9 15am # 1E

12/2/2010

CITY OF FRESNO
City Clerk's Office (Original)

COOPERATION AGREEMENT BETWEEN CITY OF FRESNO AND CENTRAL UNIFIED SCHOOL DISTRICT RELATING TO REAL PROPERTY DISPOSITION, CONSTRUCTION AND JOINT USE

(City's Universally Accessible Park Project)

This Agreement between City of Fresno and Central Unified School District ("Agreement") is made and entered into as of this 2 day of December, 2010, between the City of Fresno, a municipal corporation (the "City"), and the Central Unified School District, a public school district (the "District").

RECITALS

WHEREAS, the City and the District, jointly and severally have an unmet need for programmatic, parking and public use recreational facilities; and

WHEREAS, City and District, in order to address this unmet need, desire to cooperate in a project consisting of District's transfer of certain real property to City including the related public street/right of way easement in exchange for City's construction of a new joint use parking facility upon certain District real property and related improvements and landscaping, to an existing District parking lot, all as more specifically described and depicted in Exhibit "A" hereto incorporated herein (collectively the "Project"), upon the terms and conditions herein; and

WHEREAS, District, as successor-in-interest to the Teague School District of Fresno County, owns fee title to approximately 1.4 acres +/- of a parcel of unimproved real property located in the City of Fresno, County of Fresno, State of California, portion of APN 311-280-03T, located at 4605 N. Polk Ave., in Fresno California, as more completely described/depicted in Exhibits "B", "D" and "E" attached hereto and incorporated herein ("Property"); and

WHEREAS, District's governing body has the authority to transfer the Property as provided herein; and

WHEREAS, the Project is consistent with the City's 2025 General Plan including the Open Space and Recreational Element, hereinafter the "Plan" including the finding therein that the City's playfield program of utilizing joint use agreements with school districts provides recreational space for organized programmatic and non-programmatic activities such as the Universally Accessible Park, and the Plan's objective of continuing to coordinate with other agencies and organizations providing recreation facilities and services; and

WHEREAS, pursuant to the Plan the City has a further stated policy objective of, where feasible, using school sites for city recreation programs in order to provide a wider range of recreation programs and maximize the efficient use, maintenance, and

supervision of public facilities, such that the City shall continue to enter joint use agreements with school districts in the metropolitan area to expand recreational playfield programs; and

WHEREAS, the Project is consistent with and supportive of the applicable Plan designations, findings and determinations including that the Project will further and facilitate programmatic and non-programmatic public recreational uses per joint use relationships with school districts; and

WHEREAS, the Project is consistent with all applicable Plan policies, and with the applicable zoning designation, and related zoning regulations; and

WHEREAS, the Project also will cause the development of under-utilized school district property to more intensive and viable uses; will increase the aesthetics and improve the appearance of the Project area and the surrounding area; and will contribute to the recreational activity in the Project Area; and

WHEREAS, the City has allocated and available $175,000 in FY 2007-2008 (Urban Growth Management Funds)] as to which the Project is an eligible use; and

WHEREAS, this project has been assessed under the California Environmental Quality Act (CEQA) and a Finding of Conformity with the 2025 Fresno General Plan Master Environmental Impact Report (MEIR No. 10130) has been issued.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and premises hereinafter contained, to be kept and performed by the respective parties, the parties agree as follows:

1. All the foregoing recitals are true and correct and incorporated herein by this reference as fully set forth herein.

2. District, in consideration of City's performance obligations hereunder and for no monetary consideration payable through Escrow will convey to City and City will acquire in fee from District subject to reverter, the Property upon the following terms and conditions and subject to the reversion provided in the Exhibit "D" Grant Deed. District will also convey to City and City will acquire related easement and right of way for public street purposes as provided in Exhibit "E" Deed of Easement.

2.1 The City has requested and received a Preliminary Title Report on the Property dated July 20, 2007, together with legible copies of all documents referenced therein as exceptions to title and a plot plan for the Property showing all the locations of all recorded easements (collectively, the "PTR").

2.2. City shall within fifteen (15) business days of Escrow opening deliver to District and Escrow Holder written notice (the "City's Title Notice") of City's approval, conditional approval or disapproval of the title matters disclosed in the PTR. All such

exceptions disapproved by City are referred to herein as "Disapproved Exceptions." District shall have ten (10) business days after receipt of City's Title Notice to give City and Escrow Holder written notice ("District's Title Notice") of those Disapproved Exceptions which have been or will be removed from title on or before the Close of Escrow. If District fails to deliver District's Title Notice within said ten (10) day period, District shall be deemed to have elected not to cure all matters disapproved or conditionally approved by City. Notwithstanding the foregoing, District shall be obligated to remove or eliminate as exceptions to title all: (i) monetary liens or encumbrances affecting the Property, and, (ii) all claims to fee title or leasehold or similar interests, all of which constitute Disapproved Exceptions.

2.3 If District does not provide notice to City that District will cure all Disapproved Exceptions, City shall have the option, on or before the expiration of the Feasibility Period described below to: (i) terminate this Agreement by written notice to District and Escrow Holder; or (ii) waive its objection to the Disapproved Exceptions in question by delivering notice of such waiver to District and Escrow Holder, and proceed to the Close of Escrow. If District does not provide notice to City that District will cure all Disapproved Exceptions and City thereafter gives the Feasibility Notice, City shall be deemed to have waived its objection to the Disapproved Exceptions in question. If City provides notice of termination as provided herein then this Agreement and the Escrow shall terminate, and the parties will have no further obligation to one another, except as otherwise expressly provided herein.

2.4 "Permitted Exceptions" shall mean all exceptions appearing on the PTR which are: (i) standard printed exceptions in the Title Policy issued by Escrow Holder; (ii) general and special real property taxes and assessments, a lien not yet due and payable; and (iii) any other liens, easements, encumbrances, covenants, conditions and restrictions of record approved, or expressly waived if a Disapproved Exception, by City pursuant to this Agreement. Any exceptions to title to the Property shown on any supplement to the PTR that may be issued from time to time by the Escrow Holder must be removed by District at or prior to the Close of Escrow unless such exceptions are expressly approved by City in writing or unless such exceptions constitute Permitted Exceptions.

2.5 City's obligation to proceed to the Close of Escrow on the Property is conditioned upon the commitment by Escrow Holder to issue a CLTA Owner's Policy of Title Insurance (the "CLTA Policy") showing title to the Property vested in City with liability equal to $175,000, subject only to the Permitted Exceptions (the "Title Policy").

2.6 City shall have the period commencing with the Effective Date and ending at 5:00 p.m. pacific time, ninety (90) calendar days thereafter (the "Feasibility Period") to review, in City's sole and absolute discretion, the suitability of the Property for City's use and development, and the presence of "Hazardous Materials" (as defined in Exhibit "C" which is attached hereto and expressly incorporated herein).

2.7 City covenants that it shall, during the Feasibility Period, transmit to District, a copy of the completed Phase I Environmental Site Assessment of the Property. In addition, City shall provide District with copies of all environmental reports

and test results conducted with respect to the Property by or on behalf of City.

2.8 Prior to the expiration of the Feasibility Period, City shall give written notice of City's approval or disapproval of the Property (the "Feasibility Notice"). If City disapproves the Property based upon its feasibility review, then this Agreement and the Escrow shall terminate, and the parties will have no further obligation to one another except as otherwise expressly provided herein. If the City approves the Property, then this Agreement continues in effect and the Parties shall carry out their obligations under the Agreement in accordance with its terms and conditions.

2.9 If any studies conducted by City during its Feasibility Period (including the Phase I Environmental Site Assessment) provides evidence of any Hazardous Materials, then District shall have the option to terminate this Agreement by delivery of its written notice of termination to be issued not less than fifteen (15) business days following the delivery of such study by City to District.

2.10 District hereby grants City, or City's agents, the right, upon twenty-four (24) hours prior notice, to enter onto the Property to conduct tests or investigations, as follows: (a) City shall conduct tests or investigations at its sole cost and expense; (b) the tests or investigations shall not unreasonably interfere with District's possession; and (c) City shall indemnify and hold District harmless from any costs or liability of any nature, excluding pre-existing conditions, resulting from the tests or investigations and, if the escrow is canceled for a reason that is not the fault of District, for any damage to the Property resulting from conducting the tests or investigations, excluding pre-existing conditions.

2.11 City shall rely solely on its own knowledge and investigation of the Property in determining whether to purchase the Property, including but not limited to determinations as to the suitability of the Property for City's intended uses made during the Feasibility Period. District shall have no duty to inquire or investigate any matter related to or arising from City's performance of its investigation of the Property or City's analysis of its investigations or City's decision as to the suitability of the Property for City's purposes. The purchase price reflects all defects, demolitions, and/or repairs required, other than the warranties set forth in Section 2.12 below. With the exception of the warranties set forth in Section 2.12 below, **the Property is to be purchased with ALL FAULTS, in its AS-IS condition.**

2.12 District represents and warrants that: (a) District owns the fee interest in the Property, subject only to the Permitted Exceptions; (b) District has no present knowledge of any pending litigation involving the Property; (c) District has no present knowledge of any violations of, or notices concerning defects or noncompliance with, any code, statute, regulation, ordinance, judicial order, or judicial holding concerning the Property. Except as expressly warranted herein, District makes no representation or warranty and has no affirmative duty to undertake any effort of any kind to determine the existence of any of the above noted conditions. These warranties shall survive the Closing and the recording of the grant deed.

2.13 The parties will open an escrow (the "Escrow") with Fidelity National Title

Company located at 8050 N. Palm Ave., Suite 110, Fresno, CA 93711, (559) 432-1680, to the attention of Bernadette Watson, Escrow Officer (the "Escrow Holder").

2.14 This Agreement, when signed by both parties and deposited with the Escrow Holder will be the parties' Joint Escrow Instructions. City and District will sign any other form instructions required by Escrow Holder. Parties and each of them may submit supplemental escrow instructions.

