



AGENDA ITEM NO.	1 L
COUNCIL MEETING	8/19/08
APPROVED BY	
<i>[Signature]</i>	
DEPARTMENT DIRECTOR	
CITY MANAGER	
<i>[Signature]</i>	

August 19, 2008

FROM: PATRICK N. WIEMILLER, Public Works Director *pw*
Public Works Department

BY: STEVEN SON, Manager *SS*
Public Works Department, Capital Management Division

ANDY VANDERFORD, *AV* Project Manager
Public Works Department, Capital Management Division

SUBJECT: APPROVE THE TERMS OF THE AGREEMENT BETWEEN FRESNO METROPOLITAN FLOOD CONTROL DISTRICT AND CITY OF FRESNO FOR LAND ACQUISITION AND JOINT DEVELOPMENT AND OPERATION OF 1.37 ACRES OF LAND FOR COMPLETION OF THE FIGARDEN LOOP PARK (COUNCIL DISTRICT NO. 2)

KEY RESULT AREA

Presented to City Council
Date 8/19/08
Disposition see approved

Customer Satisfaction

RECOMMENDATION

Approve the terms of the agreement between Fresno Metropolitan Flood Control District (FMFCD) and City of Fresno for land acquisition and joint development and operation of 1.37 acres of land for completion of the Figarden Loop Park.

EXECUTIVE SUMMARY

The City of Fresno seeks to construct the "Phase Two" of the N. Figarden Drive Baseball Park located at Figarden Drive and Santa Fe Avenue, adjacent to the Figarden Elementary School and the FMFCD Basin "AC". PARCS proposes to purchase 1.37 acres of upper floor of Basin "AC" from FMFCD in the amount of \$247,140.00. In lieu of cash payment to FMFCD for the land, the City shall enter into an agreement with FMFCD to jointly own and develop lower floor of Basin "AC" into green space.

KEY OBJECTIVE BALANCE

This project best balances three Key Objectives: Customer Satisfaction, Employee Satisfaction and prudent Fiscal Management. This project will provide additional park and recreational opportunities to serve the customer citizens in the area and demonstrates the ability of multiple agencies (City of Fresno, Fresno Metropolitan Flood Control District, and Fresno Unified School District) to partner in providing a much needed amenity. The benefiting neighborhood will lend

toward Employee Satisfaction of doing a good job. Fiscal Management is also included because Park Impact Fees are planned to pay for the improvements.

BACKGROUND

On December 5, 2006, City Council approved a PARCS Reimbursement Resolution which included the "N. Figarden Baseball Park", wherein this park was described as: 1) upgrading the existing baseball fields at Figarden Elementary School, and 2) building a new park (baseball) on an adjacent City owned property, as well as developing an adjacent FMFCD basin to support other baseball activities; thus making one "Figarden Baseball Complex". Staff has designated the upgrading of the school's existing baseball fields as "Phase One", and the remaining project scope as "Phase Two".

On May 15, 2007, Council awarded a construction contract in the amount of \$1,232,756.20 for "Phase One", and construction was substantially completed on September 14, 2007.

The PARCS Department proposes to build "Phase Two" of the Figarden Baseball Complex. This phase will consist of an adult sized baseball field with lighting, restrooms, concessions and storage building(s), parking lot, tot lot, water splash/spray area, picnic pavilion, and landscaping and irrigation. It should be noted that this will be the only adult sized field in the City of Fresno Parks inventory and will provide recreational opportunities for players citywide. In addition, a concrete path will meander within the complex and connect the upgraded Figarden Elementary School baseball fields and the FMFCD basin. Approximately \$4.1 million is budgeted for construction costs.

Staff is requesting the approval of the agreement with FMFCD to acquire 1.37 acres of Basin "AC" to be used for the park, and enter into an agreement with FMFCD to develop Basin "AC" into green space.

The agreement with FMFCD has been approved as to form by the City Attorney's Office.

FISCAL IMPACT

Funds for this project are derived from Park Bond proceeds and UGM Neighborhood Park Zones 5 and 6.

FISCAL IMPACT STATEMENT

PROGRAM: PC00069 FIGARDEN BASEBALL COMPLEX

<u>RECOMMENDATION</u>	<u>TOTAL OR CURRENT</u>	<u>ANNUALIZED COST</u>
Direct Cost	<u>\$360,648</u>	<u> </u>
Indirect Costs:	<u>\$20,000</u>	<u> </u>
TOTAL COST	<u>\$380,648</u>	<u> </u>
Additional Revenue or Savings Generated	<u>-0-</u>	<u> </u>
Net City Cost	<u>\$380,648</u>	<u> </u>
Amount Budgeted (If none budgeted, identify source):	<u>PC00069</u>	<u> </u>

*Funds for this project are derived from Citywide Park Impact fees / Bond Proceeds.

Indirect Costs include: Public Works contract management, design coordination, and various project management activities related to administering this consultant agreement. This is an estimated cost.

2/19/08
1L

AGREEMENT FOR JOINT DEVELOPMENT AND OPERATION
OF NEW DRAINAGE BASIN PARK
BASIN "AC"

THIS AGREEMENT FOR JOINT DEVELOPMENT AND OPERATION OF NEW DRAINAGE BASIN PARK BASIN "AC" (this "Agreement"), made and entered into this 8th day of August, 2008, by and between FRESNO METROPOLITAN FLOOD CONTROL DISTRICT, a California public agency (the "District"), and the CITY OF FRESNO, a municipal corporation (the "City").

