

**MEMORANDUM
DEPARTMENT OF FACILITY SERVICES
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS**

Date: **OCTOBER 7, 2008**

From:  **JAMES DURFEE / ALBERT RICHIE**

Subject: **USE AND MAINTENANCE AGREEMENT FOR FRANKLIN SCHOOL
COMMUNITY PARK**

ACTION REQUESTED / RECOMMENDATION: It is recommended your Board approve and execute the attached Agreement between Placer County and the Loomis Union Elementary School District to provide for use and maintenance of Franklin School Community Park over the course of twenty (20) years.

BACKGROUND: In 2001, a park site for future development was identified at the Franklin Elementary School on Laird Road. On March 5, 2005, your Board entered into an agreement with the Loomis Union Elementary School District authorizing Facility Services to construct a 4.5-acre park, now called Franklin School Community Park.

Construction of the new park was completed and the park was opened to the public on May 8, 2008. Franklin School Community Park has synthetic turf baseball and soccer field, a concrete walking trail, two drinking fountains and 50,000 square feet of landscaping. The park will be utilized by the school during school hours and available to the public during non-school hours. The park will be maintained by the Loomis Union Elementary School District with funding from the Granite Bay Parks, Trails and Open Space Maintenance and Recreation Improvement District. The Use and Maintenance Agreement will provide for payment to the School District in an amount not to exceed \$7,000 for Fiscal Year 2008-2009. The hourly rate for payment of labor will increase annually based upon a cost of living adjustment. In addition, Placer County will provide a one time payment of \$15,000 to the School District for the purchase of equipment to maintain the park.

ENVIRONMENTAL CLEARANCE: On November 4, 1999, the Loomis Union School District adopted a Mitigated Negative Declaration (MND) for the Franklin Elementary School site.

FISCAL IMPACT: Annual funding for maintenance of Franklin School Community Park will be paid from the Granite Bay Parks, Trails and Open Space Maintenance and Recreation Improvement District, which has already been budgeted. Therefore, if this request is approved there will be no impact upon the County General Fund.

ATTACHMENT: **USE AND MAINTENANCE AGREEMENT**

JD:AR:JR:DB

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AGREEMENT
FOR USE AND MAINTENANCE OF
FRANKLIN SCHOOL COMMUNITY PARK

This Agreement made and entered into this _____ day of _____, 2008, by and between the Loomis Union Elementary School District, a public school district organized and operating pursuant to the Education Code, hereinafter referred to as "SCHOOL DISTRICT" and Placer County, a political subdivision of the State of California, hereinafter referred to as "COUNTY."

W I T N E S S E T H:

WHEREAS, the SCHOOL DISTRICT and COUNTY are authorized by Division 12, Chapter 6 of the Education Code (commencing with Section 10900) to cooperate and enter into agreements to organize, promote and conduct programs of community recreation, to establish a system of playgrounds and recreation and to acquire, construct, improve, maintain, and operate recreation centers; and

WHEREAS, the COUNTY is in the process of constructing Franklin School Community Park (FSCP) on 4.5 acres owned by the SCHOOL DISTRICT at Franklin Elementary School; and

WHEREAS, the SCHOOL DISTRICT is interested in using the park for school related recreational and educational activities during school hours and the general public would have use of FSCP during after school hours; and

WHEREAS, the COUNTY receives annual revenues to pay for park maintenance from the community of Granite Bay through a voter-approved Landscape and Lighting Assessment District called: The Granite Bay Parks, Trails, and Open Space Maintenance and Recreation Improvement District, hereinafter referred to as the "Assessment District;" and

WHEREAS, the COUNTY and SCHOOL DISTRICT have agreed that the SCHOOL DISTRICT should operate and maintain FSCP and the COUNTY will reimburse the SCHOOL DISTRICT for their operation and maintenance costs.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

1. The FSCP property is located at 7050 Franklin School Road in the community of Granite Bay. A location map is attached and labeled Exhibit A and the vicinity map is attached and labeled Exhibit A-1. The master plan of FSCP is shown on the attached Exhibit B. The existing History Center, located at the northern end of the property, is not considered a part of FSCP.
2. The SCHOOL DISTRICT shall be responsible for operation and maintenance of the new park facilities and for making minor repair of facilities in order to keep them safe and attractive. Maintenance will be done to the same standard as is done at other SCHOOL DISTRICT sites and COUNTY parks of similar size and with similar recreational facilities. The costs of maintenance will be paid from the Assessment District, by the COUNTY to the SCHOOL DISTRICT.
3. Payment for services shall not exceed Seven Thousand Dollars (\$7,000) for Fiscal Year 2008-2009. The SCHOOL DISTRICT shall be paid by the COUNTY monthly. The SCHOOL DISTRICT shall submit invoices monthly for work performed. Said invoices shall be prepared in a form acceptable to the COUNTY and shall clearly indicate the date and times maintenance tasks were performed at FSCP. The SCHOOL DISTRICT shall provide such additional information as the COUNTY may request to verify any of the amounts claimed for payment in

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any invoice. The COUNTY shall pay the invoice within thirty (30) days after approval of the invoice.