2.15 City and District will deposit all instruments, documents, money, and other items with the Escrow Holder that are: (i) identified in this Agreement; or (ii) required by the Escrow Holder to effect the Closing on the date specified below. District will deposit a recordable Grant Deed, substantially in the form attached as Exhibit "D" and a recordable Deed of Easement, substantially in the form attached as Exhibit "E", into the Escrow prior to the Close of Escrow.

2.16 The Escrow will be considered closed on the date that the Title Company is prepared to issue a standard CLTA owner's title insurance policy to City insuring fee title in the condition set forth herein and records the Grant Deed (the "Closing", or "Close of Escrow", or the "Closing Date") not later than thirty (30) days following the expiration of the Feasibility Period.

2.17 Payment of said sums, less District's costs to clear title, if any, may be made to District only when Escrow Holder possesses and is in a position to deliver to the City a fully executed and acknowledged and recorded grant deed to the subject property and when the Escrow Holder stands ready to issue to the City the Title Policy described above.

2.18 Property taxes for the current fiscal year, if any, shall be prorated at the close of escrow. It is understood that District shall be responsible for the payment of all unpaid taxes, penalties, redemptions, and costs allocable to the subject property for all periods prior to close of escrow. Refund shall be made to District out of escrow, for taxes previously paid by District which are allocable to the part of the current fiscal year subsequent to the close of escrow.

2.19 City will pay the cost of the preliminary title report, any transfer taxes and the cost of preparing, executing, and acknowledging the Grant Deed and the Deed of Easement and any/all other instruments. District will pay and be responsible for the payment of all unpaid taxes, penalties, redemptions, and costs allocable to the subject property for all periods prior to Close of Escrow. City and District will pay any other costs according to the custom in Fresno County.

2.20 Disbursements of the Purchase Price to be in the amounts, at the times, and in all respects in accordance with the terms and conditions and subject to the limitations of this Agreement.

2.21 It is agreed and confirmed by the City and the District that notwithstanding other provisions in this Agreement, the right of possession and use of the Property by the City shall commence upon Close of Escrow.

2.22 District represents and warrants that it has satisfied or will satisfy before Close of Escrow, all legal requirements for conveyance of the Property to the City.

2.23 Parties each represent to the other that each has had no dealings with any broker, finder, or other party concerning City's purchase of the Property. Each party agrees to indemnify and hold the other harmless from all loss, cost, damage, or expense, including reasonable attorney fees, incurred by the other as a result of any claim arising out of the acts of the indemnifying party or others on that party's behalf, for a commission, finder's fee, or similar compensation made by any broker, finder, or any party who claims to have dealt with the indemnifying party. The representations and warranties contained in this section shall survive the Close of Escrow.

2.24 Each party will sign and deliver further documents, or take any further actions required to complete the purchase and sale described herein.

3. City, as lead agency will design, plan, secure rezones/permits/approvals, bid, award, manage and construct the joint use parking facility as described in the Project description attached as Exhibit "A" upon the District owned site generally described therein, known as a portion of APN 311-280-03T, and as the joint use parking site and more completely described/depicted in Exhibit "B" (the "Parking Site"). In partial consideration thereof the District hereby grants City a no fee license (the "License") to joint use of the completed parking facility (the "Parking Facility"). The License is limited to use of the Parking Facility on a first come/first serve basis for overflow public parking in conjunction with the City's adjacent Universally Accessible Park project, provided the District shall have exclusive use during period Monday thru Friday 0730-1700, in accordance with the terms of this Agreement.

3.1 The City shall, at is sole cost and as lead agency, cause the construction of the Parking Facility upon the Parking Site in accordance with plans and specifications prior approved by the District, consistent with the Project budget and schedule included in the attached Exhibit "A" incorporated and subject to required City Council approval(s) regarding Project funding and procurement/award.

3.2. Upon City's completion and acceptance of the Parking Facility Improvements, and subject to the City's License (granted by District) such Improvements including all rights and obligations thereof, shall at all times be owned by and the responsibility of the District.

3.3 As authorized by Government Code Section 895.4, during the duration of the License, City shall indemnify, save and hold harmless the District, its officials, officers, agents, employees, and volunteers against any and all claims, causes of action, liability, suits, judgments and expenses, including reasonable attorneys fees and costs, for death or injury to persons, or loss of or damage to property, except pre-existing conditions, arising from: (a) negligent acts or omissions of City, its officials, officers, agents, employees or volunteers in the performance of this Agreement; (b) use of the Parking Site or Parking Improvements by the City or its authorized users or invitees; (c) any dangerous or defective condition or negligent design of the Parking

Improvements or the suitability of the Parking Site for the Parking Improvements; or, (d) the City's negligent or wrongful act or omission in bidding, contract award, construction and other activities with respect to the installation of the Parking Improvements.

3.4 As authorized by Government Code Section 895.4, during the duration of the License, District shall indemnify, save and hold harmless the City, its officials, officers, agents, employees, and volunteers against any and all claims, causes of action, liability, suits, judgments and expenses, including reasonable attorneys fees and costs, for death or injury to persons, or loss of or damage to property, arising from: (a) negligent acts or omissions of District, its officials, officers, agents, employees or volunteers in the performance of this Agreement; or (b) use of the Parking Site or Parking Improvements by the District or its authorized users or invitees. Notwithstanding the foregoing, the City shall nevertheless indemnify District for claims that arise from; any dangerous or defective condition or negligent design of the Parking Improvements or the suitability of the Parking Site for the Parking Improvements; or, the City's negligent or wrongful act or omission in bidding, contract award, construction and other activities with respect to the installation of the Parking Improvements.

3.5 The City, its officials, officers, agents, employees, and volunteers shall be added as an additional insured on the District's general liability coverage throughout the term of this Agreement. The District, its officials, officers, agents, employees, and volunteers shall be added as covered parties on the City's self-insurance coverage throughout the term of this Agreement. In addition, City shall provide in its bidding materials that District shall be named as an additional insured under all policies of liability insurance that City requires to be provided by any contractor or service provider engaged by City with respect to the Project.

3.6 Following completion of the Parking Improvements, the City and the District shall jointly use the Parking Facility consistent with the terms of this Agreement.

3.7 The License hereby granted, by District, shall be for an initial term running from the effective date hereof through June 30, 2028 and thereafter shall automatically renew for additional terms of one (1) year each unless the City or District serves written notice of non-renewal on the other party not less than 30 days prior to expiration of the then current term, subject to earlier termination as may be provided herein. The District shall allow City's Project contractor access to the Site as necessary to complete the Parking Facility Improvements as awarded and shall not unreasonably interfere with the Project work or take any action that would cause the City to be in violation of its obligations to the Project contractor.

3.8 Upon any termination or expiration of the Agreement the District shall pay the City the mutually agreed upon unamortized value of the Parking Facility Improvements, if any.

3.9 Except for the indemnity obligations specified herein, the obligations of the City and the District are limited to and contingent upon appropriation of sufficient funding in each fiscal year during the term of the Agreement.

3.10 The District acknowledges that the City intends to reimburse Parking Facility expenditures hereunder with Urban Growth Management Funds.

4. The Parties agree to the following miscellaneous provisions.

4.1 The parties are acting as independent contractors. Neither party, nor any of its officers, associates, agents or employees shall be deemed an employee, partner or agent of the other for any purpose. Each party shall retain as program income any and all income generated by its respective use hereunder.

4.2 If either party commences any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

4.3 Any notice required or intended to be given to either party under the terms of this Agreement shall be in writing and shall be deemed to be duly given if delivered personally or deposited into the United States mail, with postage prepaid, addressed to the party to which notice is to be given at the party's address set forth on the signature page of this Agreement or at such other address as the parties may from time to time designate by written notice.

4.4 Each of the Exhibits referred to in this Agreement is incorporated into and made a part of this Agreement. This Agreement is the entire agreement between the parties regarding the Project and the purchase and sale of the Property, and supersedes all prior discussions, negotiations, commitments or understanding, written or oral.

4.5 City and District may amend or cancel this Agreement only by mutual written consent of the parties tendered into escrow, unless otherwise expressly provided herein.

4.6 This Agreement is binding upon and shall inure to the benefit of each party, and each party's heirs, successors, permitted assigns, and representatives. The City or District may assign this agreement and its rights hereunder, with prior written approval of the other party.

4.7 Time is of the essence of each term in this Agreement.

4.8 Any party's waiver of a breach of any provision herein will not be a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

4.9 No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

4.10 This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing

any action regarding the enforcement or interpretation of this Agreement any rights and duties hereunder shall only be in the Superior Court of the County of Fresno.

4.11 The provisions of this Agreement are severable. The invalidity, or unenforceability, of any provision in this Agreement will not affect the other provisions.

4.12 This Agreement is the result of the combined efforts of the parties. If any provision of this Agreement is found to be ambiguous, the ambiguity will not be resolved by construing this Agreement in favor or against any party, but by construing the terms according to their generally accepted meaning.

4.13. If any conflict exists between the body of this Agreement and any Exhibit or Attachment to it, the provisions of the body of this Agreement will control and take precedence over the Exhibit or Attachment.

///

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, the day and year first above written.

