

PUBLIC FACILITIES REIMBURSEMENT AGREEMENT

CITY OF CHICO
COMMUNITY FACILITIES PROJECT
ROTARY CENTENNIAL PARK
(City of Chico/Chico Area Recreation and Park District)

This Agreement is made and executed this 19 day of June 2020, by and between the City of Chico, a municipal corporation of the State of California ("City"), and the Chico Area Recreation and Park District, a special district of the State of California ("District").

WITNESSETH

WHEREAS, the District is the owner of approximately 5.0 acres of property (APN 015-180-068) located on Whitewood and Ceres Avenues in northwest Chico as described and depicted in Exhibits "A" and "B" attached hereto; and which is to be used for the development of a publicly owned neighborhood park ("Property"); and

WHEREAS, on February 4, 2020, the City Council adopted Minute Order No. 06-20 authorizing the City Manager to execute a public facilities reimbursement agreement with the District to appropriate \$1,500,000 in Neighborhood Park Funds (Fund 340) to construct the Rotary Centennial Park; and

WHEREAS, the District now desires to construct Rotary Centennial Park on the Property to include improvements depicted in Exhibit "C" attached hereto ("the Park"); and

WHEREAS, the City has determined that the Park will assist in meeting a critical need by providing recreational facilities and open space to the greater Chico community; and

WHEREAS, the District and the City desire to enter into an agreement setting out the specific terms and conditions under which the City shall disburse an amount not to exceed \$1,500,000 to reimburse District for a portion of the costs to construct the Park.

NOW THEREFORE, City and District agree as follows:

Section 1. Amount and Purpose

City, in order to assist the District in the development of the Park, hereby agrees to reimburse District an amount not to exceed \$1,500,000 (the "Reimbursement Funds"). The Reimbursement Funds shall only be used for eligible costs related to the development of the Park as set forth in the attached Exhibit "D."

Section 2. Term of Agreement

The term of this Agreement shall be twenty-five years from the date of execution of this Agreement, during which term the District will be obligated to construct the Park for the purpose of providing recreational facilities to the public in the greater Chico community. The District shall be

required to commence the development of the Park within one year from the date of this Agreement and shall complete the Park within two years from the date of this Agreement.

Section 3. Disbursement of Funds

Upon execution of this Agreement and recordation of a Deed of Trust, Reimbursement Funds shall be disbursed to District no more often than monthly as stipulated in Exhibit "E." Disbursements shall be made within 30 days of receipt of a complete payment request similar in form and content to the attached Exhibit "F." Each payment request must include evidence satisfactory to City that the construction costs requested for reimbursement have been fully paid by the District.

Section 4. Events of Default

District and City acknowledge that City has agreed to reimburse District an amount not to exceed \$1,500,000 for the purpose of facilitating District's development of the Park and that the purpose of this Agreement would be frustrated upon the occurrence of the following events each of which are deemed to be an "Event of Default":

- a. Failure of District to commence development within one year from the date of this Agreement and complete the Park within two years from the date of construction commencement, or such later date as agreed to by the parties;
- b. Development or use the Park for any other purpose than that of a neighborhood park during the term of this Agreement;
- c. Failure by District to perform or observe any non-monetary covenant or condition set forth in this Agreement for a period of sixty (60) days after written notice has been provided to City by District. Except, if any failure by District to perform or observe any covenant or condition of this Agreement requires more than sixty (60) days to remedy, District shall not be deemed in default of this Agreement if corrective action is instituted by District within such sixty (60) day period and thereafter diligently pursued until the failure is corrected; or
- d. Failure of District to timely cure any default under a covenant which is senior to City's Deed of Trust securing performance of this Agreement following service of notice of default and expiration of the cure period provided therein by the beneficiary or trustee under such senior deed of trust.

