additional Secured Property.

4. Obligations Secured. This Agreement secures the following:

4.1 Stadium Agreements. All obligations of Owner and FDG under that certain 30-year Sublease for a AAA baseball stadium between Owner, FDG and Secured Party, dated the same date as this Agreement, (including but not limited to Owner's and FDG's obligation to pay Secured Party \$1,500,000.00 in annual rental payments for the term of the Sublease or as otherwise amended by the Parties therein), and Non-Relocation and Continuous Operation Agreement entered into between FDG, Owner, TTI, and Secured Party, dated the same date as this Agreement.

4.2 Pledge Agreement. Performance by Owner and FDG of all covenants, conditions, and warranties made by Owner and FDG in this Agreement and in any collateral agreements entered into by Owner, FDG and the City in connection with the transaction or transactions which occasioned the execution of this Agreement. Collateral Agreements shall not include the Parking Agreement entered into between City and FDG dated the same date as this Agreement.

4.3 4.3 Indebtedness. The payment of all present and future indebtedness or performance of contractual obligations of Owner or FDG to Secured Party whether or not evidenced by the Sublease Agreement, or Non-Relocation and Continuous Operation Agreement. The term "indebtedness" is used in its most comprehensive sense and includes without limitation any and all advances, debts, obligations and liabilities now existing or made in the future however arising.

5. Owner and FDG's Covenants. Owner and FDG promise and agree:

5.1 Payments. To pay all amounts due on Owner and FDG's obligations described in Section 4 and any other provisions of this Agreement when the same shall be legally due and payable.

5.2 Expenses. To pay all expenses, including attorneys' fees, incurred by Secured Party in the perfection, preservation, realization, enforcement, and exercise of its rights under this Agreement.

5.3 Litigation. To give Secured Party notice of any litigation that may have a material adverse effect on the Secured Property or the business of Owner, FDG or TTI.

5.4 Transfer. Not to sell, lease, transfer, or otherwise dispose of the Secured Property.

5.5 Shareholder Agreements. Not to enter into any shareholder agreement, voting trust, proxy agreement or other agreement or understanding which affects or relates to the voting or giving of written consents with respect to any of the Secured Property.

5.6 Issuance of Additional Shares. Not to consent to or approve, or allow Owner, FDG or TTI to consent to or approve, the issuance to any person or entity of any additional shares of any class of capital stock of TTI, or of any securities convertible into or exchangeable for any such shares, or any warrants, options or other rights to purchase or otherwise acquire any such shares.

5.7 Liens. Not to permit liens on the Secured Property. For purposes of this Agreement, "lien" means any security interest, mortgage, pledge, lien, attachment, claim, charge, encumbrance, or agreement retaining title covering, on or affecting the Secured Property other than the Pledge Agreement between FDG and Owner dated October 21, 1997.

5.8 **Default.** To notify Secured Party promptly of any default, potential default, or any development that might have a material adverse effect on the Secured Property.

5.9 **Distributions.** To deliver promptly to Secured Party all certificates received in a split or distribution of, or issuance of stock dividends on, the Secured Property.

5.10 **Business of Owner and TTI.** As to the business conducted by Owner and TTI (for purposes of this Section 5.10 only), collectively referred to as "Owner":

5.10.1 To ensure that Owner's business is conducted efficiently and without voluntary interruption.

5.10.2 To ensure that all necessary action is taken to preserve all rights, privileges and franchises held by Owner.

5.10.3 To ensure that Owner's business property is kept in good repair.

6. **Owner and FDG's Warranties and Representations.** Owner and FDG warrants and represents as follows:

6.1 **Ownership.** Except as stated herein and for the security interest granted herein, Owner is the legal record owner and FDG has beneficial ownership of the Secured Property free from any lien and Owner has and will have good and marketable title to the Secured Property. Owner and FDG will defend the Secured Property against every claim or demand made upon it.