WITNESSETH:

WHEREAS, the District has adopted and bears the responsibility for implementation of the Storm Drainage and Flood Control Master Plan (the "Master Plan"), which provides for storm water retention basins and related facilities and improvements; and

WHEREAS, in connection with the development of planned local drainage facilities of the Master Plan, the District has identified local drainage facilities, many of which include storm water management basins for the storage and disposal of storm water runoff; and

WHEREAS, the District has acquired and developed a certain storm water management basin for Local Drainage Area "AC" ("Basin "AC"), as depicted in Exhibit No. 1, which is attached hereto and incorporated herein by this reference; and

WHEREAS, Basin "AC" has been developed by District with various Master Plan improvements, including, but not limited to, excavations, drainage structures and devices, a pump station, relief system and telemetry (collectively, the "Drainage Facilities") to accommodate the

collection and storage of storm, flood and other surface waters and to facilitate the return of such waters to the underground; and

WHEREAS, Basin "AC" is designed with an upper and lower floor, and the upper floor may be used by the City for park open space and recreational purposes as an ancillary use during the non-rainy season, so long as such uses are secondary to the basin's principal use as a storm drainage facility; and

WHEREAS, the City has acquired land adjacent to the northern boundary of Basin "AC" for development as a Proposed City Park which also is depicted in Exhibit No. 1; and

WHEREAS, the City desires to utilize the upper floor of Basin "AC" and integrate it into the Proposed City Park and in conjunction with the use of a portion of the Fresno Unified School District's Figarden Elementary School, which is also adjacent to Basin "AC" to the east; and

WHEREAS, the City desires to acquire the northwest corner of the property owned by the District and adjoining Basin "AC" (the "Park Addition") as depicted in Exhibit No. 2, attached hereto and incorporated herein by this reference, at fair market value with the intent of expanding and incorporating the Park Addition into the Proposed City Park; and

WHEREAS, the District has declared that the Park Addition is excess property and has determined that it is no longer needed for the purposes of the District, per Resolution No. 2005-463 of the Board of Directors of the Fresno Metropolitan Flood Control District, dated March 9, 2005; and

WHEREAS, the District has established a fair market value of approximately \$247,140.00 (comprising a total of 1.373 acres at \$180,000.00 per acre) for the Park Addition; and

WHEREAS, the City has an obligation to pay drainage fees to the District for the Proposed City Park, and the Park Addition, as calculated in Exhibit No. 3 attached hereto and incorporated herein by this reference; and

WHEREAS, the District and City desire to complete the improvement of Basin "AC" with the District's standard irrigation system and landscaping (the "Landscaping Improvement") as generally shown on Exhibit No. 4 attached hereto and incorporated herein by this reference, prior to public access to Basin "AC"; and

WHEREAS, the City desires to fund the extra initial cost to irrigate the proposed Landscaping Improvement to Basin "AC" with a surface water system and recover this extra cost with the savings from water usage; and

WHEREAS, the District estimates the Landscaping Improvement to cost approximately \$476,000.00; which includes, but is not limited to, a mow strip, internal fence and mow strip, irrigation system, turf, landscaping planting; and

WHEREAS, but for the City's intent to acquire the Park Addition, the District would not implement the Landscaping Improvement in Basin "AC" until such time as funding for the Landscaping Improvement is available; and

WHEREAS, given the City's desire to use the upper floor of Basin "AC" for public access and recreation, the District desires that the City use the funds it would otherwise pay the District for (i) the purchase of the Park Addition and (ii) drainage fee obligation shown on Exhibit No. 3 hereof, (the "Landscaping Revenue") for the Landscaping Improvement; and

WHEREAS, the parties entered into that certain Agreement for Joint Maintenance of Drainage Basin Parks, dated August 26, 1965, affecting basins that City uses for recreational purposes (the "Basin Park Agreement"); and

WHEREAS, although the parties have amended the Basin Park Agreement several times, including most recently on July 1, 1995, to include additional basins, which are listed in Exhibit "A" thereto, such amendments have no provisions applicable to Basin "AC" or the provisions contained in this Agreement; and

WHEREAS, the parties mutually desire to further amend the Basin Park Agreement to include Drainage Basin "AC", as identified on Exhibit No. 5, attached hereto and incorporated herein by this reference; and

WHEREAS, pursuant to the Basin Park Agreement, City is required to maintain at all times adequate public liability insurance or self insurance to indemnify, protect and defend the District from and against any and all claims related to its use of District Property.

NOW, THEREFORE, in consideration of the recitals set forth above, which are herein incorporated by this reference, and the mutual covenants and undertakings set forth herein, the mutual receipt and sufficiency of which is hereby acknowledged, the District and the City agree as follows:

1. Subject to the terms contained in this Agreement, the District shall convey to the City, and City accepts from District, the fee title ownership of the Park Addition as identified on Exhibit No. 2, free of all encumbrances except those identified on Exhibit No. 6, attached hereto and incorporated herein by this reference. Concurrently with such conveyance, the District shall retain an easement for a storm drainage pipeline from Figarden Drive to Basin "AC" all as identified on Exhibit No. 7, attached hereto and incorporated herein by this reference. Additionally, as a condition to the District conveying title to the Park Addition, the City shall convey to the District a storm drain pipeline easement in the form described in Exhibit No. 8, attached hereto and incorporated herein by this reference.

2. The City shall install the Landscaping Improvement in Basin "AC" and such other improvements to complete the development of Basin "AC", including the landscaping of the upper perimeter of the low flow area. The District shall install sidewalks along Stanford Avenue adjoining Basin "AC" in coordination with the City's installation of curbs, gutters, and paving along Stanford Avenue as a part of the City's "No-Neighborhood Left Behind" improvement.

3. The District shall deduct Two Hundred Forty-Seven Thousand One Hundred Forty Dollars (\$247,140.00) from the City's cost of the Landscaping Improvement as compensation to the District for the fair market value for the Park Addition conveyed to the City pursuant to Paragraph 1 hereof. The District shall also deduct the drainage fee obligation by calculating in the manner identified in Exhibit No. 3 hereof the total amount of land owned by the City for the Proposed City Park by the drainage fee rate schedule in effect at the issuance of an entitlement permit for the Proposed City Park, to be procured by the City no later than November 1, 2008.

4. Upon the City's request, the District will provide a site plan, landscaping and irrigation plan and specifications to District standards for Landscaping Improvement of Basin "AC" identified in Paragraph 2 hereof.

5. The District shall provide reimbursement to the City as identified in Exhibit No. 9 hereto as "District Estimated Cash Reimbursement" within 60 days from the date of the City Council's award of the construction contract for the Landscaping Improvement less deductions identified in this Paragraph 5 hereof or otherwise described in this Agreement, if any. A detailed accounting of the proposed transaction, including adjustment for extraordinary cost of irrigation with surface water, is included as Exhibit No. 9, attached hereto and incorporated herein by this reference.

