



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 30, 2008

TO: Mayor and Councilmembers

FROM: Parks and Recreation Department/City Attorney's Office

SUBJECT: First Amendment To Lease Agreement – 1240 East Yanonali Street

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Approving and Authorizing the Execution of a Unilateral First Amendment to Lease Agreement No. 11,003 for Vehicular and Utility Access to the Real Property Located at 1240 East Yanonali Street (APN 017-520-001, -002, -003, and -004) Extending the Existing Lease with the City for an Additional Fifty (50) Year Period.

DISCUSSION:

In 1981, the City Council approved the recordation of a subdivision map for a previously approved private 4-unit residential condominium project, located at 1240 E. Yanonali Street (hereinafter the "Project."). Because the Project was landlocked and had no possible vehicular, pedestrian or utility access over private property from a public street, in connection with review of the Project at the City Planning Commission, the City committed to providing access to the Project by way of a 22-ft. wide "Lease" over the City's Eastside Neighborhood Park and Yanonali Gardens.

The term of the Lease, pursuant to City charter restrictions on the use of City park property and the term allowed for City leases, contained the required charter findings for the use of a City park and was for the maximum charter term of fifty (50) years. At this point, the Lease now has only 19 years remaining on its remaining term and the Project real property is on the market for sale. However, having only a 19 year lease term remaining effectively prevents potential buyers from securing conventional financing for the purchase of the Project. This includes preventing potential buyers of the individual condominium owners from obtaining the necessary conventional home loans. Accordingly, one of the owners of a condominium in the Project has requested that the City of Santa Barbara amend the term of the Lease to provide for a new 50-year term.

Under these circumstances and in light of the decisions made by the Planning Commission and the City in 1981 when this Project was originally approved, it appears that this is a reasonable request and that the City has few alternatives other than to extend the lease at this point in time.

Attached as is a draft Unilateral First Amendment to Lease Agreement extending the term of the Lease to September 23, 2058 with the required ordinance authorizing the lease extension. The City Council is requested to enact the ordinance to approve this Unilateral First Amendment to the Lease extending the term of the Lease to September 23, 2058, which is fifty (50) years from September 23, 2008.

ATTACHMENT: Draft Unilateral First Amendment to Lease Agreement w/APN map

PREPARED BY: Stephen P. Wiley, City Attorney

SUBMITTED BY: City Attorney's Office

APPROVED BY: City Administrator's Office

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

**City Clerk
City of Santa Barbara
Santa Barbara, California 93101**

[Space above line for Recorder's use only]

**Agreement No. 11, 003
APN No. 017-520-001, 002, 003 and 004**

UNILATERAL FIRST AMENDMENT TO LEASE AGREEMENT

This unilateral First Amendment to Lease Agreement, dated as of October 7, 2008, is entered into by the City of Santa Barbara, a municipal corporation (“City”) for the benefit of Park Creek Home Owners Association, Inc., the Successor-In-Interest to the original Developer/Lessee (“Lessee”).

WHEREAS

A. City is the owner of real property located in the City of Santa Barbara commonly known as Eastside Neighborhood Park and Yanonali Gardens which is legally described in Exhibit “A” attached hereto and incorporated herein by reference and which is marked as “City park property”

B. Lessee is the owner of the common area portion of that certain real property in the City of Santa Barbara which is depicted on Exhibit “B” attached hereto as the area which is cross-hatched and which bears the words “project site;” and

C. In 1981, Lessor entered into a 50-year lease of the City park property legally described in Exhibit “C,” a copy of which Lease was recorded on July 7, 1981, as Document No. 81-27355 (the “Lease”).

D. One of the Members of the Lessee has requested that Lessor extend the term of the term of the existing Lease to September 23, 2058.

E. City has agreed to extend the term of the Lease to September 23, 2058.

Now, therefore, in consideration of the above recitals, City unilaterally agrees as follows:

1. Term: The term of the Lease is hereby extended to September 23, 2058.
2. No Other Amendments: Except for the extension of the term of the Lease, there are no other changes to the terms and conditions of the Lease.

ATTACHMENT

IN WITNESS WHEREOF, the City of Santa Barbara has caused this Unilateral First Amendment to Lease (dated as of October 7, 2008) by and between the Park Creek Home Owner Association, Inc., and the City of Santa Barbara, to be executed in duplicate, the day and year first above written.