6.2 **Subordination Agreement.** Secured Party and FDG have each extended or will extend financial accommodations or will incur substantial financial commitments to Owner, and each has acquired or will acquire a security interest in collateral of Owner otherwise defined herein as Secured Property, whether now owned or in existence or acquired by the Owner in the future, as security for those financial accommodations and commitments. FDG has physically received possession of the Secured Property from Owner and perfected its security interest in accordance with that pledge agreement between FDG and Owner, dated October 21, 1997. FDG agrees herein, upon the Effective Date of this Agreement to physically deliver the Secured Property and any Additional Secured Property to Secured Party and agrees that Secured Party's security interest is perfected therein. It is understood by the Owner, FDG and Secured Party that Secured Party is unwilling to extend to Owner financial accommodations or commitments that will be secured by a security interest in the Secured Property, unless FDG subordinates to Secured Party any right it may presently have acquired from Owner, third parties, (including but not limited to John Carbray, an individual and John Carbray Living Trust), or acquired in the future in the Secured Property and to physically deliver that Secured Property to Secured Party. THEREFORE FDG subordinates to Secured Party all rights it may now have or acquire in the future in any of the Secured Property regardless of the manner in which such rights may arise and agrees that the rights of Secured Party in and to the Secured Property are superior to any rights of FDG

asserted in the Secured Property, despite the prior delivery of the Secured Property by Owner or any third party to FDG. FDG and Owner shall further deliver the Secured Property to Secured Party upon the Effective Date of this Agreement.

6.3 **Valid Obligation.** This Agreement is a valid and binding obligation of Owner and FDG. The Agreement creates a security interest enforceable against the Secured Property in which Owner and FDG now has rights, and will create a security interest enforceable against the Secured Property when Owner and FDG later acquires those rights.

6.4 **No Breach.** Neither the execution and delivery of this Agreement, nor the taking of any action in compliance with it, will (i) violate or breach any law, regulation, rule, order, or judicial action binding on Owner or FDG or any agreement to which Owner or FDG is a party; or (ii) result in the creation of a lien against the Secured Property except that created by this Agreement. There exists no event or omission that is or would be a default under this Agreement, except for the passage of time or the giving of notice.

7. **Voting Rights.** All voting rights of the Pledged Shares shall be vested in Owner as long as there is no duly given notice of default outstanding under this Agreement. Except for that matter described in Section 12, prior to Owner's voting of the Pledged Shares for the following purposes, Owner shall obtain and file with the Secretary of Owner the Secured Party's written consent, which shall be given at Secured Party's sole discretion to do the following:

7.1 To merge, consolidate or dissolve TTI;

7.2 To sell all, or substantially all, of the assets of TTI, or

7.3 To do anything which would have the effect of impairing the position or interest of Secured Party with respect to the Secured Property or which would alter the voting rights with respect to the stock of Owner or TTI, or be inconsistent with or violate any provisions of this Agreement.

8. **Default.** Owner is in default under this Agreement upon the happening of any of the following:

8.1 **Failure to Perform.** The failure of Owner or FDG to pay or perform any obligation, covenant or liability contained or referred to in this Agreement or in any collateral agreement entered into by Owner or FDG in connection with the transaction or transactions which occasioned the execution of this Agreement, whether when due, at stated maturity, on accelerated maturity, or otherwise; or the failure of performance of any obligation, covenant or liability contained or referred to in the agreements specified in Section 4;

8.2 **Misrepresentation.** If a warranty, representation, or statement made or furnished by Owner or FDG to Secured Party contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein misleading, whether or not any such statement or

omission is intentional;

8.3 **Liens.** The creation of any lien on the Secured Property, or the making of any levy, seizure or attachment thereon other than the Pledge Agreement between Owner and FDG dated, October 21, 1997;

8.4 **Termination of Business.** The suspension, termination or liquidation of the business of Owner, FDG or TTI;

8.5 **Termination of Existence/Insolvency.** Death, dissolution, termination of existence, insolvency or business failure of Owner or FDG, appointment of a receiver of all or part of Owner's or FDG's assets, Owner's or FDG's assignment for the benefit of creditors, or the commencement of a proceeding under a bankruptcy or insolvency law by or against Owner or FDG; or similar events or actions affecting or pertaining to TTI.