Section 5. Remedy Upon District's Default

Upon the occurrence of any Event of Default, and if City is not in default of any provision of this Agreement, City's remedies shall be as follows:

- a. City shall be entitled to specifically enforce the covenants and conditions of this Agreement in an action filed in Butte County Superior Court or in any other Court of competent jurisdiction;
- b. As an alternative to specific performance, at City's option, within 90 days after service of City's written demand, District shall repay to City, as liquidated damages for such default,

the full amount of all funds which have been disbursed to District pursuant to this Agreement, plus interest thereon, calculated at the rate of 3.5% per annum, from the date of this Agreement to the date of payment of such amount in full by District to City. In providing for payment of liquidated damages in the amount set forth herein, City and District have agreed that it would be impracticable or extremely difficult to fix the actual amount of damages to City and the public interest which would result from District's default in the performance of the covenants and conditions of this Agreement and, by reason thereof, equity and the public interest would best be served by repayment of the Reimbursement Funds to City together with a reasonable amount of interest thereon; and

- c. City may assert and exercise any and all rights and remedies provided for herein or in City's Deed of Trust securing the obligations herein, and take other actions as otherwise may be provided by law.

Except as otherwise set forth above, all rights and remedies set forth herein are cumulative and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same default or any other default.

Section 6. Insurance

At all times during the term of this Agreement, District shall, at its sole cost and expense, maintain in full force and effect the following insurance policies:

- a. Commercial General Liability Insurance or its equivalent.

District represents that it is a member of a state-wide insurance pool consisting of other public entities, to wit, the Special District Risk Management Authority, organized pursuant to the authority provided for in the Government Code of the State of California. District agrees to provide liability coverage under this Agreement for personal injury, including death, property damage, and contractual liability, in the amount of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, with a maximum deductible of \$5,000, or as approved by the City's Human Resources and Risk Management Office. Such coverage shall also be provided to City as an Additional Covered Party for the covered claims arising out of this Agreement and subject to said limits.

The coverage shall further provide for a severability of interests between City and District and include City as an Additional Covered Party. Such coverage shall be primary and non-contributory with respect to any insurance or self-insurance coverage carried by District. District shall furnish to City certificate(s) of coverage evidencing the required coverages and waivers and, upon request, a certified duplicate original of the Memorandum of Coverage issued by District's excess insurance pool detailing such coverages. The certificate(s) shall provide for written notification to City of any material alteration of coverage, substantial reduction in aggregate limits, if such limits apply, or any cancellation at least thirty (30) days prior thereto. If District, at any time during the term of this Agreement, implements a program of purchasing commercial insurance in lieu of the self-insurance and insurance pool coverage provided for herein above, District shall provide City with equivalent replacement insurance policy coverages under such commercial insurance program. The policies required above shall (1) be issued by one or more U.S.-domiciled insurance companies licensed to do

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date set forth above.

CITY OF CHICO

CHICO AREA RECREATION AND PARK DISTRICT


By: Mark Orme *
City Manager

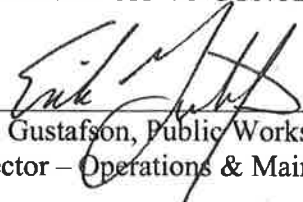

By: Ann Willmann
General Manager

* Authorized pursuant to City Council Minute Order No. 06-20 approved on 2/04/20 and Chico Municipal Code Section 2.12.010.

APPROVED AS TO FORM:


APPROVED AS TO CONTENT:


Andrew L. Jared, City Attorney*


Erik Gustafson, Public Works
Director – Operations & Maintenance

*Pursuant to The Charter of the City of Chico, Section 906(D)

REVIEWED AS TO CONTENT:


Scott Dowell, Administrative Services Director*
*Reviewed by Finance and Information Systems

ROTARY CENTENNIAL PARK SITE

All that certain real property situate in the County of Butte, State of California, described as follows;

Being a portion of Lot 8 of the Fifteenth Subdivision of the John Bidwell Rancho as shown on that certain map filed for record in Book 6 of Maps, at Page 48 in the office of the Butte County Recorder, more particularly described as follows;

BEGINNING at the southwest corner of said Lot 8, said Point of Beginning being located on the centerline of Ceres Avenue;

Thence from said Point of Beginning along the centerline of said Ceres Avenue and the west line of said Lot 8 North $00^{\circ}54'57''$ West, 397.11 feet;