Payment for work performed shall be paid at the hourly rate of Twenty-Six Dollars (\$26) per hour. This hourly rate shall include direct labor costs, administration and overhead. This hourly rate amount shall be adjusted each year by the COUNTY in accordance with the State of California, Department of Industrial Relations Consumer Price Index – California, for "All Urban Consumers," as the basis for the annual adjustment.

This payment schedule shall be valid for a period of three (3) years. Thereafter, the parties shall meet and come to agreement on continuing this payment schedule or develop a revised payment schedule prior to the SCHOOL DISTRICT beginning maintenance of FSCP for a fourth year. Any revised payment schedule shall be approved by both parties as an Addendum to this Agreement.

4. The parties acknowledge there is a need for maintenance equipment in order for the SCHOOL DISTRICT to meet the maintenance requirements at FSCP. Therefore, the COUNTY shall make a one time payment to the SCHOOL DISTRICT, in the amount of Fifteen Thousand Dollars and No Cents (\$15,000). These funds are to be used by the SCHOOL DISTRICT to purchase park maintenance equipment and to replace the equipment as needed through the term of this Agreement. The COUNTY shall have no further obligations relative to park maintenance equipment. Payment for the maintenance equipment shall be made by the COUNTY to the SCHOOL DISTRICT within 45 days of execution of this Agreement.
5. The term of this Agreement shall be for a period of twenty (20) years commencing on the date first fully executed. Thereafter, this Agreement shall extend from year to year, unless terminated. The parties agree and acknowledge that the State Park Bond Act grant funds were used to pay for a portion of the construction costs at FSCP, and that in order to be eligible to receive these grant funds, the State requires a minimum term of twenty (20) years for the maintenance agreement.
 - A. This Agreement is revocable only by mutual agreement. The Agreement may be revoked for cause, if agreed upon by the State such that the COUNTY will not be in default of its contract with the State.
 - B. The COUNTY is responsible for overseeing that the SCHOOL DISTRICT maintains and uses the facility for recreational uses. Public access shall be in accordance with the intent and provisions of the enabling legislation of the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000, and the California Clean Water Clear Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002, and the requirements established as result thereof.
 - C. If the parties disagree on the use of the facility, the parties will meet in a cooperative fashion to resolve the issues.
 - D. If the SCHOOL DISTRICT breaches this Agreement or otherwise defaults on maintaining the facility pursuant to the Per Capita Block Grant requirements, the COUNTY shall assume responsibility for administrating and maintaining Franklin School Community Park to the extent necessary to ensure that grant requirements are met. The parties agree that this County right will include a non-revocable lease, which is non-remunerative, between the COUNTY and the SCHOOL DISTRICT for the remaining years of the grant obligation.

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6. Any redesign of the recreational facilities, or addition of recreational facilities, is subject to approval of both the COUNTY and the SCHOOL DISTRICT.
7. Major repairs or rehabilitation of the recreational facilities within FSCP shall be at the discretion of the COUNTY. Should the COUNTY decide to make the major rehabilitation, then the COUNTY would be responsible for securing the necessary funding. Should the COUNTY decide not to make the major repairs, and the result is that the recreational facility becomes unsafe (as determined by the COUNTY) then the COUNTY may enclose the recreation facility until funding is secured. The remainder of FSCP would remain useable by the general public and SCHOOL DISTRICT.
8. The SCHOOL DISTRICT and the COUNTY may choose to allow sports leagues to erect sponsor advertising during games as fundraising efforts for the leagues. If approved, the contents of the advertising would be subject to approval of the SCHOOL DISTRICT and the COUNTY.
9. No smoking or tobacco products are permitted at FSCP.
10. No sunflower seeds are allowed at FSCP.
11. Sports leagues may erect a removable outfield fence subject to the prior approval of the SCHOOL DISTRICT and the COUNTY, as to materials and appearance.
12. No amplification devices are to be used at FSCP without prior approval of the SCHOOL DISTRICT and the COUNTY.
13. No lights will be allowed at FSCP.
14. No commercial use of FSCP shall take place without prior approval of the SCHOOL DISTRICT and the COUNTY.
15. Dogs (excepting Seeing-Eye guide dogs) and all other domestic animals or birds, are not allowed at any time at FSCP.
16. All vehicle parking areas, driveways, entrances and exits thereto, and other facilities furnished by the SCHOOL DISTRICT in or near FSCP including parking areas, pedestrian sidewalks and ramps, landscaped areas, restrooms, and other areas and improvements provided by the SCHOOL DISTRICT for the general use of the public, shall at all times be subject to the exclusive control and management of the SCHOOL DISTRICT. The SCHOOL DISTRICT shall have the right from time-to-time to establish, modify and enhance reasonable rules and regulations with respect to all facilities within FSCP.
17. Parking for FSCP is permitted on the existing school parking lot, located immediately north of the park. The SCHOOL DISTRICT shall ensure the parking lot is open and available during the times the park is open to the public.
18. No signage or advertisements shall be permitted at FSCP without prior approval of the SCHOOL DISTRICT and the COUNTY. SCHOOL DISTRICT or COUNTY reserves the right to remove any unauthorized signs without notice.
19. The SCHOOL DISTRICT and the COUNTY shall have the right to inspect FSCP at any reasonable time.