9. **Remedies.** Upon default under this Agreement, Secured Party may, at the time of default or any time thereafter, declare Owner and FDG in default of the Sublease Agreement, Parking and Non-relocation and Continuous Operation Agreements and Secured Party shall have all of the remedies of a secured party under the California Commercial Code, the Sublease Agreement, the Parking Agreement and the Non-relocation and Continuous Operation Agreement or any other applicable law or statute, as amended from time to time. Furthermore, upon any default, Secured Party may:

9.1 **Performance of Obligations.** Perform any of Owner or FDG's obligations under this Agreement for Owner or FDG's account. Any money expended or obligations incurred in doing so, including reasonable attorneys' fees and interest at the highest rate permitted by law, will be charged to Owner or FDG and added to the obligation secured by this Agreement.

9.2 **Conveyance to Secured Party.** At its option and upon ten (10) days prior written notice to Owner, take possession of, and title to, and register the Secured Property, or any part of it, in Secured Party's name or in the name of its nominees; collect and enforce payment with respect to the Secured Property; exercise all rights, options, and privileges with respect to the Secured Property, and deliver it in that connection to any appropriate person or agency. Further Secured Party shall have the immediate right to vote the Secured Property as Owner or FDG's proxy, that proxy to be irrevocable until this Agreement is terminated. Except as otherwise limited in this Agreement, until such default, Owner's right to vote the Secured Property will not be impaired by this Agreement.

9.3 **Sale.** Conduct a commercially reasonable private sale or other disposition of the Secured Property, although a higher price might have been obtained for the public sale under the Securities Act of 1933, as amended, or in compliance with any other applicable laws or regulations. Secured Party's notice of the time and place of public sale of the Secured Property, or the time on or after which a private sale or other disposition of the Secured Property will be made, is reasonable if sent to Owner in the manner for giving notice at least ten (10) days before the public or private sale. Owner, FDG and Secured Party agree

that this shall constitute reasonable notice. Any sale of the Secured Property shall be held at such time or times and at such place or places as Secured Party may determine in the exercise of Secured Party's reasonable discretion. Secured party may bid and purchase at any sale under this Agreement and shall also have the rights provided in Section 9505 of the California Commercial Code. The Secured Property may, upon completion of any sale or transfer, be endorsed by Secured Party as required to transfer the Secured Property on the books of Owner and Owner and FDG hereby constitute and appoint Secured Party as Owner and FDG's attorney in fact to do so.

9.4 Proceeds of Sale. The net cash proceeds of any sale or disposition of the Secured Property shall be applied by Secured Party first, to the reasonable costs and expenses (including reasonable attorneys' fees) of holding, processing and preparing for the sale, transfer or delivery of the Secured Property; and second, to the satisfaction of all Owner and FDG's obligations under the Sublease, Parking and Non-Relocation and Continuous Operation Agreement in such order and manner as Secured Party in its sole discretion may determine. Any surplus may be paid to the order of Owner. In the event that the proceeds of any sale are insufficient to fully discharge the obligation to Secured Party, including interest, Owner and FDG shall remain liable to Secured Party for any deficiency.

9.5 Execution of Documents. Secured Party may require Owner and FDG to execute all documents and instruments on Secured Party's request that Secured Party considers necessary or advisable to exercise its rights under this Agreement.

9.6 Role of Major League Baseball.

9.6.1 Owner and FDG represent and warrant to Secured Party that: Owner's and FDG's execution and performance of this Agreement has been approved by the President of the Minor League Association, the National Association of Professional Baseball Leagues, Inc., and by the Pacific Coast Baseball League, Inc. to grant a security interest of a "Control Interest," as defined by Rule 36 of the Professional Baseball Agreement, in a Minor League Club.

