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DEPARTMENT OF
PARKS AND RECREATION

CITY OF SACRAMENTO
CALIFORNIA

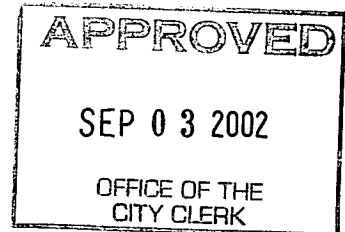
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SACRAMENTO, CA
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PARK PLANNING, DESIGN &
DEVELOPMENT DIVISION

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August 22, 2002

City Council
Sacramento, California



Honorable Members in Session:

**SUBJECT: Authorize the City Manager to Issue Park Development Impact Fee Credits
Upon the Provision of Unconditional, Irrevocable Stand-By Letters of Credit**

LOCATION AND COUNCIL DISTRICT: Citywide

RECOMMENDATION:

This report recommends that the City Council, by resolution, grant the City Manager the authority to issue park development impact fee credits upon the provision of unconditional, irrevocable stand-by letters of credit.

CONTACT PERSONS: Robert G. Overstreet, Director, 264-1190
Janet Baker, Interim Park Development Manager, 264-8234
John Lubberke, Deputy City Attorney, 264-5346

FOR COUNCIL MEETING OF: September 3, 2002

SUMMARY:

The City of Sacramento has established a park development impact fee, codified at Chapter 18.44 of the Sacramento City Code. Pursuant to Sacramento City Code section 18.44.110 the City Council, by resolution, may establish policies, guidelines and procedures regarding credits and reimbursements of park development impact fees, consistent with the principles expressed therein. Staff recommends that the City Council adopt, by resolution, the policy regarding the issuance of park development impact fee credits upon the provision of unconditional, irrevocable stand-by letters of credit, as described in the attached resolution. This has been reviewed and approved by the City Attorney's Office.



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COMMITTEE/COMMISSION ACTION: None.

BACKGROUND INFORMATION:

There exists a need to provide, in a manner consistent with sound fiscal management, for the early issuance of park development impact fee credits so as to facilitate, encourage, and expedite the development of turn-key parks.

With the delivery to the City of an Irrevocable Stand-by Letter of Credit issued by a banking institution and on a form acceptable to the City in the face amount of the estimated construction costs of the park improvement, the City shall credit the developer's prepaid park development fees as credits against the park development fees that would otherwise be payable by developer with the issuance of a building permit for any residential or commercial development project located in the same planning area as the park site until such prepaid park development fee amount is exhausted through the use of such credits and any reimbursement hereunder.

Sacramento City Code section 18.44.110 grants the City Council the authority to establish policies, guidelines and procedures regarding credits and reimbursements that may apply to the park fees. The policies, guidelines and procedures shall be subject to the terms of any written agreement entered into by the City and any landowner concerning credits against and reimbursement of park fees. This section also states that the credits may be transferred, in whole or in part, upon notice to the City in the form and in the manner specified by the city.

The credits and reimbursements shall apply to park fees owed (a) by landowners who have advanced funds for the construction of park facilities that otherwise would be paid from the revenue of the park fees established by this section, and (b) by landowners who constructed park facilities that otherwise would be paid for from the revenue of the park fees.

On April 30, 2002, staff presented and was directed to come back to Council on or before July 30, 2003 to address, among other items, turnkey park development issues and discuss how the City process might be improved (in cost and time). The City has embraced a turn-key approach to the delivery of parks in new developing areas. The early issuance of park development impact fee credits would facilitate, encourage, and expedite the development of turn-key parks.

FINANCIAL CONSIDERATIONS:

The current park development impact fee, adopted by Council on April 30, 2002, is projected to provide approximately \$3,300,000 for the first year and \$47,000,000 over the next fourteen (14) years toward park development. The amount of credits will be established in specific agreements to construct park improvements between the City of Sacramento and the developer.

ENVIRONMENTAL CONSIDERATIONS:

The Environmental Services Manger has determined that the proposed actions of authorizing the City Manger to issue park Development Impact Fee Credits Upon the Provision of Unconditional, Irrevocable Stand-By Letters of Credit is not a project under the California Environmental Quality Act, Section 15378(4). Section 15378(4) of the CEQA Guidelines indicates that the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment of any specific project which may result in a potentially significant impact on the environment is not a project. The current request is to approve a policy to follow and that in and of itself does not create a significant impact on the environment. Actual park construction and environmental determination will be brought to Council for separate approval, either with a specific private development application or as a separate project by the Parks and Recreation Department.

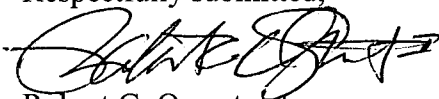
POLICY CONSIDERATIONS:

This project is consistent with the City's strategic plan, following the mission statement to protect, preserve and enhance the quality of life for present and future generations, and one of the goals to preserve and expand the arts and culture, open space, urban forest, parks, and recreation opportunities.

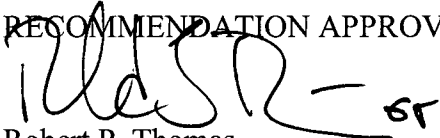
Furthermore, it is the intent and purpose of the City that landowners undertaking the new development pay the costs of the park facilities and that the costs shall not be or become a responsibility of the general fund of the City.

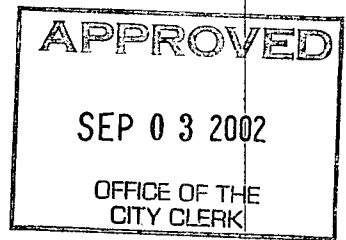
ESBD EFFORTS:

No goods or services are being purchased in association with this report.