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20. The park will be available for exclusive use by Franklin Elementary School when school is in session. The park shall be opened to the general public on a daily basis from the time that school is out of session until one-half hour after sunset. School shall be out of session for the purposes of this Agreement thirty (30) minutes after the last class is dismissed. Signs stating the times the park is open to the general public will be posted at the park.
21. The COUNTY will take reservations for the public's use of FSCP. The COUNTY will charge a use and reservations fee, as determined by the Director, Department of Facility Services. A copy of the schedule of the type of uses permitted by SCHOOL DISTRICT board policies and administrative regulations and any later revisions made thereto shall be immediately available to the COUNTY by email. A copy of the field use reservations schedule will be provided by the COUNTY on the County Parks Web Site.
22. During such times when the recreational facilities are available to the general public, the facility shall not be enclosed with any type of locked gate at any access point, in order to ensure that pedestrian access is available.
23. County park regulations, as contained in Placer County Code, Article 12.24, County Parks, as such Article may be amended from time to time, shall apply to FSCP. This regulation shall be provided to SCHOOL DISTRICT prior to the execution of this Agreement.
24. All notices to either party that may be required or authorized by this Agreement shall be in writing and either deposited in the United States Mail, postage prepaid or personally delivered. The notice shall be effective upon the date of personal delivery or date of mailing. Notices regarding this Agreement shall be sent or delivered to the SCHOOL DISTRICT or COUNTY at:

Superintendent
Loomis Union School District
3290 Humphrey Road
Loomis, CA 95650

Parks Administrator
County of Placer
Department of Facility Services
Parks and Grounds Division
11476 C Avenue
Auburn, CA 95603

Either party may amend its address for notice by notifying the other party in writing.

25. It is agreed that SCHOOL DISTRICT and COUNTY shall each maintain at all times during the performance of this Agreement insurance coverage in the amounts of not less than One Million Dollars (\$1,000,000) to cover all of its operations, including general liability, automobile liability, and workers' compensation. Each party shall file with the other a letter from the party's Risk Manager showing either insurance coverage as specified or reserves in not less than One Million Dollars (1,000,000). SCHOOL DISTRICT represents to COUNTY that SCHOOL DISTRICT is fully licensed and/or is in conformance with all appropriate statues, rules, and regulations with regard to the provisions of service within this Agreement.
26. Each party shall indemnify and hold harmless from liability the other party, its officers, agents, servants or employees while acting as such from all damages, costs or expenses which either party shall become obligated to pay by reason of any liability imposed by law because of injury or death of any person received or suffered by reason of operation by each party of its own

program upon said property, or with respect to the COUNTY, by reason of any activities conducted by its officers, agents, contractors, servants or employees related to the general public's use of FSCP.

- 27. This Agreement shall inure to the benefit of, and bind the parties hereto, and their successors and assigns, including any and all public agencies to whom the real property and facilities herein referred to may be transferred by reason of incorporation, annexation, unification, consolidation or for any other reason.
- 28. If any provision of this Agreement, as applicable to either party, or to any other person or circumstance, is for any reason held to be invalid, it should not affect the validity of any other provision of this Agreement. The waiver by either party hereto, of any breach, term, covenant or condition contained herein shall not constitute a waiver of any subsequent term, covenant or condition contained herein.
- 29. This is an integrated Agreement and contains all of the terms, conditions, understandings and promises of the parties. The terms of this Agreement may not be modified except upon the mutual written consent of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on behalf of the persons duly authorized by the governing boards of the parties hereto.

