

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

To: **BOARD OF SUPERVISORS**

Date: **JULY 23, 2013**

From: **MARY DIETRICH / MARK RIDEOUT**

Subject: **POMIN PARK PLAYGROUND**

**ACTION REQUESTED / RECOMMENDATION:**

1. Approve and execute a Use Agreement with the Tahoe City Public Utility District authorizing the use of Park Dedication Fees from Recreation Area #2, Tahoe City Public Utility District Area, in the amount of \$18,000 for a playground at Pomin Park in Lake Forest; and,
2. Approve a Budget Revision appropriating \$18,000 to the Parks and Grounds Operating Budget from Park Dedication Fees Recreation Area #2, Tahoe City Public Utility District Area, with no net county cost.

**BACKGROUND:** Pomin Park is an 11 acre site located in the community of Lake Forest. The park is owned by the Tahoe City Public Utility District (TCPUD). Pomin Park has a baseball field, lawn area, picnic tables, restrooms, a boat launch and a campground. Approximately 20 years ago, the TCPUD installed a playground in Pomin Park which was extremely popular with local youth and visitors. However, because the playground did not meet Americans with Disabilities Act requirements and replacement parts were not available, TCPUD removed the playground in the Fall of 2012.

The TCPUD's cost estimate to purchase and install a new playground at Pomin Park is \$20,000. The playground equipment structure is estimated to cost \$16,500 and installation is estimated to be \$3,500. TCPUD has secured \$2,000 in funding from the Tahoe City Recreation Association towards this project. County Park Dedication Fees are requested to fund the balance of the purchase and installation of the new playground structure. The existing perimeter berm, drainage system and wood bark surfacing material will remain.

On February 7, 2013 the Squaw Valley MAC recommended approval of this request for Park Dedication Fees. On February 14, 2013, the North Tahoe Regional Advisory Council also voted to support this project. On March 19, 2013, Parks staff presented this proposal to the County Parks Commission, who also recommended your Board approve this request. In order to authorize the use of County Park Dedication Fees for the project, your Board's approval of the attached Use Agreement and a Budget Revision is required.

**FISCAL IMPACT:** The uncommitted fund balance in Recreation Area #2, TCPUD, is \$185,784. With approval of this request, the balance remaining will be \$167,784. As this expenditure is funded by Park Dedication Fees, there is no net county cost associated with this action.

MD/MR/JR/KW

ATTACHMENTS: USE AGREEMENT  
BUDGET REVISION

CC: COUNTY EXECUTIVE OFFICE

T:\FAC\BSMEMOS 2013\TCPUD POMIN PLAYGROUND

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Facility Service to do journal to transfer cash

**BUDGET REVISION**

**POST DATE:**

DEPT NO.	DOC TYPE	Total \$ Amount	TOTAL LINES
12	BR	36,000.00	2

- Cash Transfer Required  
Fund 399 Subfund 002
- Reserve Cancellation Required
- Establish Reserve Required

- Auditor-Controller
- County Executive
- Board of Supervisors

**ESTIMATED REVENUE ADJUSTMENT**

**APPROPRIATION ADJUSTMENT**

DEPT NO.	T/C	Rev	Fund	Sub Fund	OCA	PCA	OBJ 3	PROJ.	PROJ. DTL	AMOUNT	DEPT NO.	T/C	Rev	Fund	Sub Fund	OCA	PCA	OBJ 3	PROJ.	PROJ. DTL	AMOUNT
12	006		100		997425	97425	8780			18,000.00	12	014		100		997425	97425	2840			18,000.00
<b>TOTAL</b>										18,000.00	<b>TOTAL</b>										18,000.00

REASON FOR REVISION: TO APPROPRIATE EXPENDITURES AND OFF-SETTING REVENUES IN THE PARKS & GROUNDS BUDGET FROM THE PARK DEDICATION

FEE AREA #2, TAHOE CITY PUBLIC UTILITY DISTRICT AREA, FOR THE PLAYGROUND AT POMIN PARK.