- (a) The parties anticipate that the City's municipal water expenses and electricity expenses associated with irrigating landscaping within Basin "AC" will be reduced with time due to the irrigation of Basin "AC" with surface water from the basin and without charge for such water by District. Therefore, the cost for facilities necessary to irrigate Basin "AC" with surface water in excess of any facilities and connection fees, as if the water were supplied by the City's municipal water system, shall not be included as a Landscaping Improvement.
- (b) The cost of modifying the existing fence and gates and/or to install new gates for access between the City's adjacent property and Basin "AC," and between the Figarden Elementary School and Basin "AC" shall not be included as a Landscape Improvement.
- (c) The cost of shade shelter and walking/jog paths and ramps shall not be included as a Landscaping Improvement.

6. In consideration of the District permitting the City's use of the upper floor of Basin "AC" for a City park facilities at no cost to the City for land acquisition or improvements other than the Landscaping Improvement provisions contained herein, the City hereby waives any rights to reimbursement for any City fees or charges in any way related to the installation or approval of the Landscaping Improvement, or any other fees and charges directly or indirectly related to the implementation of this Agreement.

7. The Basin Park Agreement is hereby amended by adding Basin "AC" to Exhibit "A" of the Basin Park Agreement. The District and the City hereby agree that except as amended in this Agreement, the Basin Park Agreement, and each and all of its provisions, shall remain in full force and effect. Furthermore, the District shall retain all of its rights of use and performance

responsibilities as to Drainage Basin "AC", as provided for in the Basin Park Agreement; and City shall likewise retain its rights of use and performance responsibilities, as provided in said Basin Park Agreement. In the event of a conflict between the provisions of the Basin Park Agreement and/or any amendment thereto executed prior to this Agreement and the provisions set forth herein, the provisions of this Agreement shall take precedence. After improvement of Basin "AC" by City, the on-going responsibilities of each agency shall be as identified in Paragraph Nos. 4 and 5 of the Basin Park Agreement. However, the District will maintain the irrigation pump and filter with no cost to the City for District staff time. Costs other than District staff time, such as outside cost for parts and labor, shall be reimbursed by the City to the District. The City shall maintain the remainder of the irrigation system, including pipelines, valves and sprinkler heads. All head replacements shall be of the same type and kind as the originally installed.

8. In the event the bid prices received by the City produce a total cost of the Landscaping Improvement greater than ten percent (10%) above the approximate total preliminary amount of \$476,000 estimated herein, the District shall have the right to review and approve or disapprove the bids for the Landscaping Improvement prior to award of a contract by the City for construction of the Landscaping Improvement. The District shall review such bids and notify the City of its approval or disapproval thereof within five (5) calendar days after the bids are provided to the District by the City. Should the District disapprove the bids for the Landscaping Improvement, the City may proceed with the award of a contract for the Landscaping Improvement, but, the City shall provide funding for any amounts which the District is not willing to fund above said ten percent (10%). While it is District's intent to provide sufficient additional funding so the City can fully landscape Basin "AC" using the in lieu of cash payment to the District for land, the fees specified in Section 2 herein and additional funding from

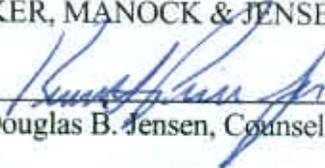
the District, should the City and District not, or otherwise be unable to, fully fund the Landscaping Improvement, the City shall delete a portion of the Landscaping Improvement within Basin "AC" as directed in writing by the District. Until Basin "AC" is fully landscaped, City's use of Basin "AC" for recreational purposes shall not be otherwise affected.

9. Any notice required under this Agreement to be given in writing may be served upon District by delivering the same personally to its General Manager or by mailing the same by certified mail addressed to the General Manager of the District at its principal office, 5469 East Olive, Fresno, California 93727. Any notice required to be given in writing under agreement may be served upon City by delivering the same personally to its Director of Parks, Recreation and Community Services or by mailing the same by certified mail addressed to the City, attention of the Director of Parks, Recreation and Community Services, 2326 Fresno Street, Room 101, Fresno, California 93721.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement as of the day and year first hereinabove written.

APPROVED AS TO FORM:

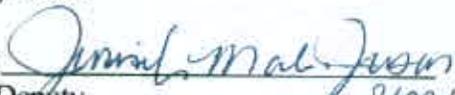
BAKER, MANOCK & JENSEN

By: 
Douglas B. Jensen, Counsel for District

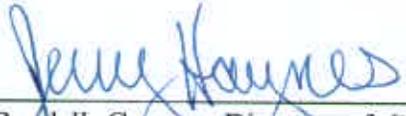
FRESNO METROPOLITAN FLOOD
CONTROL DISTRICT, a California public agency