ATTEST:

CITY OF SANTA BARBARA,
a municipal corporation

City Clerk

Mayor

APPROVED AS TO FORM

By: _____
City Attorney

APPROVED AS TO CONTENT:

Parks & Recreation Director

81-27355

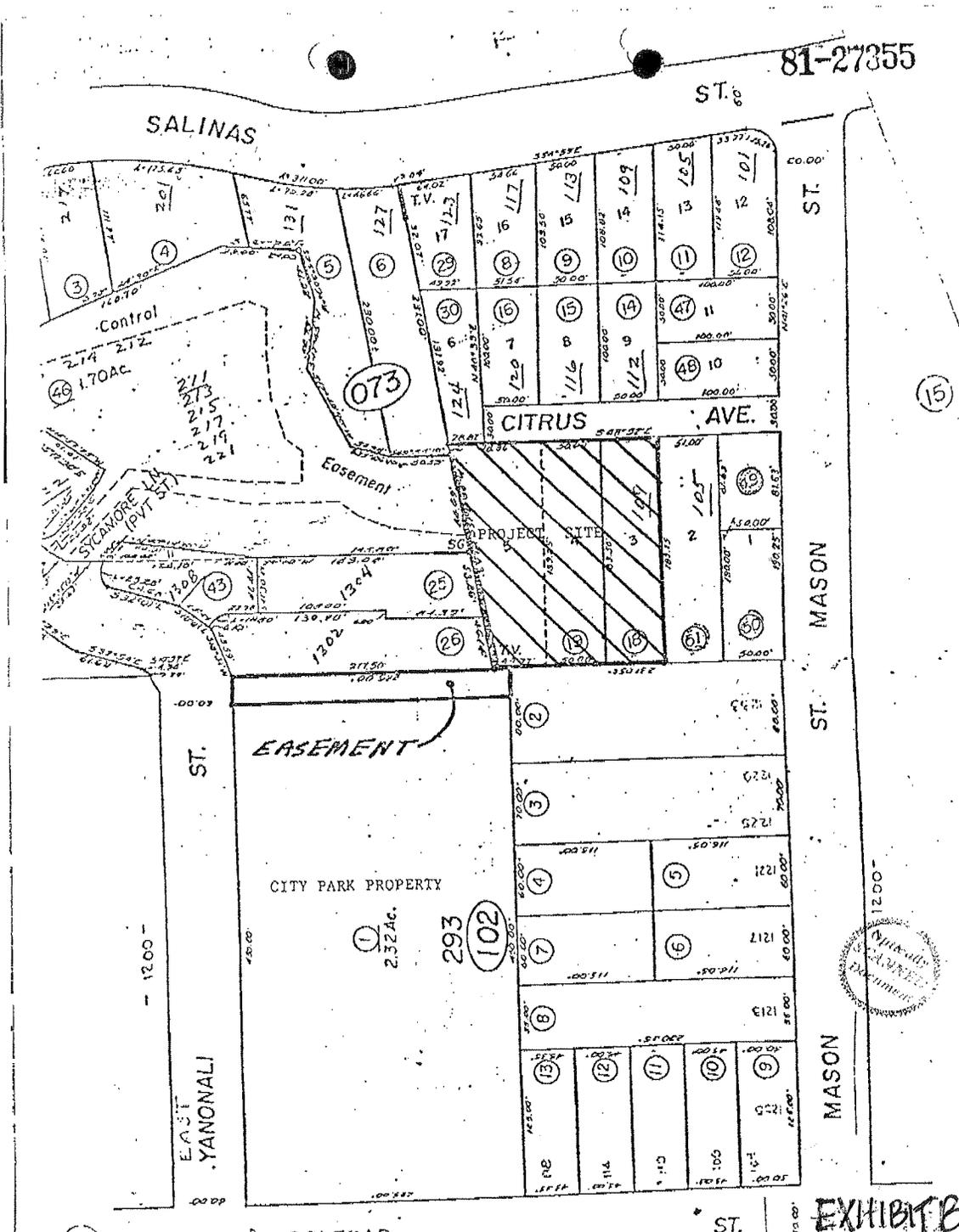
The northwesterly one-half of Block 293 of the City of Santa Barbara, described as follows:

Beginning at the north corner of said Block 293 at the intersection of Canada Street and Yanonali Street; thence southwesterly along the line of Yanonali Street, 450 feet to the north-east line of Soledad Street; thence southeasterly along the northeasterly line of Soledad Street, 225 feet to the center of Block 293; thence at right angles northeasterly 450 feet to Canada Street; thence northwesterly along the southwesterly line of Canada Street, 225 feet to the point of beginning.



EXHIBIT A

81-27355



ST. 8

SALINAS

ST. 8

CITRUS AVE.

MASON

ST.

ST.

MASON

ST.

ST.

ST.

EASEMENT

CITY PARK PROPERTY

2.3246

293

102

EXHIBIT B



81-27355

Beginning at the northerly corner of the northwesterly one-half of City Block 293 as described in a grant deed to the City of Santa Barbara, per Book 2317, Page 306, recorded August 7, 1970 in the Office of the County Recorder of Santa Barbara County;

Thence, south $48^{\circ}30'$ east along southwesterly line of Canada Street per said deed 231 feet to a point;

Thence, at right angles south $41^{\circ}30'$ west 22 feet to a point;

Thence, at right angles north $48^{\circ}30'$ west 93 feet to a point;

Thence, at right angles south $41^{\circ}30'$ west 2 feet to a point;

Thence, at right angles north $48^{\circ}30'$ west 138 feet to the southeasterly line of Yanonali Street;

Thence, along said line of Yanonali north $41^{\circ}30'$ east 24 feet to the point of beginning.



EXHIBIT C