CITY OF FRESNO
a municipal corporation

By
Name: Randy Cooper
Title: Director, PRCS

Address:
2326 Fresno Street, Room 101
Fresno, CA 93721

CENTRAL UNIFIED SCHOOL DISTRICT
a public school district

By
Name: Mike Berg
Title: Chief Business Officer

Address:
4605 N. Polk Avenue
Fresno, CA 93722

ATTEST:
REBECCA E. KLISCH
City Clerk

By: Sherri L. Badertscher
Deputy 2/22/11

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney

By: _____
Deputy BEADLET

Attachments:

Exhibit "A"	Project Description
Exhibit "B"	Property Description
Exhibit "C"	Hazardous Materials Description
Exhibit "D"	Grant Deed
Exhibit "E"	Deed of Easement

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Project Description

EXHIBIT "A"

Universally Accessible Park/City-CUSD Cooperative Agreement

December, 2008

1. SUMMARY OVERVIEW:

1.1 Universally Accessible Park (UAP) Project Description: The City of Fresno (CITY) proposes to develop and construct a new 8 acre community park titled; The Universally Accessible Park (PROJECT). The PROJECT will incorporate state-of-the-art special needs recreation amenities such as a combination baseball/softball/soccer field, a meandering walking trail, basketball courts, skate park amenity, 'tot-lots', a water feature/spray park, a recreation building, etc.; specifically designed for disabled children. The PROJECT will include development of approximately 6.58 acres currently owned by the CITY plus another approximately 1.4 acres (61,167 square feet) to be acquired from Central Unified School District (CUSD) for use as park space, plus another approximately .33 acres (14,166 square feet) to be acquired from CUSD for a public street easement, as shown in Attachment #1 for Exhibit "A", under this Cooperation Agreement. The PROJECT will construct a neighborhood park as designated on the Fresno General Plan 2025, adopted April 2003, and the Highway City Neighborhood Specific Plan, adopted January, 1998. The proposed park will have a softball/baseball/soccer field having a synthetic textured surface to facilitate the use of wheelchairs while playing and shaded grandstand seating and dugouts; two basketball courts with bleachers and adjustable hoops; a mini skate park with mounds, ripples, curb cuts and curbs designed to challenge disable children in wheelchairs and young skateboarders (no half-pipe or large ramps are included); a recreation building incorporating a concession stand, storage, public restrooms, and a large multi-purpose recreation room; 3 play equipment ('tot-lot') areas for toddlers, 2-5 years olds, and 5-12 year olds; a "storybook corner"; a pedestrian perimeter track; a water splash play amenity; parking spaces divided into two (2) lots; a sensory garden area; a sensory water wall; trash access area; multiple picnic sites including shaded pavilion areas. Night lighting for the baseball field will be incorporated into the project design.

The PROJECT is accessed from Gettysburg and Vista Avenues. Gettysburg is designated as a collector street. Vista is designated as a local street. The major access streets would be Polk, ¼ mile to the east and Hayes, ¼ mile to the west. Hayes and Gettysburg is a signalized intersection. Polk and Gettysburg is a stop signed intersection. The majority of the play and picnic activities are located closer to Gettysburg than to the residences to the north.

The intent of the park is to provide a quality play area where children and adults of all ages and physical abilities can congregate together and enjoy recreating together while minimizing perceived social participation barriers. The PROJECT will provide improved recreational opportunities for the special needs children attending Teague School (adjacent K-12), directly to the East of the PROJECT site.

1.2 In addition the PROJECT will include the construction of parking lots, landscape and turf areas, fencing, lighting, and all other necessary improvements.

1.3 A preliminary conceptual master plan has been developed based upon the initial 6.58 acres currently owned by the CITY as shown in Attachment #2 of Exhibit "A". From this preliminary master plan a site plan has been developed that incorporates all of the proposed improvements on all properties (the City's 6.58 acres, CUSD's 1.4 acres, CUSD's .33 acres, and modifications to CUSD's existing parking lot as shown in Attachment #3 of Exhibit "A").

1.4 The CITY and CUSD are cooperating in relation to the PROJECT whereunder (i) the CITY will acquire from CUSD an additional +/- 1.4 acres for PROJECT park uses, and +/- .33 acres for a public street easement, as shown in Attachment #1 of Exhibit "A", thus increasing the park site size to approximately 8 acres, and (ii) the CITY will design, plan, secure rezones/permits/approvals, bid, award, manage and construct a joint use parking facility (approximately 57 parking stalls) and modifications to CUSD's existing parking lot, and related on-site and off-site improvements (collectively "Parking Facility"), as described/depicted in Attachment #4 of Exhibit "A", upon the CUSD owned site depicted therein, known as a portion of APN 311-280-03T specifically described as follows:

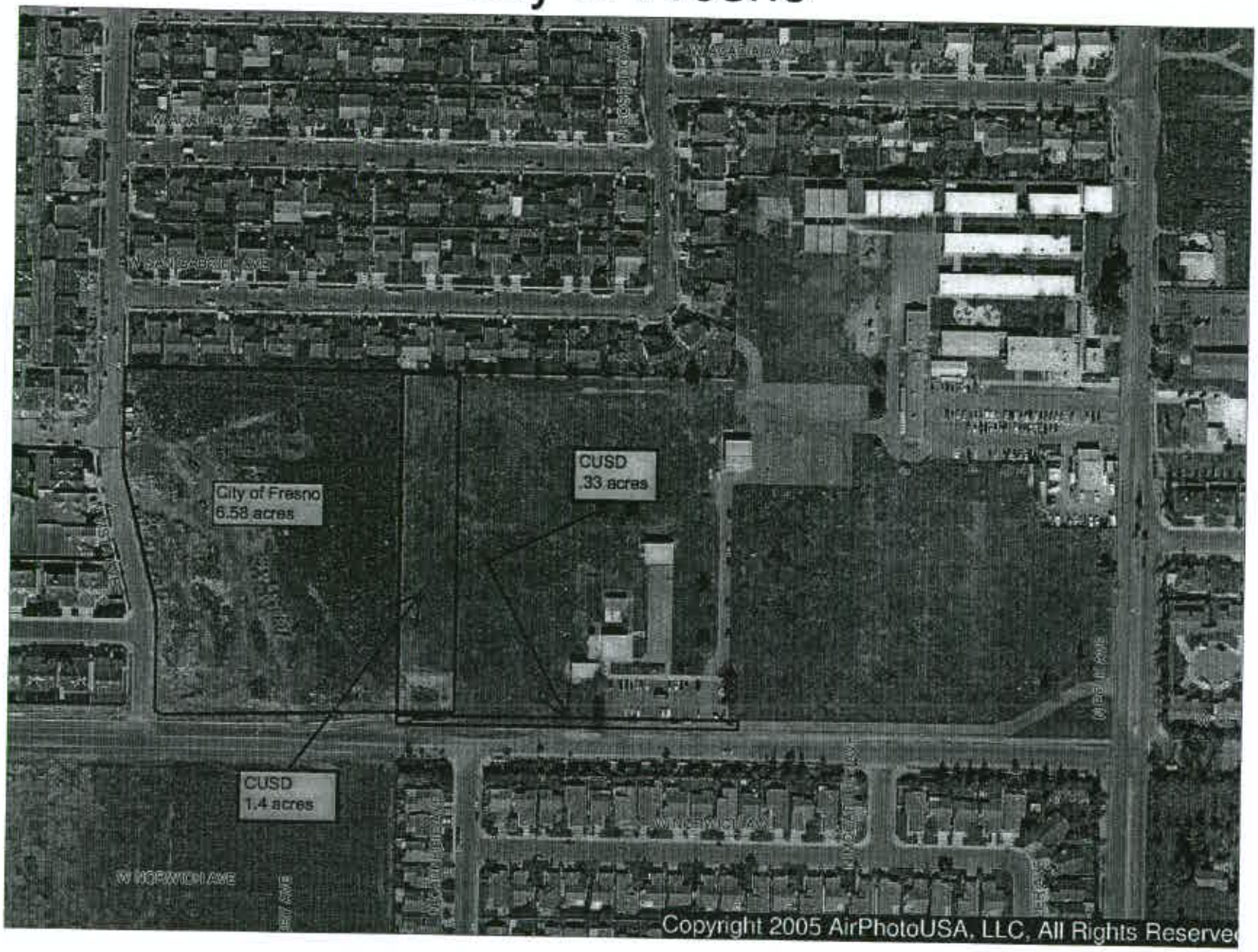
> The west 97.00 feet of the south half of the southeast quarter of the Northwest Quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, excepting therefrom the south 30.00 feet thereof, and
>
> The north 24.00 feet of the south 543.00 feet of the south half of the southeast quarter of the Northwest Quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, excepting therefrom the east 723.00 feet thereof.

The Parking Facility shall be in accordance with plans and specifications prior approved by the CUSD, consistent with the Project budget and schedule and subject to required City Council approval(s) regarding PROJECT and Parking Facility funding, procurement/award. CUSD shall allow City's Project contractor access to the Site as necessary to complete the Parking Facility Improvements as awarded and shall not unreasonably interfere with the project work or take any action that would cause the CITY to be in violation of its obligations to the Parking Facility project contractor. Upon CITY's completion and acceptance of the on-site Parking Facility Improvements, the on-site Parking Facility shall at all times owned by and the responsibility of CUSD, provided that CUSD shall grant CITY a no fee license (the "License") to joint use of the completed Parking Facility on a first come/first serve basis for overflow public parking in conjunction with the UAP PROJECT, and further provided that CUSD shall have primary use for District administrative meetings and staff development seminars during the period Monday thru Friday 0800-1730 hours. The License shall run for duration of the Agreement to which this Exhibit is attached. All off-site improvements shall be dedicated to the CITY.

1.5 The preliminary master plan has been modified to include this additional 1.4 acres, as shown in Attachment #3 of Exhibit "A". Construction documents are currently being developed from these finalized preliminary master plans.

PROJECT Schedule: It is the CITY'S goal to complete the construction of the joint use parking lot and remodeling of the existing parking lot within 36 months of the effective date of this agreement.