By: 
Bob Van Wyk, General Manager

ATTEST:
REBECCA KLISCH
City Clerk

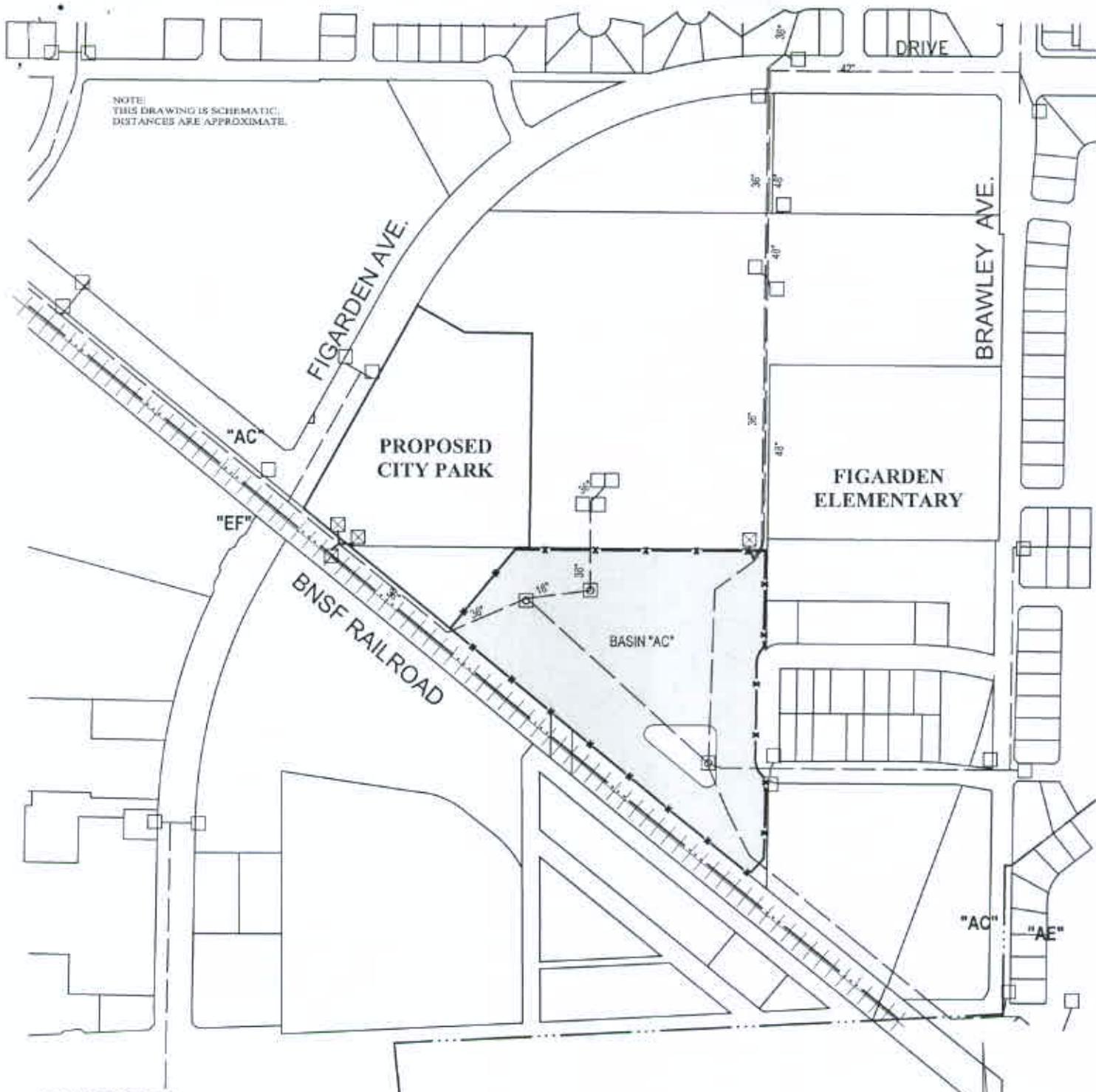
By: 
Deputy 8/22/08

CITY OF FRESNO, a municipal corporation

By: 
Randall Cooper, Director of Parks, Recreation
and Community Services

APPROVED AS TO FORM
Acting City Attorney

By: 
Deputy L. BRADLEY



LEGEND

- Basin "AC" Area To Be Landscaped
- Existing Master Plan Facilities
- Future Master Plan Facilities
- Drainage Area Boundary
- Existing Fence

SCALE = 1"=400'



**BASIN "AC" LANDSCAPE
DRAINAGE AREA: "AC"**

EXHIBIT NO. 1

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT



E 1/4 Cor. Section 2, T.13 S., R.19 E. M.D.B.&M.

FIGARDEN AVE.

East Line of
Sec. 2, T.13 S.,
R.19 E.
M.D.B.&M.

Future
City of Fresno Park

POINT OF BEGINNING

N 89° 58' 00" E
494.67'

N 89° 58' 00" E 701.57'

APN
507-330-05ST
(PORTION)

N 51° 05' 49" W
384.78'

S 38° 54' 12" W
310.88'

APN 507-330-05ST (PORTION)

100' A.T. & S.F. R-O-W

KADOTA AVE.

CALIMYRNA AVE.

JEANNE AVE.
ENDOR AVE.

AVE.

BRAWLEY

LEGEND



Limits Of District Property To Be Deeded To City (1.4 Ac ±) - Park Addition



15' Storm Drain Easement To Be Retained By District (.13 Ac ±)



SCALE = 1"=300'

BASIN "AC" PROPERTY
DRAINAGE AREA: "AC"



EXHIBIT NO. 2

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

DRAINAGE FEE OF CITY PARK AND PARK ADDITION

Drainage Area "AC"

Drainage fee obligation for park area

<u>Zoning</u>	<u>Area</u>	<u>Fee Rate</u>	<u>Estimated Fee</u>
Parking	1.0127 ac	\$6,020	\$ 6,096
Open Space	8.0498 ac*	\$1,530	<u>\$12,316</u>
		Total Fee	\$18,412

* includes the 1.4 acre Park Addition

Exhibit No. 3

BASIN PARK SITES

- 1) Basin "G" Northeast corner of Olive and Winery Avenue
- 2) Basin "BB" East side of Fresno Street North of Shields Avenue
- 3) Basin "BE" South side of Gettysburg Avenue East of First Street
- 4) Basin "D" East side of Forkner Avenue North of Barstow Avenue
- 5) Basin "AH-1" North of Gettysburg West of Cornelia Avenue
- 6) Basin "CM" North of Herndon East of Fresno Street
- 7) Basin "FF" South of Kearney East of West Avenue
- 8) Basin "AC" West of Brawley North of Santa Fe Tracks

Exhibit "A" as amended May 30, 1998

Exhibit No. 5

Exceptions to Title

An Easement affecting the portion of land and for the purpose stated herein, and incidental purposes, shown or dedicated by the Map of Tract: Figarden Subdivision No. 1 for public utilities: Affects the South 6 feet of Lots 5 to 10 inclusive and the North 6 feet of Lots 11 to 13 inclusive.*

* This exception has been extracted from the Fresno Metropolitan Flood Control District's Policy No. AY 275576, dated October 30, 1980 and modified to include only those lots within the 1.4 acres to be conveyed to the City in fee title.