Respectfully submitted,

Robert G. Overstreet,
Director of Parks and Recreation

RECOMMENDATION APPROVED:


Robert P. Thomas
City Manager



RESOLUTION NO. 2002-591

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ISSUE PARK DEVELOPMENT IMPACT FEE CREDITS UPON THE PROVISION OF UNCONDITIONAL, IRREVOCABLE STAND-BY LETTERS OF CREDIT

WHEREAS: The City of Sacramento has established a Park Development Impact Fee, codified at Chapter 18.44 of the Sacramento City Code.

WHEREAS: Pursuant to Sacramento City Code section 18.44.110 the City Council may establish policies, guidelines and procedures regarding credits and reimbursements of Park Development Impact Fees, consistent with the principles expressed therein.

WHEREAS: There exists a need to provide, in a manner consistent with sound fiscal management, for the early issuance of Park Development Impact Fee credits so as to facilitate, encourage, and expedite the development of turn-key parks.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

The City Council does hereby adopt, pursuant to and consistent with Sacramento City Code section 18.44.110, the following policy regarding the issuance of Park Development Impact Fee credits:

1. The City Manager may, at his or her discretion, issue Park Development Impact Fee credits, in an amount less than, or equal to, the face value of an irrevocable stand-by letter of credit issued and made payable to the City, that is in conformity with the criteria set forth herein.
2. Each irrevocable letter of credit shall be in form approved by the City Attorney and substantially similar in all respects to the form letter of credit attached hereto as Exhibit A, and shall be by its express terms unconditional and absolutely free of defenses on the part of the developer and or the bank or financial institution issuing the letter.
3. Each bank or financial institution proposed to provide a letter of credit shall be subject to the prior approval of the City in its sole discretion.

FOR CITY CLERK USE ONLY

Resolution No: _____

Date Adopted: _____

4. The letter of credit either shall not be subject to expiration or shall by its express terms not be subject to expiration without written notice to the City given not less than thirty (30) days prior to the date of expiration. An expiring letter shall be replaced not later than five (5) working days prior to the expiration of the said thirty (30) day period. If the developer shall fail to do so, the City shall have the right to draw the entire amount of the letter of credit, and to deposit said amount into a City account. Any funds deposited into a City account pursuant hereto, shall only be reimbursed to developer under the precise conditions, as expressed herein, for the release of letters of credit.

5. Letters of credit shall not be released or reduced until the park has been formally accepted by the City. To the extent that a portion of the letter of credit secures the provision of future park maintenance, the letter of credit shall not be released until a new letter of credit, acceptable in all respects by the City at its sole discretion, is provided to City by developer in the dollar amount specified for maintenance in the park construction budget. The maintenance letter of credit shall not be released until such time as the maintenance obligation has been satisfied, as determined by the City in its sole discretion.

6. If a letter of credit is provided to cover an obligation to construct multiple parks, as each park is formally accepted by the City, a replacement letter of credit may be provided in an amount that reflects the still-pending obligations for construction and maintenance. Upon the acceptance of the replacement letter of credit by the City, with such acceptance being at City's sole discretion, the original letter of credit shall be returned to developer.

MAYOR

ATTEST:

City Clerk

FOR CITY CLERK USE ONLY

Resolution No.: _____

Date Adopted: _____

Attachment A

City of Sacramento, Beneficiary of
this Irrevocable Letter of Credit
[address]

Re: **Irrevocable Letter of Credit**

Date: _____
Letter of Credit no. _____

City of Sacramento:

This irrevocable, unconditional letter of credit is issued to the City of Sacramento, a charter municipal corporation ("City") by [name and address of the bank inserted here] ("Bank") at the request of and for the account of _____ ("Principal").

Bank hereby establishes this irrevocable letter of credit in your favor in the amount of _____ (\$ _____) available with Bank at the address stated above by payment of your draft(s) drawn at sight accompanied by a signed and dated demand letter, worded substantially as follows:

"I, the _____ of the City of Sacramento or official representative thereof, hereby demand payment of the sum of _____ (\$ _____) representing [a partial or full] draw upon the amount of your irrevocable letter of credit no. _____."

Bank agrees that this letter of credit is absolute and unconditional, may not be dishonored for any reason whatsoever during its term, and is not subject to any offset or defense which may have in the past have existed, or may now or in the future exist as between Bank and City, or Principal and City, or Principal and Bank.

Each draft presented hereunder must be accompanied by this original letter of credit for our endorsement thereon of the amount of each draft.

This letter of credit expires at our office on _____. Provided, however, that notwithstanding said nominal expiration date, this letter of credit shall not expire until Bank shall have given City thirty (30) days' written notice of expiration, at City's address set forth above. The thirty (30) day period shall not commence to run until City shall have actually received said written notice. City shall, during the last five (5) days of the said thirty (30) day period, have the right to present a demand letter in the form specified above, to draw the entire remaining balance of the amount represented by this letter of credit, unless: (i) the expiration date has been extended and Bank has provided written notice of such extension and its terms to City prior to City's demand; or (ii) a replacement letter of credit has been issued by Bank or another financial institution, which letter complies, in City's sole and exclusive judgment, in every respect with City's requirements and is in substantially the same form as this letter of credit.

Bank represents and warrants that the person executing this letter of credit for Bank has unconditional and full execution authority, and that this letter is a valid and binding obligation of Bank.

Bank: _____
Address: _____

By: _____
Authorized Agent or Representative