Prepared by Valerie Bayne Ext 6803

Department Head Valerie Bayne

Board of Supervisors \_\_\_\_\_

Date: 7/23/13

Page: \_\_\_\_\_

Budget Revision # \_\_\_\_\_ FOR INDIVIDUAL DEPT USE

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**Contract No.:** \_\_\_\_\_

**Administering Agency:** County of Placer Facility Services Parks Division

**Contract Description:** Agreement between the Tahoe City Public Utility District and the County of Placer for Use of Park Dedication Fees

**THIS AGREEMENT**, is made at Auburn, California, as of \_\_\_\_\_, 2013, by and between the County of Placer, a political subdivision of the State of California ("County"), and the Tahoe City Public Utility District, a California public agency ("TCPUD"), to effect the purchase and installation of a new playground at Pomin Park in Lake Forest.

**WITNESSETH**

**WHEREAS**, TCPUD owns and operates an 11 acre park in Lake Forest called Pomin Park, which has a ball field, lawn area, picnic tables, a public boat launch and a campground; and

**WHEREAS**, Pomin Park had an old playground at Pomin Park did not comply with ADA standards or Consumer Product Safety Commission Guidelines for playgrounds and had to be removed in 2012; and

**WHEREAS**, playgrounds are a popular recreational facility for residents and visitors to Lake Tahoe; and

**WHEREAS**, the TCPUD has requested the COUNTY'S assistance in helping to fund the cost to purchase and install a new playground at Pomin Park.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN CONTAINED, IT IS AGREED AS FOLLOWS:**

1. County Park Dedication Fees are hereby authorized to be used by TCPUD to pay for a portion of the cost to purchase and install a new playground at Pomin Park.
2. COUNTY hereby grants to TCPUD County Park Dedication Fee funds in an amount up to EIGHTEEN THOUSAND DOLLARS (\$18,000). Funds shall be released on a reimbursement basis. After the improvements are installed, the COUNTY shall perform an audit of all expenses incurred. COUNTY will physically inspect and approve the facilities before releasing any funds. The COUNTY shall release the Park Dedication Fees to TCPUD within forty-five (45) days of receipt of a letter requesting payment.
3. Prior to construction, the TCPUD shall submit plans to the COUNTY for the purpose of allowing the COUNTY to verify the work to be done is consistent with the Scope of Work specified in this Agreement.
4. TCPUD shall comply with the California Environmental Quality Act (CEQA—Public Resources Code Section 21000 et seq.) with regard to any of the activities involving the expenditure of funds received by TCPUD hereunder.
5. Completion of purchase and installation of facilities set forth in Paragraph 1 herein, shall occur no later than October 30, 2014, unless an extension is approved in writing by the Director of the Placer County Department of Facility Services "Director".
6. COUNTY disclaims any ownership interest in the improvements purchased and/or installed pursuant to this Agreement.
7. The TCPUD, at its sole cost and expense, shall provide all necessary maintenance and repair to facilities purchased, constructed and/or installed pursuant to this Agreement.

8. TCPUD agrees that funds granted to it for the construction of said recreation facilities shall not be used for any purpose not specified in this Agreement.
9. TCPUD shall keep detailed accounting records. The COUNTY shall have the right to inspect detailed accounting records related to this Agreement at any reasonable time. Under no circumstances shall the COUNTY be considered a lead agency or be responsible for securing any permits and approvals.
10. The term of this Agreement shall be for a period of ten (10) years commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

After completion of the improvements and release of the monies by COUNTY, TCPUD shall ensure the recreation facilities described in Paragraph 1 are available for public use throughout the term of this Agreement. If TCPUD terminates this Agreement during the ten (10) year term, TCPUD shall reimburse COUNTY for the actual amount granted by COUNTY to the TCPUD, not to exceed the amount specified in Section #2, above, in accordance with the following schedule:

<u>Years in use</u>	<u>Percent Reimbursed</u>
1	100
2	90
3	80
4	70
5	60
6	50
7	40
8	30
9	20
10	10

11. 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 TCPUD or the COUNTY at:

COUNTY: Placer County Department of Facility Services  
Attn: John E. Ramirez, Parks Administrator  
Parks and Grounds Division  
11476 C Avenue  
Auburn, CA 95603  
Phone: 530-889-6807  
Fax: 530-889-6809

TCPUD: Tahoe City Public Utility District  
Attn: Bob Bolton, Director of Parks and Recreation  
P.O. Box 5249  
Tahoe, CA 96145  
Phone: 530-583-3796 Ext 22  
Fax: 530-583-8452

County or TCPUD may from time to time designate any other address for this purpose by written notice to the other party.

12. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

The TCPUD shall save, keep, hold harmless, defend, and indemnify PLACER COUNTY from all damages, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of or in the course of performing work which may be occasioned by any willful or negligent act or omissions of the TCPUD, any of the TCPUD's employees, or any subcontractors. This duty to save harmless and to indemnify shall not extend to any claims or demands arising from County's sole negligence, willful misconduct or design or construction of any improvements or facilities.

The TCPUD shall be responsible for any liability imposed by law and for death, injury, or damage to property of any person including, but not limited to, workmen, subcontractors, and the public, resulting from any cause whatsoever during the progress of the work or at any time before its completion and final acceptance.

If any judgment is rendered against PLACER COUNTY for any injury, death, or damage caused by TCPUD as a result of work performed or completed, pursuant to this Agreement, TCPUD shall, at its own expense, satisfy and discharge any judgment.

As used above, the term PLACER COUNTY means Placer County, its officers, agents, employees, and volunteers.

INSURANCE:

TCPUD will file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A: VII or acceptable self insurance. TCPUD shall provide to COUNTY a letter that certifies their Self Insurance status with the ACWA/Joint Powers Insurance Policy.

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Workers' Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to PROVIDER'S employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Workers' Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

Waiver of Subrogation - The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the TCPUD.

TCPUD shall require all subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

GENERAL LIABILITY INSURANCE:

- A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of TCPUD, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
- (1) Products and completed operations;
  - (2) Contractual liability insuring the obligations assumed by TCPUD in this Agreement; and
  - (3) Broad form property damage (including completed operations)

Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limits, where applicable, shall apply separately to TCPUD's work under the Contract.

- B. One of the following forms is required:
- (1) Comprehensive General Liability;
  - (2) Commercial General Liability (Occurrence); or
  - (3) Commercial General Liability (Claims Made).
- C. If TCPUD carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:
- One million dollars (\$1,000,000) each occurrence
  - Two million dollars (\$2,000,000) aggregate
- D. If TCPUD carries a Commercial General Liability (Occurrence) policy:
- (1) The limits of liability shall not be less than:
    - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
    - One million dollars (\$1,000,000) for Products Completed Operations
    - Two million dollars (\$2,000,000) General Aggregate
  - (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).
- E. Special Claims Made Policy Form Provisions:  
TCPUD shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:
- (1) The limits of liability shall not be less than:
    - One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage)
    - One million dollars (\$1,000,000) aggregate for Products Completed Operations
    - Two million dollars (\$2,000,000) General Aggregate
  - (2) The insurance coverage provided by TCPUD shall contain language providing coverage up to one (1) year following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

Conformity of Coverages - If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies or all shall be Claims Made Liability policies, if approved by the County as noted above. In no cases shall the types of polices be different.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

- A. "The County of Placer, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."
- B. "The insurance provided by the TCPUD , including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."
- C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

ADDITIONAL REQUIREMENTS:

Premium Payments - The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

Policy Deductibles - The TCPUD shall be responsible for all deductibles in all of the TCPUD's insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

TCPUD 's Obligations - TCPUD's indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

Verification of Coverage - TCPUD shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the TCPUD's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Material Breach - Failure of the TCPUD to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire Agreement.

- 13. 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.
- 14. 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.
- 15. 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.

County of Placer (COUNTY)

By: \_\_\_\_\_  
Chairman, Board of Supervisors

\_\_\_\_\_  
Date

Tahoe City Public Utility District (TCPUD)

By: \_\_\_\_\_  
President, Board of Directors

\_\_\_\_\_  
Date

Approved as to Form

Approved as to Funds

By: \_\_\_\_\_  
Placer County Counsel

By: \_\_\_\_\_  
Placer County Auditor