Exhibit No. 6

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

When Recorded, Mail To:
Public Works Department
City of Fresno
2600 Fresno Street
Fresno, CA. 93721-3623
ATTN: Bruce Abbott

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN 507-330-05ST (portion)

GRANT DEED

For a valuable consideration, receipt of which is hereby acknowledged, Fresno Metropolitan Flood Control District, a California public agency, GRANTOR, hereby GRANTS to the City of Fresno, a municipal corporation, GRANTEE, all that certain real property situated in the City of Fresno, County of Fresno, State of California, more particularly described and shown as follows:

See Exhibits "A" and "C", which are attached and incorporated herein

RESERVING THEREFROM unto the Fresno Metropolitan Flood Control District, a California public agency, a perpetual and non-exclusive easement to install, construct, operate, maintain, repair, remove and replace an underground storm drainage pipeline and to conduct water through the same, together with all rights necessary, convenient or incidental thereto, including a right of ingress thereto and egress therefrom over that real property as described in Exhibit "A" attached and incorporated herein, provided that such access shall not unreasonably interfere with the enjoyment of said real property by Grantee. No buildings may be constructed within said easement, and no trees may be planted therein, but shrubs and grasses may be planted therein and sidewalks and parking areas may be installed therein. Said easement is more particularly described and shown as follows:

See Exhibits "B" and "C", which are attached and incorporated herein

Fresno Metropolitan Flood Control District, a California public agency

By: _____ Dated: _____

By: _____ Dated: _____

EXHIBIT "A"

APN 507-330-05ST (portion)
Grant Deed

That Real Property being all of Lots 5 and 6, and a portion of Lots 7, 8, 9, and 13 of Figarden Subdivision No. 1, according to the map thereof recorded in Book 8 of Plats at Page 89, Fresno County Records, together with that portion of West Escalon Avenue (formally West Adriatic Avenue) adjacent thereto that was vacated by City of Fresno Resolution No. 81-336 recorded September 9, 1981 in Book 7783 at Pages 994-996, Official Records of Fresno County, and which would pass by a conveyance of said land under Section 831 and 1112 of the California Civil Code, also together with that portion of North Santa Fe Avenue adjacent thereto that was vacated by City of Fresno Resolution No. 90-354 recorded February 10, 1993 as Document No. 93019677, Official Records of Fresno County, and which would pass by a conveyance of said land under Section 831 and 1112 of the California Civil Code, said Real Property being more particularly described as follows:

BEGINNING at the point of intersection of the southwesterly right-of-way line of North Santa Fe Avenue, as shown on said map of Figarden Subdivision No. 1, with a line that is parallel with and 30.00 feet north of the north line of said Lots 5 through 9, inclusive, of said Figarden Subdivision No. 1; thence North 89°58'00" East, along said parallel line, a distance of 494.67 feet; thence South 38°54'12" West, across West Escalon Avenue and across said Lots 9, 8, 7 and 13 of Figarden Subdivision No. 1 and across North Santa Fe Avenue, a distance of 310.88 feet to said southwesterly right-of-way line of North Santa Fe Avenue; thence North 51°05'48" West, along said southwesterly right-of-way line, parallel with and 70.00 feet southwesterly, measured at right angles, of the southwesterly line of said Lots 13 and 5 of Figarden Subdivision No. 1, a distance of 384.78 feet to the POINT OF BEGINNING.

Contains an area of 1.373 acres, more or less.

EXCEPTING THEREFROM one half of all minerals, oil, gas and hydrocarbon rights without right of surface entry as reserved by Gateways Mental Health Center endowment fund to Rancho Amboy, a limited partnership, whose general partners are Richard M. Firestone, Martin A. Scott, and Alan Scharff, recorded August 28, 1968 as Instrument No. 60629, in Book 5608 at Page 1, Official Records of Fresno County.

2008-056
15-A-8439
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EXHIBIT "B"

APN 507-330-05ST (portion)
Storm drain pipeline easement reservation

That portion of North Santa Fe Avenue adjacent to Lots 5 and 13 of Figarden Subdivision No. 1, according to the map thereof recorded in Book 8 of Plats at Page 89, Fresno County Records, said portion of North Santa Fe Avenue having been vacated by City of Fresno Resolution No. 90-354 recorded February 10, 1993 as Document No. 93019677, Official Records of Fresno County, and which would pass by a conveyance of said land under Section 831 and 1112 of the California Civil Code, more particularly described as follows;

BEGINNING at the point of intersection of the southwesterly right-of-way line of North Santa Fe Avenue, as shown on said map of Figarden Subdivision No. 1, with a line that is parallel with and 30.00 feet north of the north line of Lots 5 through 9, inclusive, of said Figarden Subdivision No. 1; thence North $89^{\circ}58'00''$ East, along said parallel line, a distance of 23.87 feet; thence South $51^{\circ}05'48''$ East, parallel with and 15.00 feet northeasterly, measured at right angles, of said southwesterly right-of-way line, a distance of 366.21 feet; thence South $38^{\circ}54'12''$ West, a distance of 15.00 feet to said southwesterly right-of-way line; thence North $51^{\circ}05'48''$ West, along said southwesterly right-of-way line, parallel with and 70.00 feet southwesterly, measured at right angles, of the southwesterly line of said Lots 13 and 5 of Figarden Subdivision No. 1, a distance of 384.78 feet to the POINT OF BEGINNING.

Contains an area of 5,632 square feet, more or less.



2008-056
15-A-8439
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EXHIBIT "C"

BULLARD LANDS IRRIGATED
SUBDIVISION NO. 6
PLAT BK. 8, PGS. 25 & 26, F.C.R.

APN 507-320-26ST

TRACT NO. 5278

PLAT BK. 74, PGS. 12-16, F.C.R.