City of Fresno



SCALE 1 : 2,912

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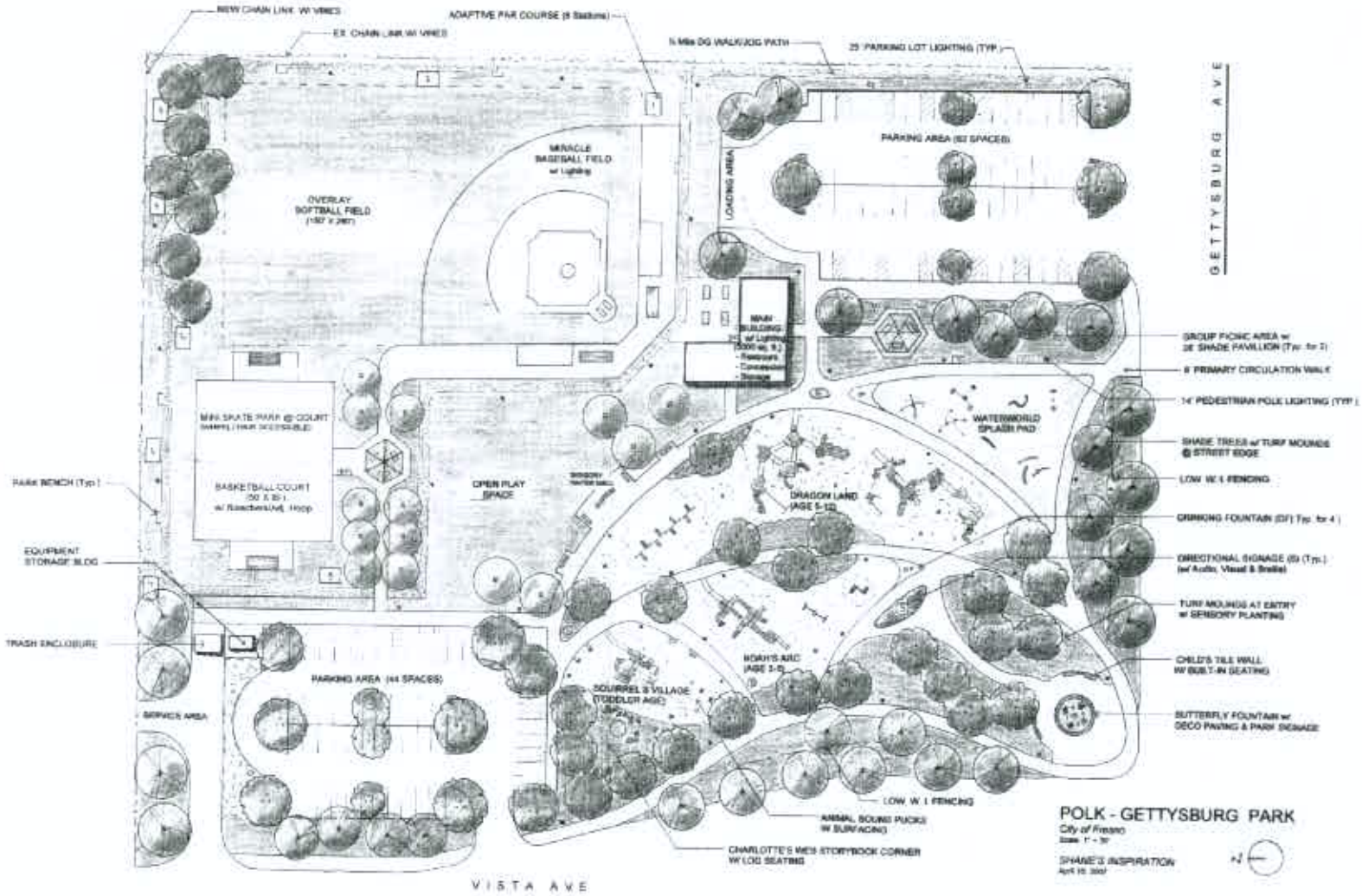
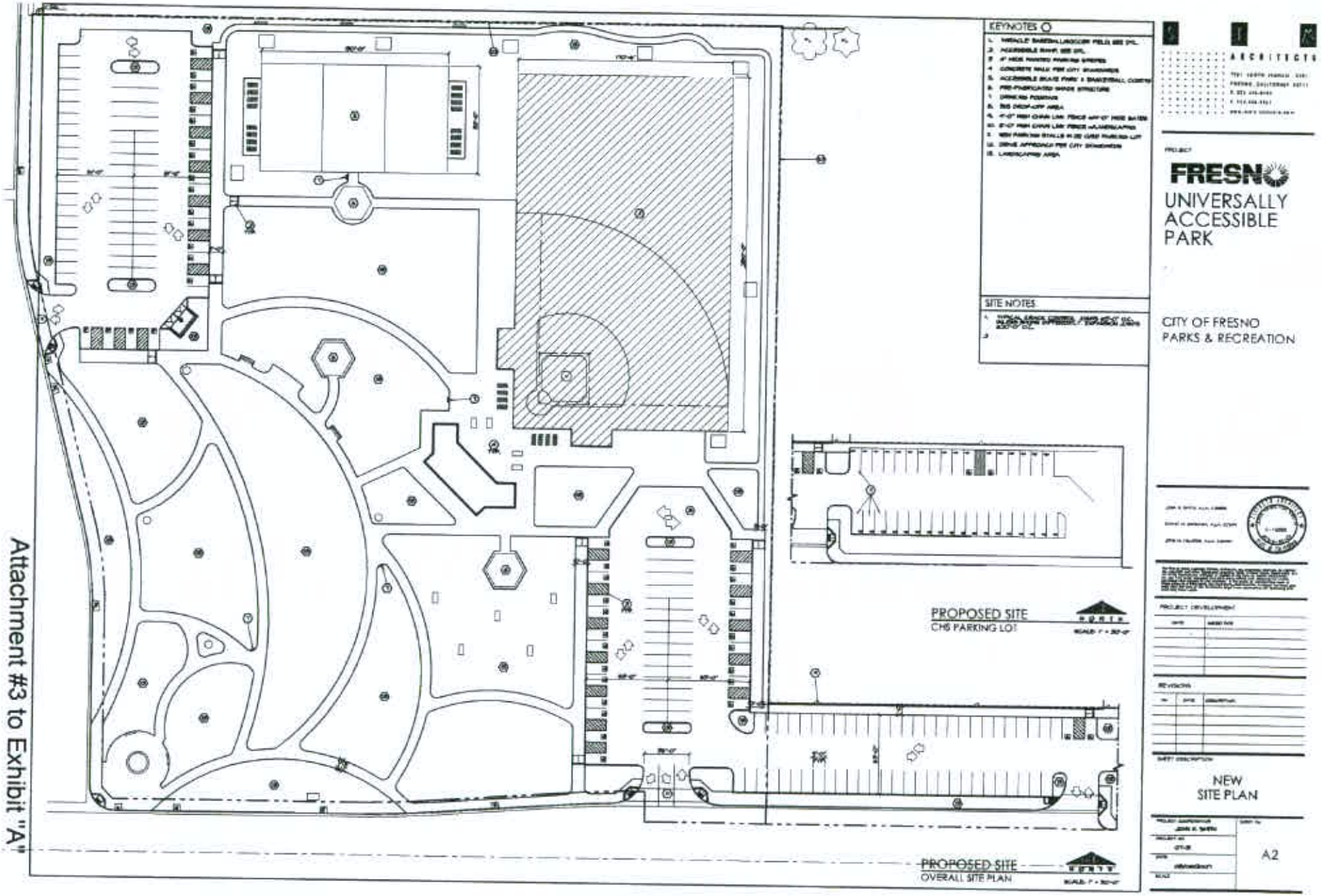
Tuesday, December 18, 2007 2:57 PM

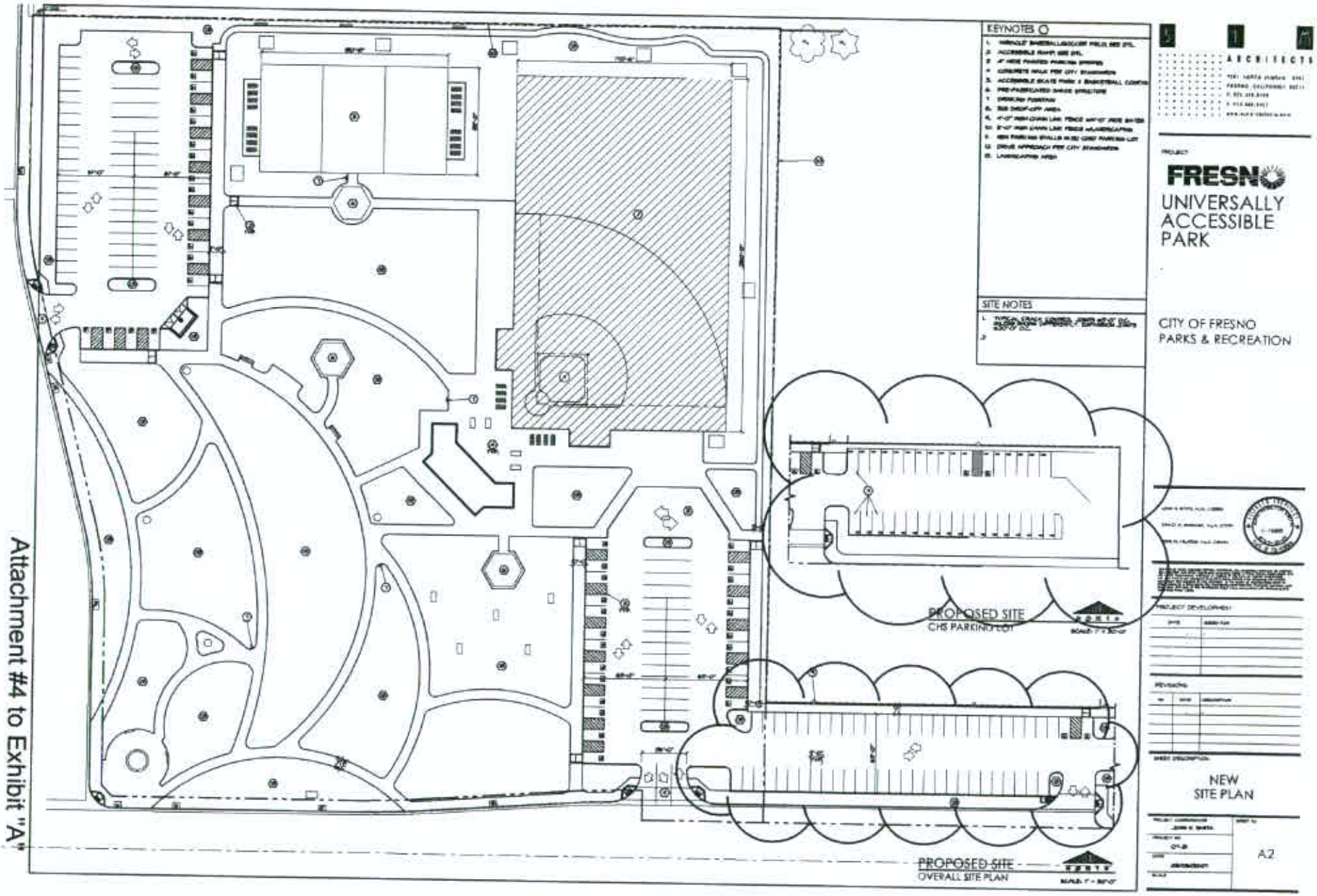
Attachment #1 to Exhibit "A"