9.6.2 Notwithstanding any other provision of this Agreement to the contrary, Secured Party agrees to be bound by the Major League Rule Regarding Regulation of Minor League Franchises, (the "Rules"). Secured Party acknowledges that the Rule does not permit a Minor League Baseball Club to pledge its franchise as security for any indebtedness and requires that a "Control Interest" transfer, as defined in the Rules, in such Club is subject to the prior review and approval of the President of the National Association of Professional Baseball Leagues, Inc. and review of the Baseball Office of the Commissioner in their sole and absolute discretion. Accordingly, Secured Party acknowledges that such approval for a transfer of a Control Interest in the Club would be required for any foreclosure, sale or transfer of the Secured Property to a third party as well as to the Secured Party. Secured Party shall immediately notify the President of the National Association of Professional Baseball Leagues, Inc. and the Baseball Office of the Commissioner of any event of default under the indebtedness secured by this Agreement. Secured Party acknowledges that any temporary or permanent management of the Secured Property by the

Secured Party or any receiver or trustee shall be subject to the prior approval of the President of the National Association of Professional Baseball Leagues, Inc. and the review of the Baseball Office of the Commissioner in their sole and absolute discretion. In the event that Secured Party desires to operate the Franchise for its own account on a temporary or permanent basis, Secured Party shall obtain the prior written approval of the President of the National Association of Professional Baseball Leagues, Inc. in accordance with the Rule. Nothing contained in this Section shall be deemed to limit the obligations of Debtor to the Secured Party under any credit agreement and the rights of Secured Party thereunder which, in either case, are not inconsistent with the provisions of this Section. Any requirement for Secured Party with this Section or this Agreement which requires Secured Party to seek and obtain any approvals of the President of the National Association of Professional Baseball Leagues, Inc., or any other third party to operate the Franchise or perfect Secured Parties security interest in the Franchise shall be at the sole and absolute expense of Owner and FDG.

10. **Release of Owner or FDG.** Without notice to Owner or FDG, Secured Party may release Owner or FDG, or any endorser, guarantor, or any other collateral security given to secure the obligations of Owner or FDG.

11. **Termination.** This Agreement will terminate when Owner and FDG completes performance of all obligations to Secured Party, including, without limitation, the termination of the Sublease Agreement, Parking and Non-relocation and Continuous Operation Agreements for reasons other than a default or breach by Owner or FDG, and Owner or FDG has notified Secured Party in writing of the termination.

12. **Right of FDG to Purchase the Franchise**

12.1 **The Baseball Franchise.** TTI is the owner of a franchise for a AAA baseball team ("the Franchise") in the Pacific Coast League of Professional Baseball Clubs, Inc., ("PCL"). The ownership of the Franchise give TTI the right to operate a professional baseball team as a member of the PCL.

12.2 **The License of the Franchise to FDG.** TTI does not operate the Franchise. It has granted to FDG an exclusive right and license to possess, use and operate the Franchise pursuant to the terms of that certain Exclusive License Agreement dated October 21, 1997, (the "License Agreement"), a true and conformed copy of which has been provided by FDG to the Secured Party.

12.3 **Option to Purchase the Franchise.** TTI has granted to FDG the option to purchase the Franchise pursuant to an Option Agreement dated October 21, 1997, ("the Option Agreement"), a true and conformed copy of which has been provided by FDG to Secured Party.

12.4 **FDG's Right to Purchase the Franchise.** FDG shall have the right to exercise its option to purchase the Franchise from TTI in accordance with the Option Agreement, if all

of the following requirements are met:

- a. The approvals of the PCL, the National Association, and the Office of the Commissioner required by Sections 7.2, 7.3 and 7.4 of the Option Agreement have been obtained.
- b. The person to whom the Franchise is transferred by TTI, upon the exercise of the Option by FDG, is a limited liability company, organized under the laws of California, having FDG as its sole member and sole manager (the "Subsidiary").
- c. FDG pledges to the Secured Party all membership and economic interests in the Subsidiary as substituted security in place of the Pledged Shares by a Pledge Agreement and Security Agreement in a form satisfactory to the Secured Party.
- d. The Subsidiary and FDG enter into a License Agreement with respect to the Franchise that is identical in all material respects with the License Agreement described in Section 12.2, except that the licensor shall be the Subsidiary and that FDG and the Subsidiary may fix the Compensation payable under Section 4 of the License Agreement to by any amount that they, in their sole and absolute discretion, determine to be proper. It is understood and agreed that the provisions of Section 4.3 of this Security Agreement shall be as fully applicable to any License Agreement between FDG and the Subsidiary as to the License Agreement between FDG and TTI.
- e. Neither FDG nor Owner is in material default of any of their respective obligations under the Stadium Agreements described in Section 4.1.
- f. FDG has given its written approval of the Articles of Incorporation and the Operating Agreement for the Subsidiary. FDG shall submit its proposed form for the Articles of Organization and Operating Agreement for the Subsidiary to the Secured Party for its review and approval. Secured Party shall promptly give its written approval or promptly give its written disapproval. If the Secured Party disapproves of either or both such documents, its disapproval shall set out the specific additions or deletions which, if made to the disapproved document or documents, would result in the Secured Party's approval thereof. The Secured Party shall not require any additions or deletions to be made to the Operating Agreement or Articles of Organization that are not reasonably required to protect the security interest of the Secured Party in all membership and economic interests in the Subsidiary, consistent with this Pledge Agreement.
- g. FDG and Owner agree that Subsidiary, FDG and Owner shall enter into any agreements or execute and deliver any documents or instruments on Secured Party's request necessary for Secured Party to attach and perfect its security interest in Subsidiary or any membership and economic interests in the Subsidiary or to exercise any of its rights under this Agreement.

13. **Secured Party's Care and Delivery of Secured Property.** Secured Party's obligations with respect to the Secured Property in its possession shall be strictly limited to

the duty to exercise reasonable care in the custody and preservation of such Secured Property, and such duty shall not include any obligation to ascertain or to initiate any action with respect to or to inform Owner, FDG or any other third party of maturity dates, conversion, call, or exchange rights, or offers to purchase the Secured Property, or any similar matters, notwithstanding the Secured Party's knowledge of the same. Secured Party shall have no duty to take any steps necessary to preserve the rights of Owner, FDG or any other third party against prior parties, or to initiate any action to protect against the possibility of a decline in the market value of the Secured Property. Secured Party shall not be obligated to take any actions with respect to the Secured Property requested by Owner, FDG or others unless such request is made in writing, and the Secured Party determines, in its sole discretion, that the requested actions would not unreasonably jeopardize the value of the Secured Property as security for the indebtedness. Secured Party may at any time deliver the Secured Property, or any part thereof, to Owner, and the receipt thereof by the Owner shall be a complete and full acquittance for the Secured Property so delivered, and Secured Party shall thereafter be discharged from any liability or responsibility therefor.

14. Exclusive License Agreement

TTI and FDG have entered into an Exclusive License Agreement, dated October 21, 1997, (the "License Agreement") wherein TTI has granted FDG an exclusive worldwide right and license to possess, use and operate the Franchise, together with player development contracts, protected territorial rights, and all approvals, rights and any other entitlements necessary, or in any way related, to the use and operation of the Franchise. In the event that Secured Party shall exercise any rights that it may have under this Agreement, including but not limited to foreclosure of the Secured Property or Additional Secured Property, FDG, subject to the Rules, shall immediately terminate any interest it has or may have in the future to the License Agreement or any license agreement created in accordance with Section 12 of this Agreement and shall thereafter have no further interest in accordance with that License Agreement or any other license agreement related to the Secured Property or Additional Secured Property. Further, Secured Party shall not be subject to any rights of FDG created under that License Agreement or any other license agreement. If FDG shall transfer any interest that it has or may have in the future to the License Agreement or any license agreement created under Section 12 of this Agreement, FDG shall assure that the agreement which transfers the license interest shall be subject to the same limitations and restrictions contained within this Section and said agreement shall contain similar language to this Section which would require the same obligation to terminate the license agreement in the event that Secured Party should foreclose on the Secured Property or Additional Secured Property in accordance with this Agreement.

15. General Provisions.

15.1 Further Assurances. Owner and FDG shall, from time to time upon the request of Secured Party, execute and deliver any instruments or documents, or undertake any acts, that may be deemed necessary or advisable by Secured Party to implement or carry out the purposes of this Agreement.