704 25.00' 30.00' 494.67' 705

N 89°58'00" E 1194.90

701.57

WEST ESCALON AVENUE (ABANDONED*)

POINT OF BEGINNING

15.00' STORM DRAIN
PIPELINE EASEMENT
SEE DETAIL

N. BRUNSWICK AVE.
(ABANDONED*)

FIGARDEN SUBDIVISION NO. 1

APN 507-330-05ST

WEST KADOTA AVENUE (ABANDONED*)

NORTH SANTA FE AVENUE (ABANDONED)
VACATED BY CITY OF FRESNO RESOLUTION NO. 90-354
RECORDED 2/10/1989 AS DOCUMENT NO. 83018677 O.R.F.C.

BURLINGTON NORTHERN & SANTA FE RAILROAD

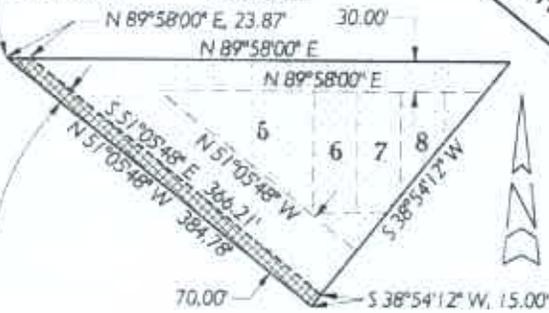
PLAT BK. 8, PG. 89, F.C.R.

W. CALIMYRNA AVE.
(ABANDONED*)

N. STANFORD AVE.
(ABANDONED*)

POINT OF BEGINNING

DETAIL
NO SCALE



15.00' WIDE EASEMENT RESERVED TO THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT FOR STORM DRAIN PIPELINE PURPOSES. 5,632 S.F. ±

CURVE TABLE

	RADIUS	DELTA	LENGTH
C1	60.00'	60°00'00"	62.83'
C2	60.00'	60°00'00"	62.83'

RADIAL TABLE

R#	BRG FROM RP
R1	N 29°35'26" W
R2	S 8°29'43" W

DATA SHOWN WAS DERIVED FROM THAT RECORD OF SURVEY RECORDED 10/20/1981 IN BOOK 31 OF RECORD OF SURVEYS AT PAGE 91, F.C.R.

* = VACATED BY CITY OF FRESNO RESOLUTION NO. 81-338 RECORDED 9/9/1981 IN BOOK 7783 AT PAGES 994-996, O.R.F.C.

INDICATES AREA TO BE GRANTED IN FEE
1.373 Acres ± 59,811 S.F. ±

INDICATES AREA TO BE GRANTED IN FEE AND RESERVED AS A STORM DRAIN PIPELINE EASEMENT
5,632 S.F. ±



REF. & REV.
2008-056
PLAT 1447

CITY OF FRESNO
DEPARTMENT OF PUBLIC WORKS

PARCEL TO BE GRANTED TO
THE CITY OF FRESNO

PROJ. ID. PC00069 KRA 0103011000
FUND NO. 31505 RES TYPE
ORG. NO. 179901

DR. BY AJ
CH. BY D.H.C.
DATE MAY 22, 2008
SCALE NO SCALE

SHEET NO. 1
OF 1 SHEETS

15-A-8439

**Recording Requested by:
Fresno Metropolitan Flood
Control District**

And when Recorded, Mail to:

**Fresno Metropolitan Flood
Control District
5469 East Olive Avenue
Fresno, CA 93727**

GRANT OF EASEMENT AND RIGHT-OF-WAY

THIS INDENTURE, made and entered into this ___ day of _____, 2008

by and between the CITY of FRESNO, a municipal corporation, as Grantor, and Fresno Metropolitan Flood Control District, a public corporation in the County of Fresno, State of California, as Grantee;

W I T N E S S E T H

That Grantor, for good and valuable consideration, does hereby grant to Grantee a perpetual and exclusive easement in that real property in the County of Fresno, State of California described and shown in Exhibit "A" hereto to install, construct, operate, maintain, repair, remove and replace an underground storm drainage pipeline and to conduct water through the same, together with all rights necessary, convenient or incidental thereto, including a right of ingress thereto and egress therefrom over Grantor's property as described in Exhibit "B" hereto, provided that such access shall not unreasonably interfere with the enjoyment of said remainder by its owner

No buildings may be constructed within said easement, and no trees may be planted therein, but shrubs and grasses may be planted therein and sidewalks and parking areas may be installed therein. In the event the Grantee damages improvements thereto in the use of reasonable care and enjoyment of its easement, it shall not be obligated to restore the same.

IN WITNESS WHEREOF, Grantor has executed this Grant of Easement and Right of

Way the day and year first above written.

"GRANTOR"

CITY of FRESNO, a municipal corporation

Scott Mozier, City Engineer

Date

EXHIBIT "A"
PAGE 1 OF 2

LEGAL DESCRIPTION OF EASEMENT

APN 507-320-26ST

That portion of North Santa Fe Avenue lying adjacent to Lot 704 of Bullard Lands Irrigated Subdivision No. 6, according to the map thereof recorded in Book 8 of Plats at Pages 25 and 26, Fresno County Records, said North Santa Fe Avenue having been vacated by City of Fresno Resolution No. 90-354 recorded February 10, 1993 as Document No. 93019677, Official Records of Fresno County, and which would pass by a conveyance of said Lot 704 under Section 831 and 1112 of the California Civil Code, said portion being more particularly described as follows;

BEGINNING at the point of intersection of the southwesterly right-of-way line of North Santa Fe Avenue, as shown on said map of Bullard Lands Irrigated Subdivision No. 6, with a line that is parallel with and 25.00 feet south of the south line of said Lot 704 of Bullard Lands Irrigated Subdivision No. 6; thence North 89°58'00" East, along said parallel line, a distance of 23.87 feet; thence North 51°05'48" West, parallel with and 15.00 feet northeasterly, measured at right angles, of said southwesterly right-of-way line of North Santa Fe Avenue, a distance of 163.62 feet to the most northwesterly line of said portion of North Santa Fe Avenue vacated by said City of Fresno Resolution No. 90-354, said northwesterly line also being the southwesterly prolongation of the southeasterly right-of-way line of that portion of West Figarden Drive dedicated for public street purposes by that Deed of Easement recorded July 3, 1989 as Document No. 89070010, Official Records of Fresno County; thence South 28°55'16" West, along said northwesterly line, a distance of 15.23 feet to said southwesterly right-of-way line of North Santa Fe Avenue; thence South 51°05'48" East, along said southwesterly right-of-way line, a distance of 142.41 feet to the POINT OF BEGINNING.