Attachment #2 to Exhibit "A"



Attachment #3 to Exhibit "A"



Attachment #4 to Exhibit "A"

EXHIBIT "B"

Project Legal Description:

1. Approximately 1.4 acres to be conveyed by Grant Deed in fee to the City.

   APN/portion thereof 311-280-03T

   Legal Description:

   The west 97.00 feet of the south half of the southeast quarter of the Northwest Quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, excepting therefrom the south 30.00 feet thereof.

   Contains an area of 61,167 square feet, more or less..

2. Approximately 0.33 acres to be conveyed by Deed of Easement as easement to City.

   APN/portion thereof 311-280-03T

   Legal Description:

   The north 24.00 feet of the south 54.00 feet of the south half of the southeast quarter of the Northwest Quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, excepting therefrom the east 723.00 feet thereof.

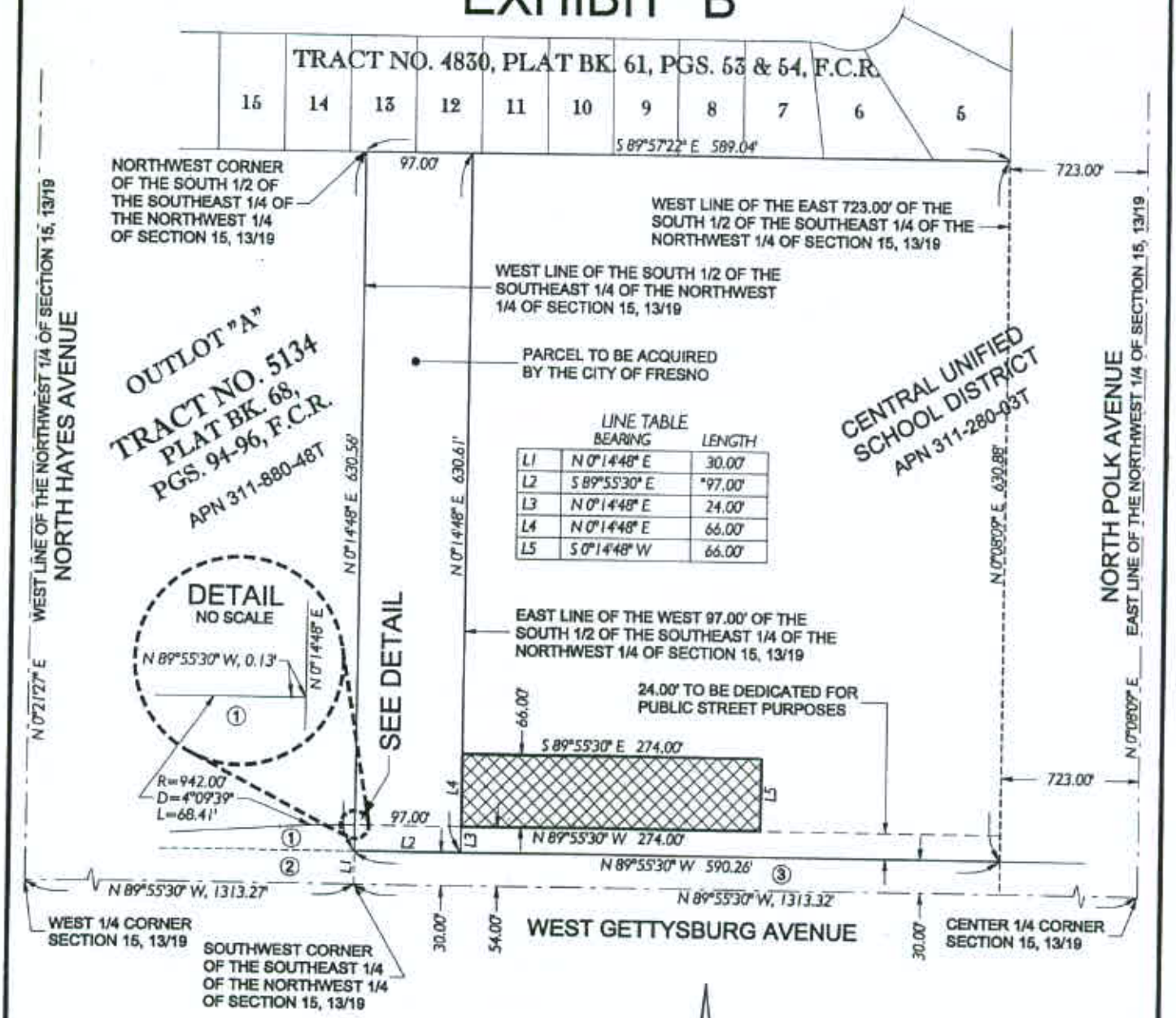
3. Approximately 0.42 acres constituting the Parking Site for the Joint Use Parking Facility

   APN/portion thereof 311-280-03T

   Legal Description:

   The north 66.00 feet of the south 120.00 feet of the east 274.00 feet of the west 371.00 feet of the south half of the southeast quarter of the Northwest Quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof.

EXHIBIT "B"



LINE TABLE

	BEARING	LENGTH
L1	N 0°14'48" E	30.00'
L2	S 89°55'30" E	*97.00'
L3	N 0°14'48" E	24.00'
L4	N 0°14'48" E	66.00'
L5	S 0°14'48" W	66.00'

NOTES:

DATA SHOWN ON THIS DRAWING IS AS SHOWN ON OR DERIVED FROM THE MAP OF TRACT NO. 5134 RECORDED IN BOOK 68 OF PLATS AT PAGES 94 THROUGH 96, FRESNO COUNTY RECORDS

① PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY MAP OF TRACT NO. 5134, BOOK 68 OF PLATS AT PAGES 94-96, F.C.R.

② PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY A DEED OF EASEMENT RECORDED AUGUST 28, 2003 AS DOCUMENT NO. 2003-0204910, O.R.F.C.

③ PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY A DEED OF EASEMENT RECORDED MAY 8, 1992 AS DOCUMENT NO. 92061266, O.R.F.C.

INDICATES AREA OF THE JOINT USE PARKING LOT 18,084 S.F.±

LICENSED LAND SURVEYOR
DAVID H. COKER
6-11-08
NO. 4690
EXP. 9/30/09
STATE OF CALIFORNIA

REF.& REV.	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PC00066 FUND NO. 31504 ORG. NO. 179901	KRA 0103005000 RES TYPE
PLAT 2649	JOINT USE PARKING LOT	DR. BY AJ CH. BY D.H.C. DATE JUNE 11, 2008 SCALE NO SCALE	SHEET NO. 1 OF 1 SHEETS

EXHIBIT "C"

DEFINITION OF HAZARDOUS MATERIALS

The term "Hazardous Materials" as used in this Agreement shall mean any toxic or hazardous substance, material or waste or any pollutant or contaminant or infectious or radioactive material, including but not limited to those substances, materials or wastes regulated now or in the future under any of the statutes or regulations listed below and any and all of those substances included within the definitions of "hazardous substances", "hazardous materials", "hazardous waste", "hazardous chemical substance or mixture", "imminently hazardous chemical substance or mixture", "toxic substances", "hazardous air pollutant", "toxic pollutant" or "solid waste" in the statues or regulations listed below. Hazardous Materials shall also mean any and all other similar terms defined in other federal, state and local laws, statutes, regulations, orders or rules and materials and wastes which are, or in the future become, regulated under applicable local, state or federal law for the protection of health or the environment or which are classified as hazardous or toxic substances, materials or waste, pollutants or contaminants, as defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including, without limitation, (i) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents, (ii) any petroleum products or fractions thereof, (iii) asbestos, (iv) polychlorinated biphenyls, (v) flammable explosives, (vi) urea formaldehyde, and (vii) radioactive materials and waste.