15.2 Notices. All notices, requests, demands, instructions or other communications to be given to any party hereunder shall be in writing and shall be deemed to have been duly given (i) on the date of service if personally served on the party to whom notice is to be given; (ii) within forty-eight (48) hours after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, return receipt requested; (iii) within twenty-four (24) hours after being deposited with a recognized private courier service (e.g., Federal Express), if delivered by a private courier service to the party to whom notice is to be given, all charges prepaid; or (iv) when sent, if given by telex or telecopy. Any such communication sent by telex or telecopy must be confirmed within twenty-four (24) hours by letter mailed or delivered in accordance with this Section. All notices shall be properly addressed to the party receiving notice as follows:

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If to the Owner to:

Fresno Grizzlies, Inc.
1231 N Street
Fresno, California 93721
Attention: President

If to Secured Party to:

City of Fresno
2600 Fresno Street
Fresno, California 93721
Attention: City Manager

The addresses for purposes of this Section may be changed by giving written notice of such change.

15.3 Partial Invalidity. Any covenant, agreement, condition or other provision of this Agreement, or any portion thereof, which shall prove to be invalid, void or illegal shall not affect the remaining portions of the Agreement, or any part thereof, and this Agreement shall be construed as if any such covenant, agreement, condition or provision had not been inserted, but only as long as the rights, obligations and duties of a party are not materially altered thereby.

15.4 Attorney's Fees. If either party files any action or brings any proceeding against any other party arising out of this Agreement, or is made a party to any action or proceeding relating to this Agreement brought by any person or entity, then as between the parties hereto, the prevailing party shall be entitled to recover as an element of its costs of suit and not as damages, reasonable attorney's fees to be fixed by the court. The prevailing party

shall be a party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorney's fees. No sum for attorney's fees shall be counted when calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorney's fees.

15.5 **Waiver.** No waiver of any term of this Agreement or performance hereunder shall be effective unless in writing and signed by the party affected thereby. No waiver by a party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided for in this Agreement, or at law or in equity, shall not prevent the exercise by that party of any other remedy provided in this Agreement, or at law or in equity.

15.6 **Governing Law.** This Agreement has been delivered in the State of California and the parties agree that it shall be construed in accordance with the laws of that state, which laws shall govern the Agreement's interpretation and effect.

15.7 **Successors in Interest.** All rights and obligations of Owner, FDG and Secured Party shall inure to the benefit of and be binding upon their heirs, executors, administrators, successors and assigns. If there be more than one party obligated to Secured Party, their obligations hereunder shall be joint and several.

15.8 **Effective Date.** The effective date of this Agreement is _____, 2000.

Dated: _____, 2000.

Secured Party:

City of Fresno, a Municipal Corporation

By: _____

Its: _____

By: _____

Its: _____

Owner:

Fresno Grizzlies, Inc., a
California corporation

By: _____

John L. Carbray, President

By: _____

Diane M. Engelken, Secretary

FDG

Fresno Diamond Group, a California
limited liability company

By: _____

John L. Carbray, President

By: _____

Diane M. Engelken, Secretary

Exhibit "A"

IRREVOCABLE STOCK POWER
(Fresno Grizzlies, Inc.)

FOR VALUE RECEIVED, the undersigned does hereby assign and transfer to the City of Fresno, a municipal corporation, as Secured Party under that certain Pledge Agreement of even date herewith between FRESNO GRIZZLIES, INC., as Owner, and the CITY OF FRESNO, as Secured Party, all the undersigned's right, title and interest in the following shares of the capital stock of TUCON TOROS, INC., an Arizona corporation:

<u>Class/Series of Stock</u>	<u>Certificate No.</u>	<u>No. of Shares</u>
Class A	19	7,900
Class B	10	2,100

The undersigned does hereby irrevocably constitute and appoint _____ attorney to transfer such stock on the books of the company, with full power of substitution in the premises.

Dated: _____, 2000.

FRESNO GRIZZLIES, INC., a
California corporation

By: _____
John L. Carbray, President

By: _____
Diane Engelken, Secretary