Thence leaving said centerline and said west line North $89^{\circ}03'45''$ East, 255.00 feet to the beginning of a 230.00 foot radius curve to the left;

Thence along said curve to the left with a radius of 230.00 feet, through a central angle of $29^{\circ}15'00''$ a distance of 117.42 feet;

Thence North $59^{\circ}48'45''$ East, 106.23 feet to the beginning of a 170.00 foot curve to the right;

Thence along said curve to the right with a radius of 170.00 feet, through a central angle of $12^{\circ}49'34''$, a distance of 38.06 feet to the beginning of a compound curve to the right;

Thence along said curve to the right with a radius of 20.00 feet, through a central angle of $106^{\circ}26'44''$, a distance of 37.16 feet;

Thence South $00^{\circ}54'57''$ East, 294.89 feet to the beginning of a 20.00 foot radius curve to the right;

Thence along said curve to the right with a radius of 20.00 feet, through a central angle of $44^{\circ}24'55''$, a distance of 15.50 feet to the beginning of a reverse curve to the left;

Thence along said curve to the left, with a radius of 50.00 feet, through a central angle of $104^{\circ}24'55''$, a distance of 91.12 feet;

Thence South 00°54'57" East, 86.71 feet to the south line of said Lot 8;

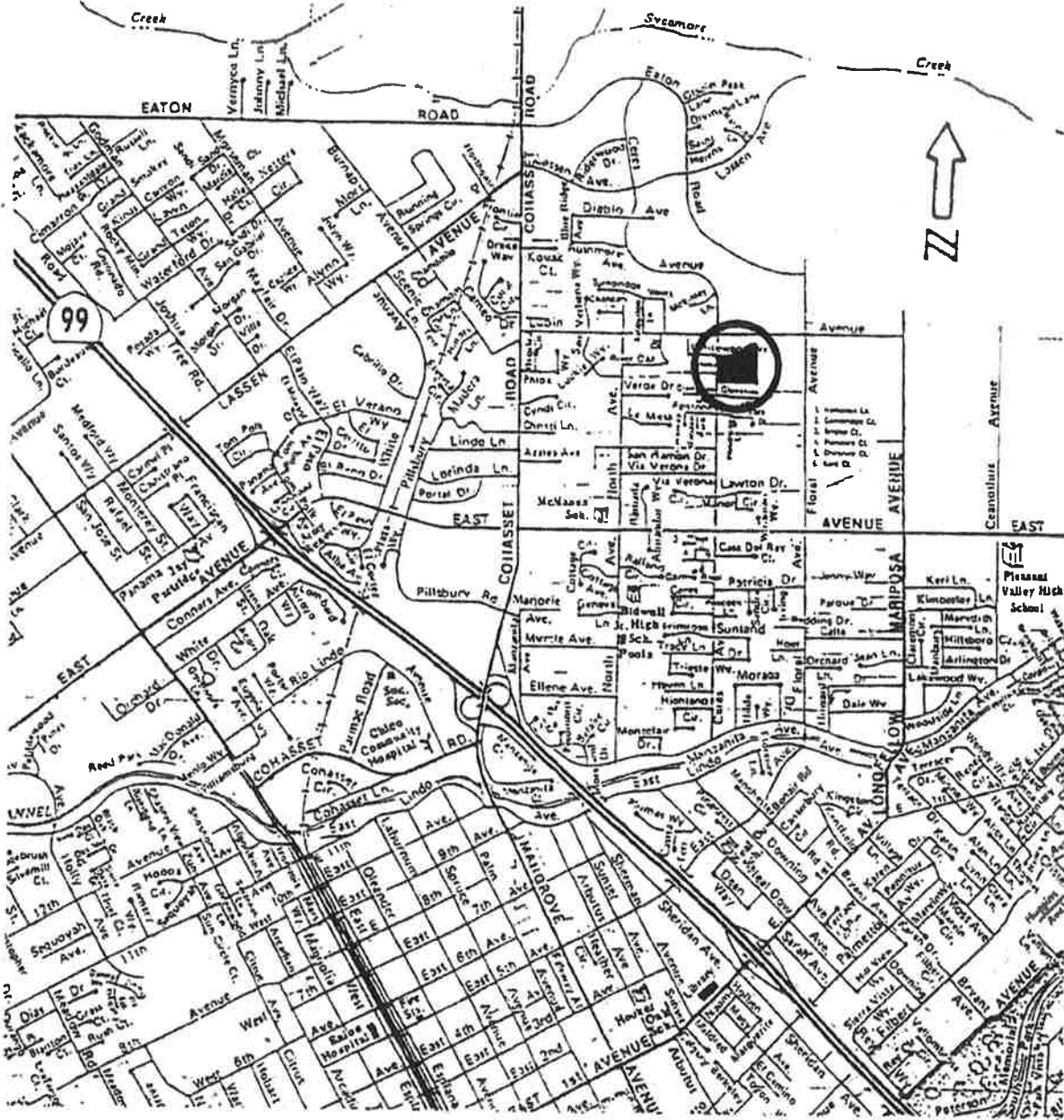
Thence along said south line of Lot 8, South 89°03'45" West, 525.69 feet to the True Point of Beginning.