In addition, Hazardous Materials shall include:

(1) a "Hazardous Substance", "Hazardous Material", "Hazardous Waste", or "Toxic Substance" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, et seq., or the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.;

(2) an "Extremely Hazardous Waste", a "Hazardous Waste", or a "Restricted Hazardous Waste", under §§ 25115, 25117 or 25122.7 of the California Health and Safety Code, or is listed or identified pursuant to §§ 25140 or 44321 of the California Health and Safety Code;

(3) a "Hazardous Material", "Hazardous Substance", "Hazardous Waste", "Toxic Air Contaminant", or "Medical Waste" under §§ 25281, 25316, 25501, 25501.1, 25023.2 or 39655 of the California Health and Safety Code;

(4) "Oil" or a "Hazardous Substance" listed or identified pursuant to § 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321, as well as any other hydrocarbonic substance or by-product;

(5) listed or defined as a "Hazardous Waste", "Extremely Hazardous Waste", or an "Acutely Hazardous Waste" pursuant to Chapter 11 of Title 22 of the California

Code of Regulations;

(6) listed by the State of California as a chemical known by the State to cause cancer or reproductive toxicity pursuant to § 25249.8(a) of the California Health and Safety Code;

(7) a material which due to its characteristics or interaction with one or more other substances, chemical compounds, or mixtures, damages or threatens to damage, health, safety, or the environment, or is required by any law or public agency to be remediated, including remediation which such law or public agency requires in order for the property to be put to any lawful purpose;

(8) any material the presence of which would require remediation pursuant to the guidelines set forth in the State of California Leaking Underground Fuel Tank Field Manual, whether or not the presence of such material resulted from a leaking underground fuel tank;

(9) pesticides regulated under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq.;

(10) asbestos, PCBs, and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.;

(11) any radioactive material including, without limitation, any "source material", "special nuclear material" , "by-product material", "low-level wastes", "high-level radioactive waste", "spent nuclear fuel" or "transuranic waste", and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq., the Nuclear Waste Policy Act, 42 U.S.C. §§ 10101 et seq., or pursuant to the California Radiation Control Law, California Health and Safety Code §§ 25800 et seq.

(12) industrial process and pollution control wastes, whether or not "hazardous" within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.;

(13) regulated under the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., or the California Occupational Safety and Health Act, California Labor Code §§ 6300 et seq.; and/or

(14) regulated under the Clean Air Act, 42 U.S.C. §§ 7401 et seq. or pursuant to Division 26 of the California Health and Safety Code.

All other laws, ordinances, codes, statutes, regulations, administrative rules, policies and orders, promulgated pursuant to said foregoing statutes and regulations or any amendments or replacement thereof, provided such amendments or replacements shall in no way limit the original scope and/or definition Hazardous Materials defined herein.

EXHIBIT "D"

GRANT DEED

(Four pages)

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

APN 311-280-03T (portion) (SPACE ABOVE THIS LINE FOR RECORDER'S USE)

PW-2007-14704

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, and subject to the covenants and restrictions set forth below, the Central Unified School District, a public school district as successor-in-interest by merger from the Teague School District of Fresno County, Grantor, hereby grants to the City Of Fresno, a California municipal corporation, Grantee, all that real property situated in the County of Fresno, State of California, described as follows:

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

Consistent with the Cooperation Agreement Between the City of Fresno and Central Unified School District Relating to Real property Disposition, Construction and Joint Use ("Sale Agreement") dated , 2008 entered by Grantor and Grantee, all incorporated herein by this reference, the Grantee herein covenants by and for itself and its successors, transferees, vendees, administrators, and assigns, and all persons claiming under or through it, that:

The Grantor's conveyance of the Property is conditioned on the Grantee timely commencing and completing the Parking Facility Project. Therefore, unless the Grantee records a written Notice of Completion evidencing satisfactory completion of the Parking Facility Project within 24 months of the recordation of this Deed, the Grantor shall have the power to terminate all right, title, and interest granted hereunder to Grantee, and Grantee's heirs, successors, and assigns, in the manner the law provides for exercising the power of termination. The Grantee will cooperate with the Grantor in its exercise of the power. The Grantor may exercise its power, before recordation of the written Notice of Completion, upon the occurrence of any of the following: (i) Grantee does not begin or complete construction of the Project within the later of the time specified in the Schedule of Performance attached to the Sale Agreement or [18] months

of the recordation of this Deed; or, (ii) Grantee abandons or substantially suspends construction of the Project for 30 days after the Grantor gives written notice of the abandonment or suspension; or, (iii) Grantee assigns or transfers, or suffers an involuntary transfer of, any rights or obligations under the Sale Agreement, or in the Property, in violation of the assignment provisions of this Grant Deed. Grantor may institute any action or proceeding to exercise its rights under this section including, without limitation, the right to execute and record in the Official Records of Fresno County a written declaration that it is exercising its power to terminate all right, title, and interest of Grantee, its successors in interest and assigns, in the Property and to revest title in Grantor. Grantor's delay in instituting or prosecuting any action or proceeding, or otherwise asserting its rights under this section, shall not operate as a waiver. If Grantor waives any specific default by Grantee under this section, the waiver shall not be a continuing waiver, or a waiver of any other default by Grantee.

If a conflict exists or arises between the provisions of this Deed and the Sale Agreement, the Sale Agreement shall control.

IN WITNESS WHEREOF the parties hereto have signed this Grant Deed the ____day of _____, 2008.

Grantor and Grantee to sign before a notary public, and notary to attach acknowledgment.

GRANTOR: The Central Unified School District, a public school district as successor-in-interest by merger from the Teague School District of Fresno County

By _____ Dated: 2·4·2009
Mike Berg, Chief Business Officer

GRANTEE: City of Fresno, a California municipal corporation

By _____ Dated: _____
Patrick Wiemiller, Public Works Director

2007-129
15-A-8329

State of California)
County of Fresno)

On 2/18/2009 before me, Susan Steagall, Notary Public
DATE NAME

Notary Public, personally appeared, Michael A. Berg
NAME(S) OF SIGNER(S)

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

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

WITNESS my hand and official seal

Susan Steagall
SIGNATURE OF NOTARY

TGJ1 SUSAN STEAGALL
COMM. #1584061
NOTARY PUBLIC - CALIFORNIA
FRESNO COUNTY
My Comm. Expires June 29, 2009 TGJ1

OPTIONAL SECTION

TOP OF THUMB

❑ INDIVIDUAL(S
❑ CORPORATE OFFICER(S)

TITLE(S)
❑ PARTNERS ❑ LIMITED ❑ GENERAL
❑ ATTORNEY-IN-FACT
❑ TRUSTEE(S)
❑ GUARDIANSHIP/CONSERVATOR
SIGNER IS REPRESENTING
NAME OF PERSON(S) OR ENTITY(IES)
Asst. Superintendent
Chief Bus Officer
Central USD

TOP OF THUMB

FOR CITY OF FRESNO USE ONLY

CERTIFICATE OF ACCEPTANCE (Officer)

In accordance with Section 27281 of the Government Code, this is to certify that the interest in real property conveyed hereby is accepted by the undersigned officers on behalf of the Council of the City of Fresno pursuant to authority conferred by Resolution No. 92-219A of said Council, adopted June 9, 1992 and the grantee consents to the recordation thereof by its duly authorized officer.

Public Works Director
ACCEPTED:

By: _____ Date: _____
DEPUTY

CERTIFICATE OF ACCEPTANCE (Council)

In accordance with Section 27281 of the Government Code, this is to certify that the interest in real property conveyed by this instrument to the City of Fresno, a municipal corporation, is hereby accepted by order of the Council of the City of Fresno made on the date hereafter set forth and the grantee consents to the recordation thereof by its duly authorized officer.

Item No./Reso. No. _____

Date of Council Order: _____

City Clerk

By: _____ Date: _____
DEPUTY

FEE TITLE ACCEPTANCE (Officer)
City Manager

By: _____ Date: _____
DEPUTY

APPROVED AS TO FORM:
City Attorney

By: _____ Date: 12/9/08
DEPUTY

RECOMMENDED FOR ACCEPTANCE:

By: [illegible]
Title: Deputy City Engineer
Date: July 18, 2008

CHECKED:

By: Alan James
Title: SUPERVISING ENGR. TECH.
Date: 7/18/08

Log No. 2007-129 Drawing No. 15-A-8329

EXHIBIT "A"

APN 311-280-03T (portion)
Grant Deed

The west 97.00 feet of the south half of the southeast quarter of the Northwest Quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof.

EXCEPTING THEREFROM the south 30.00 feet thereof.

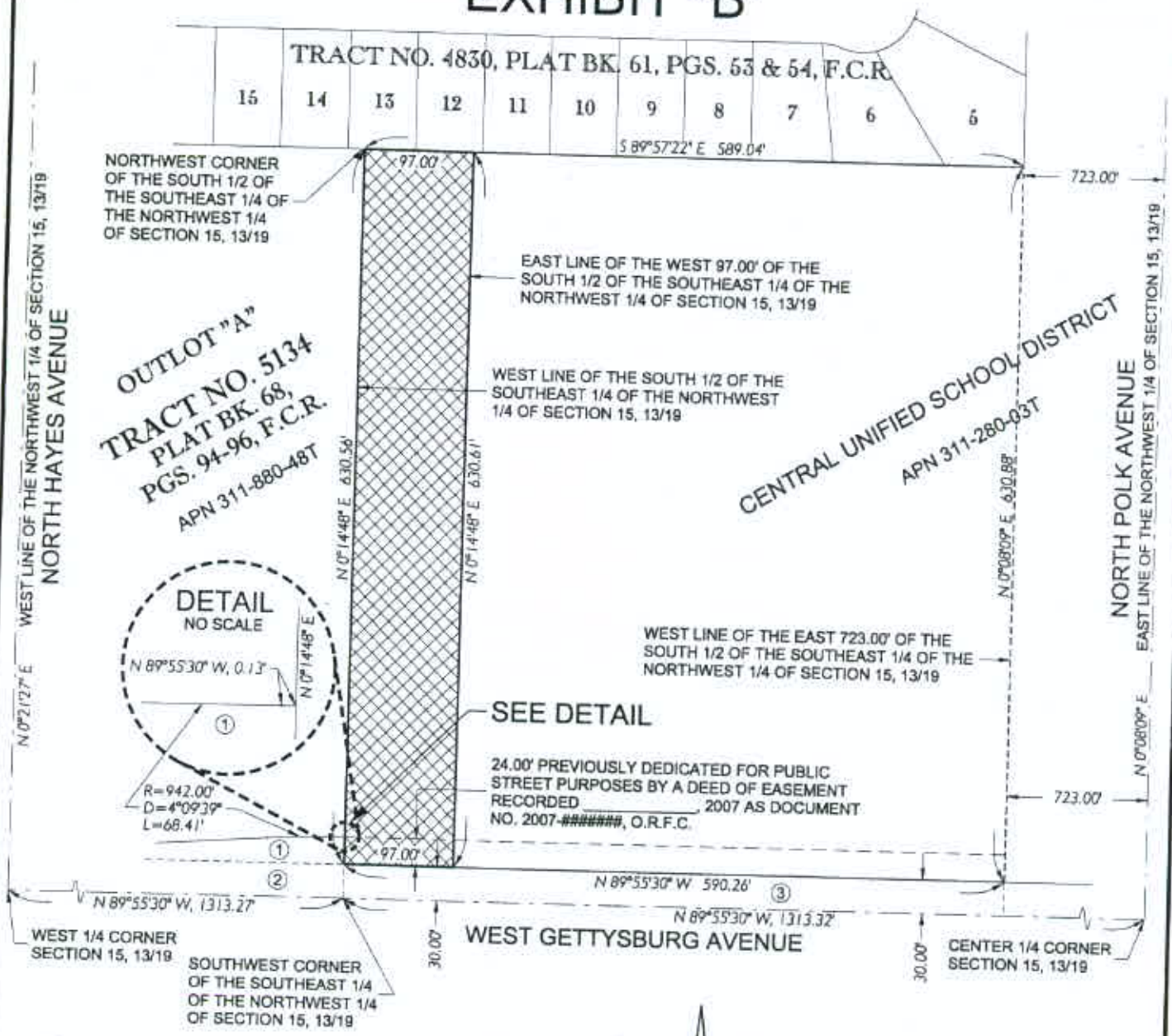
Contains an area of 61,167 square feet, more or less.