PLACER COUNTY
BOARD OF SUPERVISORS

By: _____ Date _____
Chairman

APPROVED AS TO FORM:

By: _____ Date _____
County Counsel

LOOMIS UNION ELEMENTARY SCHOOL DISTRICT

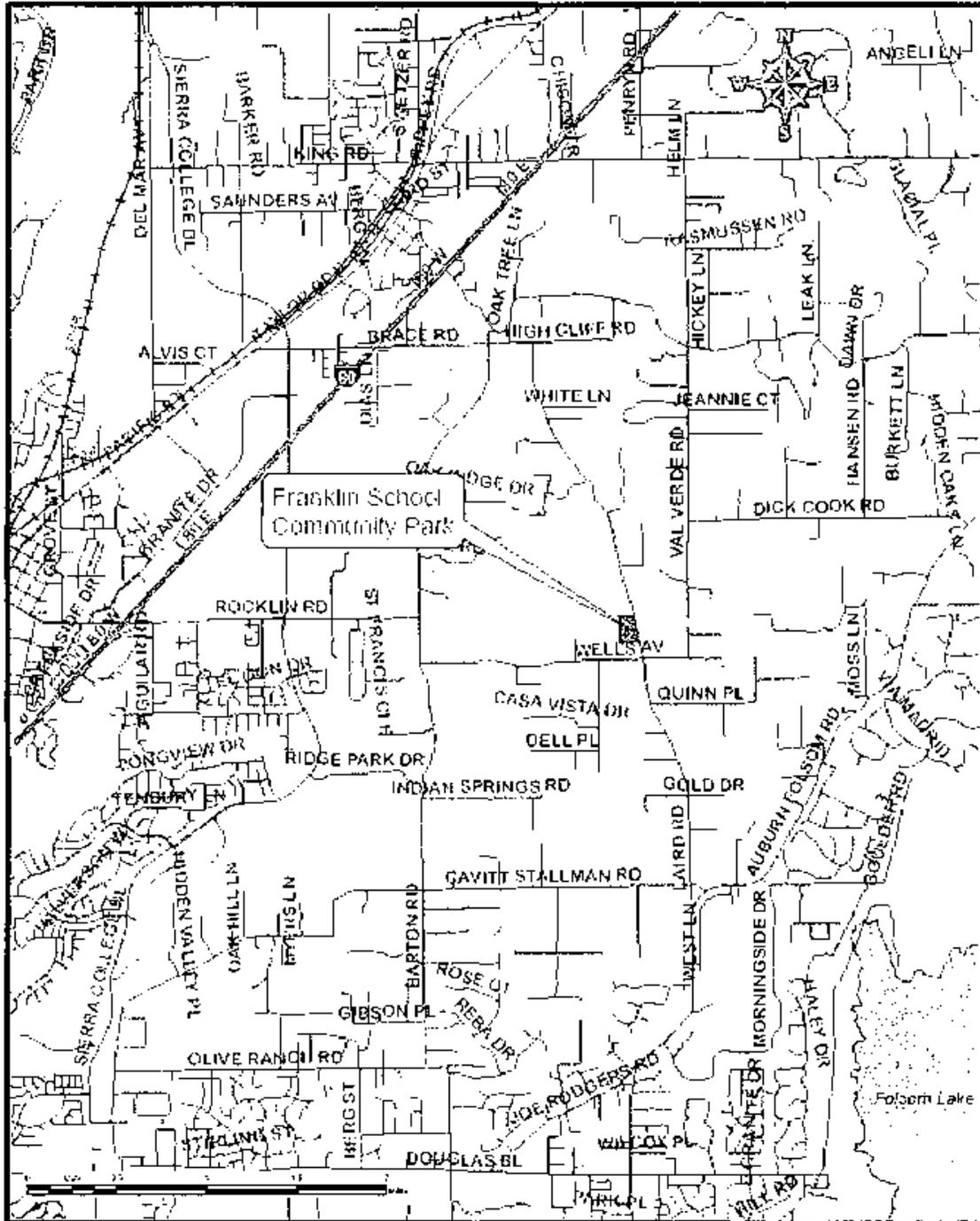
By: _____ Date _____
Superintendent

APPROVED AS TO FORM:

By: _____ Date _____
Loomis Union School District
Legal Counsel

EXHIBIT A

FRANKLIN SCHOOL COMMUNITY PARK
LOCATION MAP



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