Excepting therefrom an Easement for Storm Drain Facilities, Access and Maintenance of said Storm Drain Facilities over the entire Parcel of land described above.

Containing 5.000 acres, more or less.

The above described property is a portion of Assessor's Parcel Number 015-180-068.

By: R.R
Checked: D.B.
Approved: T. VARGAS
Date: 5/5/94



 = LOCATION

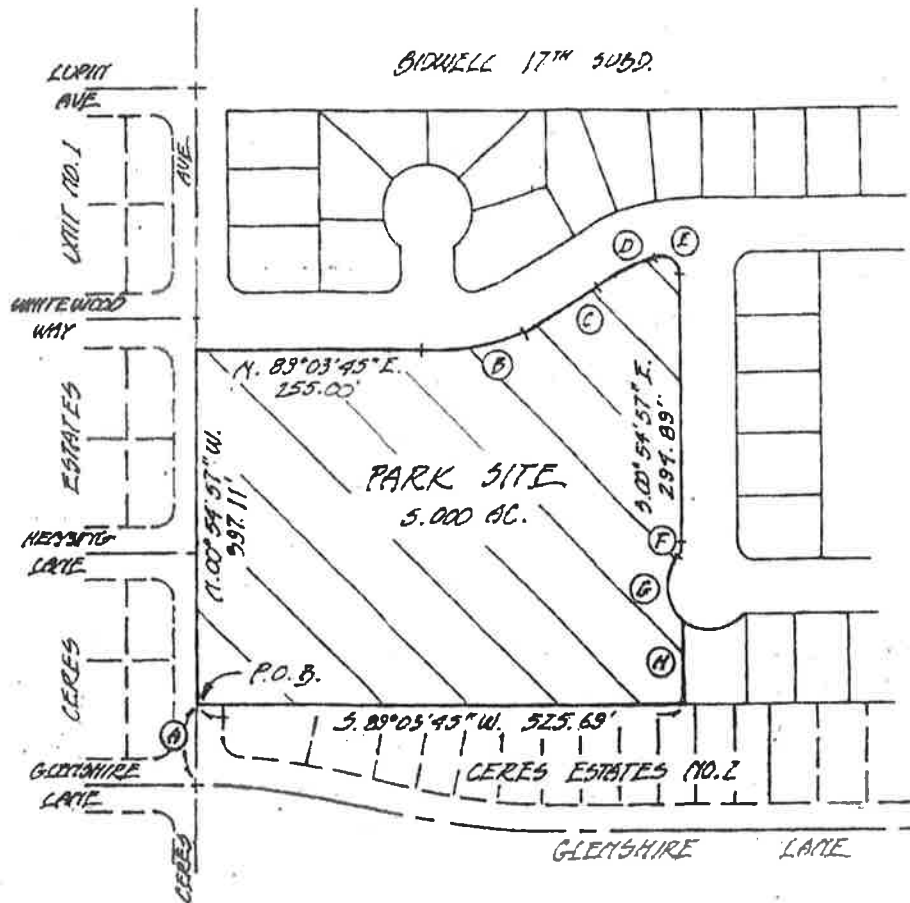
CITY OF CHICO

DRAWN BY: RR DATE: 09/08/09
 CHECKED BY: TR SCALE: 1" = 2000'
 APPROVED BY: [Signature]
DIRECTOR

ROTARY CENTENNIAL PARK
 REIMBURSEMENT AGREEMENTS
 (CITY OF CHICO/CHICO AREA
 RECREATION AND PARK DISTRICT)