LICENSED LAND SURVEYOR
DAVID H. COHER
NO. 4690
Exp: 09/30/09
STATE OF CALIFORNIA

David H. Coher
8/28/07

2007-129
15-A-8329
D:\DATA\Parks\Universally Accessible Park @ Gettysburg & Polk\Grant Deed.doc

EXHIBIT "B"



NOTES:

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(2) PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY A DEED OF EASEMENT RECORDED AUGUST 28, 2003 AS DOCUMENT NO. 2003-0204910, O.R.F.C.

(3) PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY A DEED OF EASEMENT RECORDED MAY 8, 1992 AS DOCUMENT NO. 92061266, O.R.F.C.

INDICATES AREA TO BE GRANTED
61,167 S.F.±

NO SCALE

LICENSED LAND SURVEYOR
DAVID H. COKER
NO. 4690
EXP. 9/30/09
STATE OF CALIFORNIA

8/28/07

REF. & REV.	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PC00066 FUND NO. 31504 ORG. NO. 179901	KRA 0103005000 RES TYPE
2007-129 PLAT 2649	PARCEL TO BE GRANTED TO THE CITY OF FRESNO	DR. BY AJ CH. BY D.H.C. DATE AUG. 27, 2007 SCALE NO SCALE	SHEET NO. 1 OF 1 SHEETS 15-A-8329

EXHIBIT "E"

DEED OF EASEMENT

(Four pages)

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

APN 311-280-03T (portion)

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

PW-2007-14703

DEED OF EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, and subject to the covenants and restrictions set forth below, the Central Unified School District, a public school district as successor-in-interest to the Teague School District of Fresno County, Grantor, hereby grants to the City Of Fresno, a California municipal corporation, Grantee, an easement and right-of-way for public street purposes over, under, through and across all that 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 "B", which are attached and incorporated herein.

Central Unified School District, a public school district

By: _____ Dated: 2·4·2009
Mike Berg, Chief Business Officer

2007-128
15-A-8328

State of California)
County of Fresno)

On 2/18/2007 before me, Susan Steagall, Notary Public
DATE NAME

Notary Public, personally appeared, Michael A. Berg
NAME(S) OF SIGNER(S)

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

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

WITNESS my hand and official seal

SUSAN STEAGALL
COMM. #1584061
NOTARY PUBLIC - CALIFORNIA
FRESNO COUNTY
My Comm. Expires June 29, 2009

SIGNATURE OF NOTARY

OPTIONAL SECTION

TOP OF THUMB

❑ INDIVIDUAL(S
❑ CORPORATE OFFICER(S)

TITLE(S)

❑ PARTNERS ❑ LIMITED ❑ GENERAL
❑ ATTORNEY-IN-FACT
❑ TRUSTEE(S)
❑ GUARDIANSHIP/CONSERVATOR
SIGNER IS REPRESENTING
NAME OF PERSON(S) OR ENTITY(IES)
Asst. Superintendent
Chief Bus. Officer
Central USD

TOP OF THUMB

FOR CITY OF FRESNO USE ONLY

CERTIFICATE OF ACCEPTANCE (Officer)

In accordance with Section 27281 of the Government Code, this is to certify that the interest in real property conveyed hereby is accepted by the undersigned officers on behalf of the Council of the City of Fresno pursuant to authority conferred by Resolution No. 92-219A of said Council, adopted June 9, 1992 and the grantee consents to the recordation thereof by its duly authorized officer.

Public Works Director
ACCEPTED:

By: _____ Date: _____
DEPUTY

CERTIFICATE OF ACCEPTANCE (Council)

In accordance with Section 27281 of the Government Code, this is to certify that the interest in real property conveyed by this instrument to the City of Fresno, a municipal corporation, is hereby accepted by order of the Council of the City of Fresno made on the date hereafter set forth and the grantee consents to the recordation thereof by its duly authorized officer.

Item No./Reso. No. _____

Date of Council Order: _____

City Clerk

By: _____ Date: _____
DEPUTY

APPROVED AS TO FORM:
City Attorney

By: _____ Date: _____
DEPUTY

RECOMMENDED FOR ACCEPTANCE:

By: Chris Kanahan
Title: Deputy City Engineer
Date: July 18, 2008

CHECKED:

By: Alan James
Title: SUPERVISING ENGR. TECH.
Date: 7/18/08

Log No. 2007-128 Drawing No. 15-A-8328

EXHIBIT "A"

APN 311-280-03T (portion)
Street easement

The north 24.00 feet of the south 54.00 feet of the south half of the southeast quarter of the Northwest Quarter of Section 15, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof.

EXCEPTING THEREFROM the east 723.00 feet thereof.

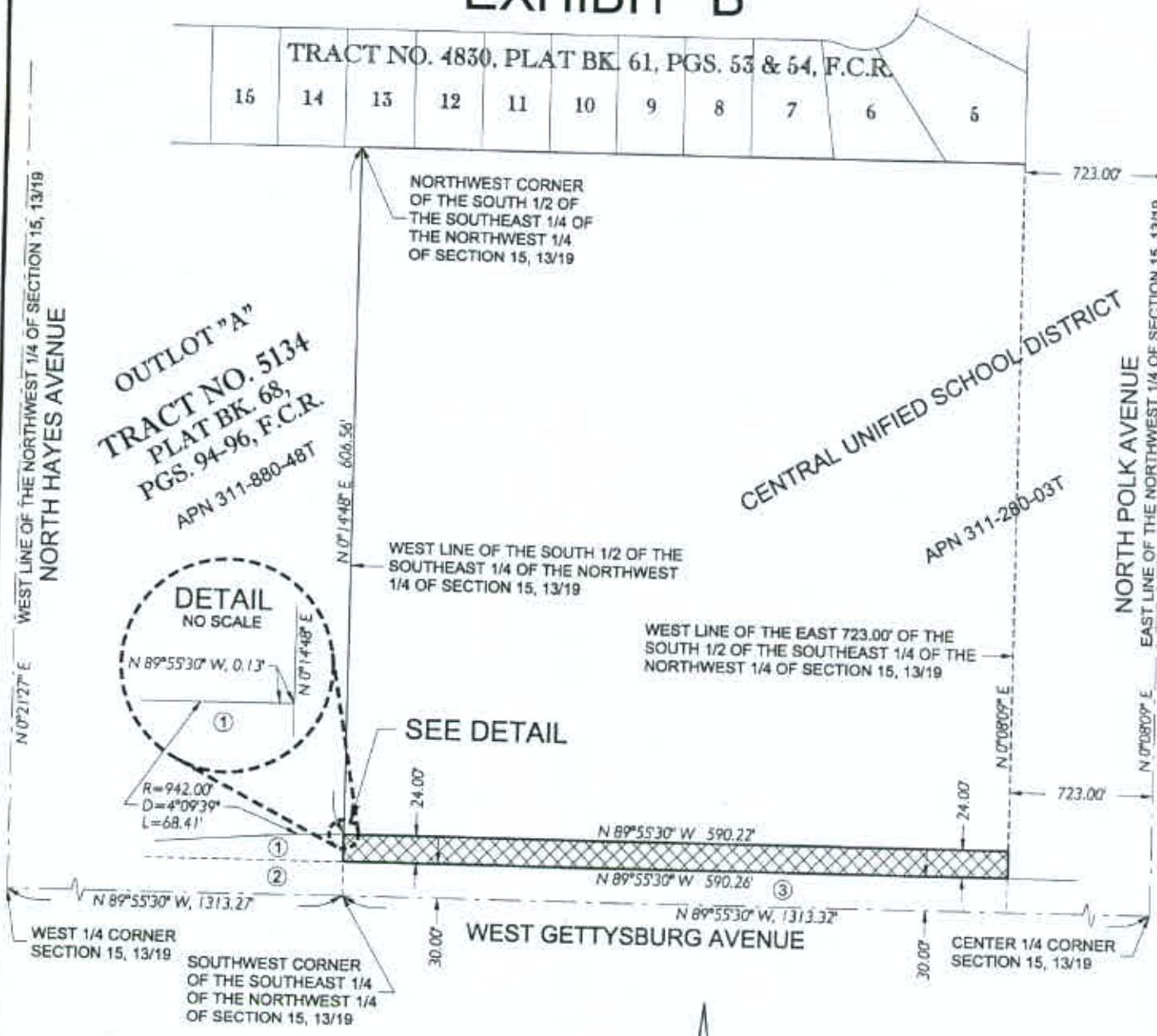
Contains an area of 14,166 square feet, more or less.