Contains an area of 2,295 square feet, more or less.

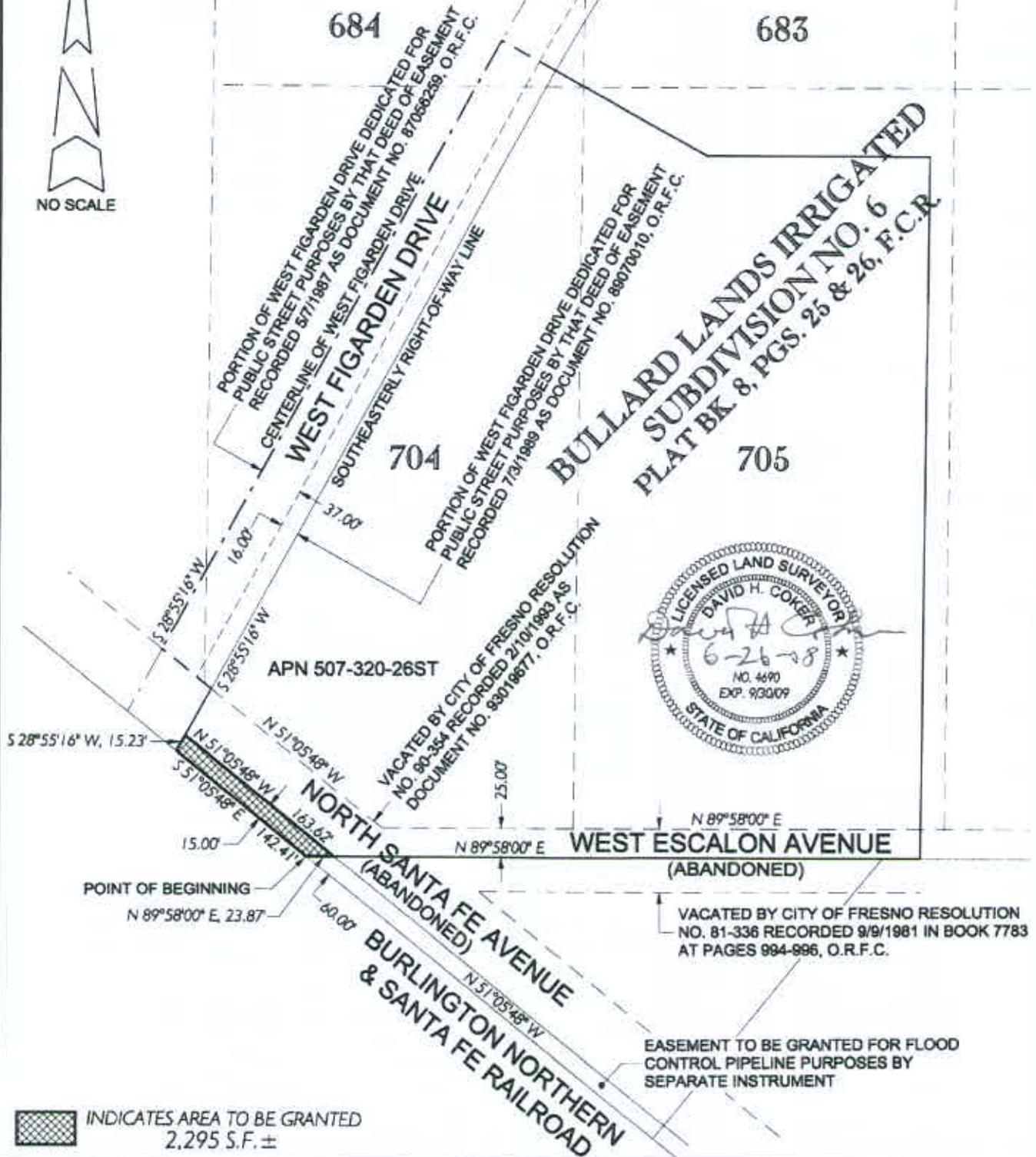


2008-087
15-A-8463

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EXHIBIT "A"

PAGE 2 OF 2



REF. & REV. 2008-087 PLAT 1447	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PC00069 FUND NO. 31505 ORG. NO. 179901	KRA 0103011000 RES TYPE DR. BY AJ CH. BY D.H.C. DATE JUNE 25, 2008 SCALE NO SCALE
PARCEL TO GRANTED TO THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT AS AN EASEMENT FOR FLOOD CONTROL PIPELINE PURPOSES		SHEET NO. 1 OF 1 SHEETS 15-A-8463	

LEGAL DESCRIPTION OF PARCEL

APN: 507-320-26ST

That portion of Lots 683, 684, 704 and 705 of Bullard Lands Irrigated Subdivision No. 6, according to the map thereof recorded in Book 8 of Plats at Page 25, Fresno County Records, lying southeasterly of the centerline of North Figarden Drive, as said centerline was defined by the Deed of Easement recorded May 7, 1987 as Document No. 87056259, Official Records of Fresno County, and lying westerly and southerly of the following described line:

COMMENCING at the southeast corner of said Lot 705; thence South $89^{\circ}59'09''$ West, along the south line of said Lot 705, a distance of 20.00 feet to the TRUE POINT OF BEGINNING of this description; thence North $00^{\circ}32'50''$ East, along a line that is 20.00 feet west of and parallel to the east line of said Lot 705, a distance of 574.56 feet; thence South $89^{\circ}57'16''$ West, leaving said parallel line, a distance of 190.04 feet; thence North $61^{\circ}03'21''$ West, a distance of 203.00 feet to a point on the centerline of said North Figarden Drive and the terminus of said line.