EXHIBIT
 'B'

SHEET 1 OF 2



COURSE DATA

- Ⓐ 11.00° 55' 55" W., 84.89'
- Ⓑ R=250.00' Δ=29° 15' 00" L=117.92'
- Ⓒ 11.59° 48' 45" E., 106.23'
- Ⓓ R=170.00' Δ=12° 49' 34" L=38.06'
- Ⓔ R=20.00' Δ=106° 26' 44" L=37.16'
- Ⓕ R=20.00' Δ=44° 24' 55" L=15.50'
- Ⓖ R=50.00' Δ=104° 21' 55" L=91.12'
- Ⓗ 5.00° 54' 57" E., 86.71'

LEGEND

P.O.B. POINT OF BEGINNING

PARK SITE
5.000 AC.

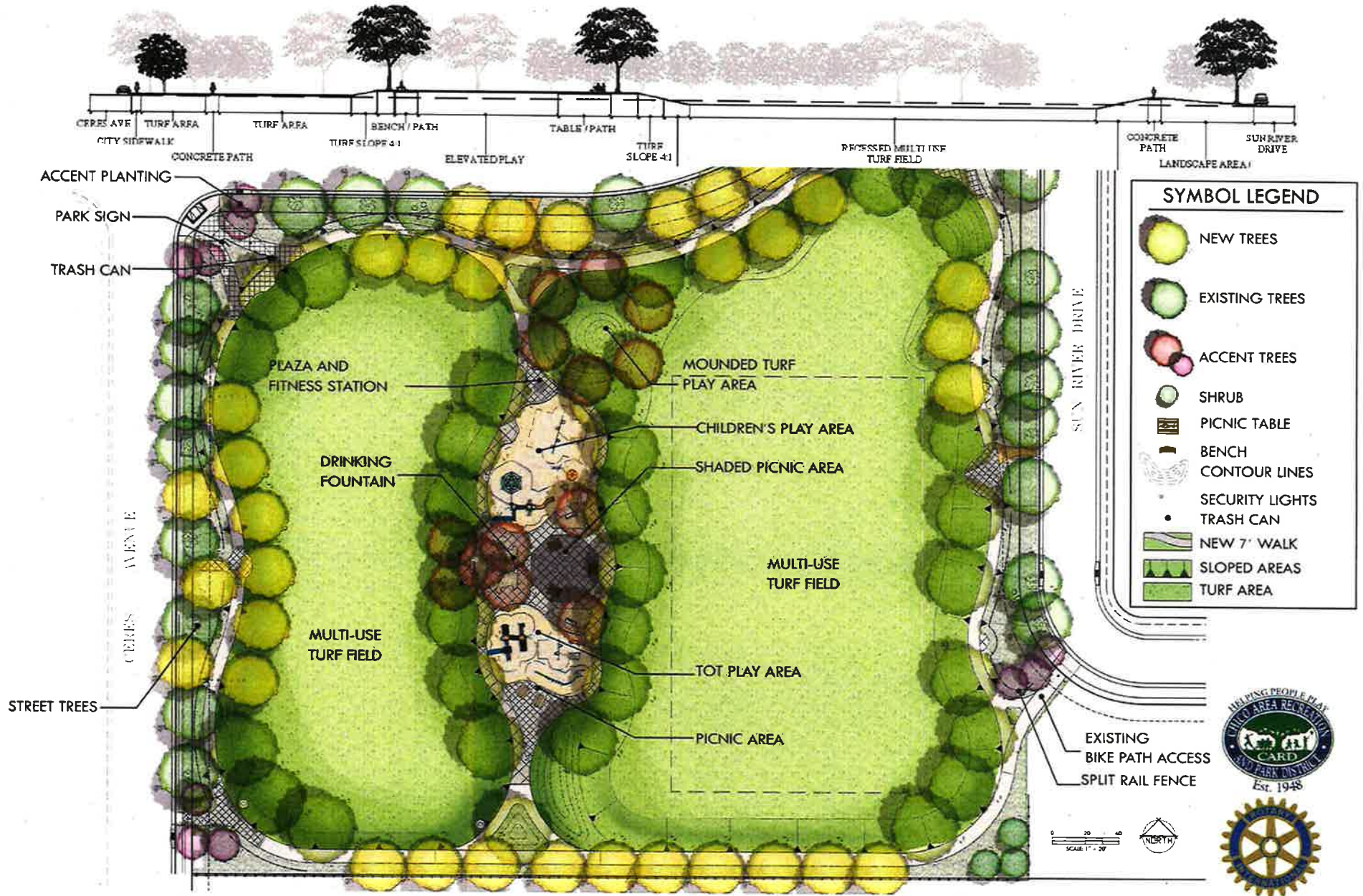
CITY OF CHICO

DRAWN BY: GM DATE: 09/08/09
 CHECKED BY: TR SCALE: 1" = 200'
 APPROVED BY:
 DIRECTOR

ROTARY CENTENNIAL PARK
 REIMBURSEMENT AGREEMENTS
 (CITY OF CHICO/CHICO AREA RECREATION
 AND PARK DISTRICT)

EXHIBIT
 'B'

EXHIBIT C



SYMBOL LEGEND

- NEW TREES
- EXISTING TREES
- ACCENT TREES
- SHRUB
- PICNIC TABLE
- BENCH
- CONTOUR LINES
- SECURITY LIGHTS
- TRASH CAN
- NEW 7' WALK
- SLOPED AREAS
- TURF AREA



CENTENNIAL NEIGHBORHOOD PARK PRELIMINARY MASTERPLAN



EXHIBIT "D"

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ELIGIBLE COSTS

The Reimbursement Funds, provided for pursuant to this Agreement shall be used solely for the following fees and expenses associated with the development of the Park:

Project Construction Costs

1. Offsite and Onsite Construction Expenses for the development of the Park, which will include, but will not be limited, to:
 - a. Multi-purpose turf fields
 - b. Picnic areas
 - c. Several play areas
 - d. Benches, trash containers and other park amenities
2. Construction Management/Inspection

EXHIBIT "E"

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PROJECT
DISBURSEMENT CONDITIONS

CONSTRUCTION PHASE:

Payment requests shall be made monthly subsequent to monthly draw meeting with the District, contractor, architect, and other project lenders. All disbursements shall be made upon City approval of Progress Payment Request Forms set forth (or alternative format acceptable to City) in this exhibit including all required documentation and certifications listed on the Payment Request Form. Payment requests shall be made no more often than monthly.

Disbursements for construction costs shall be made less 10% retention (net amount). The net amount for construction costs shall be disbursed each month until all reimbursement funds provided under this Agreement (minus 10% retention amount) are disbursed

The 10% retention shall be disbursed upon completion of construction, receipt of copies of the recordation of the Notice of Completion, expiration of the lien period (35 days after the recordation of the Notice of Completion), and appropriate lien releases from all contractors, subcontractors, and material providers.

EXHIBIT "F"

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MONTHLY PROGRESS PAYMENT REQUEST

PAYMENT REQUEST SUMMARY

Project Draw Number _____ Draw Period (from) _____ (to) _____.

Total Project Construction Costs \$ _____

TOTAL PROJECT DISBURSEMENTS TO DATE: \$ _____

REQUIRED DOCUMENTATION

- Disbursement detail for each line item by funding source including copies of all invoices and warrant/check numbers to vendors or contractors issued by the District.
- Copies of all signed Change Orders along with Change Order disbursement summary.

Pursuant to the City's Public Facilities Reimbursement Agreement, we are hereby requesting a progress payment of

\$ _____

Ann Willmann, General Manager

Date

Approved for payment:

Erik Gustafson, Public Works Director
Operations & Maintenance