LICENSED LAND SURVEYOR
DAVID H. COKER
NO. 4690
Exp: 09/30/09
STATE OF CALIFORNIA

David H Coker
8/28/07

2007-128
15-A-8328
D:\DATA\Parks\Universally Accessible Park @ Gettysburg & Polk\Street.doc

EXHIBIT "B"



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(3) PREVIOUSLY DEDICATED FOR PUBLIC STREET PURPOSES BY A DEED OF EASEMENT RECORDED MAY 8, 1992 AS DOCUMENT NO. 92061266 O.R.F.C.

INDICATES AREA TO BE DEDICATED
14,166 S.F.±

NO SCALE

LICENSED LAND SURVEYOR
DAVID H. COKER
NO. 4690
EXP. 9/30/09
STATE OF CALIFORNIA
8/28/07

D:\DATA\Parks\Universally Accessible Park @ Getysburg & Polk\Street.dcd

REF. & REV.	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. PC00066	KRA 0103005000
2007-128 PLAT 2649		FUND NO. 31504 ORG. NO. 179901	RES TYPE
	PARCEL TO BE DEDICATED TO THE CITY OF FRESNO AS AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC STREET PURPOSES	DR. BY AJ CH. BY D.H.C. DATE AUG. 27, 2007 SCALE NO SCALE	SHEET NO. 1 OF 1 SHEETS 15-A-8328

City of FRESNO REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 9:15am #1E
COUNCIL MEETING 12/2/10
APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER

December 2, 2010

FROM: RANDALL L. COOPER, Director
Parks, After School, Recreation, and Community Services Department

BY: ANDY VANDERFORD, Project Manager
GSD/Facilities & Major Projects Division

JERRY HAYNES, Parks & Capital Projects Manager
Parks, After School, Recreation, and Community Services Department

SUBJECT: APPROVE THE TERMS OF THE AGREEMENT BETWEEN CENTRAL UNIFIED SCHOOL DISTRICT AND THE CITY OF FRESNO FOR LAND ACQUISITION AND JOINT DEVELOPMENT AND OPERATION OF A PARKING LOT FOR COMPLETION OF THE UNIVERSALLY ACCESSIBLE PARK (COUNCIL DISTRICT NO. 1) – PARCS

RECOMMENDATION

Approve the terms of the agreement between Central Unified School District (CUSD) and the City of Fresno (City) for land acquisition and joint development and operation of a parking lot for completion of the Universally Accessible Park, and authorize the Parks, After School, Recreation, and Community Services Department (PARCS) Director or his designee to sign the agreement and all other project related documents on behalf of the City.

EXECUTIVE SUMMARY

The City seeks to construct the Universally Accessible Park located at Gettysburg Avenue and Vista Avenue, adjacent to the Teague Elementary School. PARCS proposes to purchase 1.40 acres of CUSD property for public park purposes and 0.33 acres for public street purposes in the estimated amount of $274,685.00. This estimate is pursuant to a professional land appraisal. In lieu of cash payment to CUSD for the land, the City proposes to enter into an agreement with CUSD to develop, construct, and jointly use a CUSD owned parking lot, estimated to cost $215,453.00 to construct. The difference between the appraised land value and the cost to construct the parking lot is $59,232.00, which staff considers appropriate reimbursement for usage of this CUSD owned parking lot over the 20 year agreement period; which equals a non-adjusted amount of $2,962.00 per year. The estimated cost of the parking lot will be covered by UGM Neighborhood Park Zone 4 funds.

BACKGROUND

On December 5, 2006, City Council approved a PARCS Reimbursement Resolution to fund various capital projects which included a proposed park, described as the City's first Universally Accessible Park to accommodate children and young adults with various disabilities. To accomplish this need, Staff is requesting the approval of the agreement with CUSD to acquire an additional 1.40 acres to be added to City owned 6.58 acres. The 1.40 acres would be used for public park purposes and 0.33 acres for public street purposes. With approval of the agreement

Presented to City Council
Date 12-2-10
Disposition Res. approved

the total park acreage would become approximately 8 acres; and the CUSD parking lot would be jointly used by CUSD and the City. The City will have 36 months from the effective date of the agreement to construct the CUSD parking facility.

The agreement with CUSD has been approved as to form by the City Attorney's Office, and on November 18, 2008, the CUSD Board approved the agreement.

The Development and Resource Management Department is currently processing Conditional Use Permit Application No. C-08-235. An environmental finding of a Finding of Conformity with the 2025 Fresno General Plan MEIR and Air Quality MND finding for Environmental Assessment Application No. R-10-004/C-08-235 was published on May 14, 2010. This environmental finding was posted with the Fresno County Clerk on May 14, 2010.

FISCAL IMPACT

There is no impact to the General Fund as a result of approving this Agreement. The estimated cost of the parking lot will be covered by UGM Neighborhood Park Zone 4 funds. The Department has also been awarded a Proposition 84 grant for $5 million.

Revised 11/18/10

Attachment: Agreement

FISCAL IMPACT STATEMENT

PROGRAM: PC00066 UNIVERSALLY ACCESSIBLE PARK

RECOMMENDATION	TOTAL OR CURRENT	ANNUALIZED COST
Direct Cost	$274,685.00	
Indirect Costs:	$50,000.00	
TOTAL COST	$324,685.00	
Additional Revenue or Savings Generated	-0-	
Net City Cost	$324,685.00	
Amount Budgeted (If none budgeted, identify source):	$324,685.00	

*Funds for this project are derived from Citywide Park Impact fees / Bond Proceeds, a grant, and UGM.

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

RESOLUTION No. 08/09-27
BEFORE THE BOARD OF TRUSTEES
OF THE CENTRAL UNIFIED SCHOOL DISTRICT
FRESNO COUNTY, CALIFORNIA

In the Matter of Cooperation Agreement with the City of Fresno Relating to Real Property Disposition, Construction, and Joint Use for Parking Lot	)))))	RESOLUTION APPROVING COOPERATION AGREEMENT WITH AND TRANSFER OF INTERESTS IN REAL PROPERTY TO THE CITY OF FRESNO

WHEREAS, the Central Unified School District ("District") as successor-in-interest to the Teague School District of Fresno County, owns fee title to approximately 1.4 acres +/- of a parcel of unimproved real property located in the City of Fresno, County of Fresno, State of California, being a portion of APN 311-280-03T, located at the northwest corner of N. Polk and W. Gettysburg Avenues, adjacent to the District Office and Teague Elementary School (the "Property"); and

WHEREAS, the City of Fresno and the District separately and jointly have unmet needs for programmatic, parking and public use recreational facilities; and

WHEREAS, City and District, in order to address these unmet needs, desire to cooperate in a project consisting of District's transfer of its interest in the Property to City (including a related public street/right-of-way easement) in exchange for City's construction of a new joint use parking facility, and related improvements and landscaping on and to an existing District parking lot on the Property (collectively, the "Project") for the benefit of City's proposed Universally Accessible Park Project adjacent to said Property, all as more specifically described and depicted in the attached document entitled "COOPERATION AGREEMENT BETWEEN CITY OF FRESNO AND CENTRAL UNIFIED SCHOOL DISTRICT RELATING TO REAL PROPERTY DISPOSITION, CONSTRUCTION AND JOINT USE (City's Universally Accessible Park Project)" ; and

WHEREAS, this Board has the authority to transfer the Property and right-of-way as provided herein; and

WHEREAS, this Board is empowered by California Education Code section 35160 to transfer said real property interests to the City of Fresno upon such terms and conditions as the parties may agree, and such transfer may be entered into without complying with any other provisions of the Education Code related to the transfer, sale, or exchange of the District's real property, so long as the resolution authorizing such transfer and prescribing its terms has been adopted by unanimous vote of all of the members of the District's Governing Board, and notice of such action has been published in a newspaper of general circulation within the District once a week for three weeks prior to the execution of the transfer agreement by the District; and

WHEREAS, the District has published such notice as required by law; and

WHEREAS, the District intends to comply with the above-referenced requirements by adoption of this Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Central Unified School District hereby finds, declares, and resolves as follows:

1. The foregoing recitals are hereby adopted as true and correct.

2. The Board of Trustees hereby approves and ratifies that certain "COOPERATION AGREEMENT BETWEEN CITY OF FRESNO AND CENTRAL UNIFIED SCHOOL DISTRICT RELATING TO REAL PROPERTY DISPOSITION, CONSTRUCTION AND JOINT USE (City's Universally Accessible Park Project)" and authorizes the transfer of the described interests in real property to the City of Fresno in accordance with the terms of said agreement. Said agreement, in substantially the form submitted to this Board and attached to this Resolution as Exhibit "A," shall be executed on behalf of the District by the District's Superintendent, or Chief Business Officer, subject to such changes or revisions therein as the Superintendent or Chief Business Officer may find necessary or desirable. Said Exhibit "A" contains all of the essential terms and conditions upon which said real property interests shall be transferred to or exchanged with the City of Fresno.

3. The District's Superintendent, or Chief Business Officer, is authorized and directed to take such other and further actions as may be necessary or convenient to carry out the purpose and intent of this Resolution.

4. This Resolution shall take effect immediately upon its adoption.

* *

This Resolution was adopted by unanimous vote of the Board of Trustees of the Central Unified School District at a duly called meeting held on January 27, 2009.

AYES: 7
NOES: 0
ABSENT: 0

Cynthia Berube

Cynthia Berube, President, Board of Trustees
Central Unified School District
Fresno County, California

I, Marilou Ryder, Secretary of the Board of Trustees of the Central Unified School District, do hereby certify that the foregoing Resolution was regularly introduced, passed, and adopted by the Board of Trustees at its meeting held on January 27, 2009.

Marilou Ryder

Marilou Ryder, Secretary, Board of Trustees
Central Unified School District
Fresno County, California