Together with that portion of West Escalon Avenue vacated by Fresno City Council Resolution No. 81-336 recorded September 9, 1981 in Book 7783 Pages 994-996, Official Records of Fresno County, and North Santa Fe Avenue vacated by Fresno City Resolution No. 90-354 recorded February 10, 1993 as Document No. 93019677, Official Records of Fresno County, which would accrue by operation of law.

Contains an area of 8.30 acres, more or less.

EXHIBIT "B"

**PRELIMINARY RECONCILIATION OF LANDSCAPE, DRAINAGE FEE
AND FAIR MARKET VALUE OF PARK ADDITION**

Drainage Area "AC"

District's estimated cost for all proposed landscaping improvements:

		Estimated		
Description (to be bid as "Base Bid" items)		Quantity	Unit Estimate	Extension
Automatic Irrigation System, in place and complete. (Excluding Pump & Filter System)				
1	Filter System)	1 LS	\$ 160,000	\$ 160,000
2	Pump and Filter System in place and complete*	1 LS	\$ 79,225	\$ 79,255
3	Turf Improvements (10.3± Acres)	1LS	\$ 100,000	\$ 100,000
4	Tree Improvements (83 Trees)	1 LS	\$ 13,000	\$ 13,000
5	Construct 18" Concrete Mow strip and 6' Chain Link Fence	580 LF	\$ 35	\$ 20,300
6	Construct 15" Concrete Mow strip	1,817	\$ 18	\$ 32,706
7	Construct Concrete Sidewalk, portion A (east/west connection)	6,912 SF	\$ 7	\$ 48,384
8	Furnish and Install 12' Drive Gate	2 Ea	\$ 1,000	\$ 2,000
9	Furnish and Install 10' Roll Gate	2 Ea	\$ 3,000	\$ 6,000
10	Remove and Dispose of Existing 6' Chain Link Fence	152	\$ 5	\$ 760
11	Install 6' Chain Link Fence	150	\$ 20	\$ 3,000
12	Miscellaneous Facilities and Operations	1 LS	\$ 10,850	\$ 10,850
Total Estimated Construction Cost				\$ 476,255
Deduction for City's Drainage Fee Obligation				\$ (18,412)
Deduction for 1.37 Acres for Park Addition				\$ (247,140)
Deduction for Surface Water Irrigation System				\$ (38,957)
Deduction for Roll Gates				\$ (6,000)
Deduction for Concrete Sidewalk, portion a (east/west connection)				\$ (48,384)
Front Footage Charge to be paid separately to City				\$ (1,755)
District's Estimated Cash Reimbursement to City				\$ 115,607

* Include \$1,755 front footage charge to be paid to City separately from bid

Basin AC Irrigation Cost Comparison

Surface Water Irrigation Costs

Verticle Turbine (Based on DE-18 Bid)	\$ 60,000.00
Discharge Piping	\$ 3,500.00
Amiad Filter	\$ 11,500.00
City Front Footage Fee	\$ 1,755.00
Electrical Facilities	\$ 2,500.00
Total	\$ 79,255.00

Estimated Yearly Water Savings

Gallons per Year (50") (10.3 Acres of Turfed Area)	13,984,513
Acre-feet per Year	42.92
Water Savings (\$.995 / 1000 gallons) Estimated Rate 9-1-08	\$ 13,914.59
Miscellanouse Water Fees	\$ 828.84
Electrical Cost (\$35 / Acre / Month)	\$ (2,163.00)
Total	\$ 12,580.43

Municipal Water Irrigation Costs

City Connection Fee	\$ 31,297.80
Backflow Preventer (4")	\$ 5,000.00
4" Watermain (150')	\$ 1,500.00
Booster Pump	\$ 2,500.00
Total	\$ 40,297.80

Estimated Payback Period

Surface Water System (Years to break even)	3.1
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Cost Difference **\$ 38,957.20**

Path or links to all attached exhibits

- Exhibit No. 1 <K:\Autocad\DWGS\0EXHIBIT\BASINS\AC\Basin Landscape.dwg>
- Exhibit No. 2 <K:\Autocad\DWGS\0EXHIBIT\BASINS\AC\AC Property.dwg>
- Exhibit No. 3 Drainage fee of City Park and park addition – attached to this agreement has part of the word document
- Exhibit No. 4 [K:\Autocad\DWGS\0EXHIBIT\BASINS\AC\Basin Landscape \(COLOR\).dwg](K:\Autocad\DWGS\0EXHIBIT\BASINS\AC\Basin Landscape (COLOR).dwg)
- Exhibit No. 5 Basin Park Sites – attached to this agreement has part of the word document
- Exhibit No. 6 Exceptions to Title – attached to this agreement has part of the word document
- Exhibit No. 7 Grant Deed – PDF form
- Exhibit No. 8 Grant of Easement and Right-of-Way Form – PDF form
[K:\All Agreements\AC\1562\AC-Fresno Park\(agrmt 1562-\(d\)-ac-40\) exhibit 8.pdf](K:\All Agreements\AC\1562\AC-Fresno Park(agrmt 1562-(d)-ac-40) exhibit 8.pdf)
- Exhibit No. 9 Basin “A” Irrigation Cost Comparison – excel form
[K:\All Agreements\AC\1562\AC-Fresno Park\(agrmt 1562\(d\)-ac-40\) exhibit 9.xls](K:\All Agreements\AC\1562\AC-Fresno Park(agrmt 1562(d)-ac-40) exhibit 9.xls)

August 20, 2008

Council Adoption: 8/19/08

Mayor Approval:

Mayor Veto:

Override Request:

TO: MAYOR ALAN AUTRY

RECEIVED

FROM: REBECCA E. KLISCH, CMO
City Clerk

REK

2008 AUG 21 PM 3: 25

CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 8/19/08, Council took legislative action entitled **Appv agrmnt w/FMFCD, land acquisition and Jt Devlpmnt/operation, completion of Figarden Loop Park**, Item No. **1L**, by the following vote:

Ayes	:	Calhoun, Caprioglio, Dages, Duncan, Perea, Sterling, Xiong
Noes	:	None
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 September 2, 2008. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. 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.)

Alan Autry
Alan Autry, Mayor

Date: 8/21/08

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes	:	
Noes	:	
Absent	:	
Abstain	:	