

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

To: BOARD OF SUPERVISORS

Date: SEPTEMBER 8, 2009

From: JAMES DURFEE / ALBERT RICHIE 

Subject: AGREEMENT WITH TAHOE CITY PUBLIC UTILITY DISTRICT FOR USE OF PARK DEDICATION FEES FOR A WATER LINE, FIRE HYDRANT, AND DRINKING FOUNTAIN AT LAKE FOREST BEACH

**ACTION REQUESTED / RECOMMENDATION:** Approve and execute an Agreement with the Tahoe City Public Utility District authorizing the use of Park Dedication Fees from Recreation Area #2, Tahoe City Public Utility District, in the amount of \$72,427 for extension of a water line, a fire hydrant and a drinking fountain at Lake Forest Beach Park and approve a Budget Revision appropriating the funds.

**BACKGROUND:** The Tahoe City Public Utility District (TCPUD) is requesting \$72,427 of County Park Dedication Fees to fund improvements adjacent to and at the Lake Forest Beach Park. The various improvements include the extension of water service from the reconstructed water system in the Lake Forest Improvement District (LFID), including providing one fire hydrant and one drinking fountain to Placer County's Lake Forest Beach Park. Currently, the park does not have running water and/or access to a fire hydrant for fire suppression. Lake Forest Beach Park is one-acre in size and is located at the end of Bristlecone Avenue in the Lake Forest area of Lake Tahoe.

The TCPUD has maintained Lake Forest Beach Park for Placer County for over twenty years. Funding for operation and maintenance of Lake Forest Beach Park is provided from Transient Occupancy Tax (TOT) revenues. Lake Forest Beach Park offers public access to Lake Tahoe and an incredible view of lake. The park has six picnic tables and three free standing barbecue grills. It is a popular spot for swimming, bird watching, photography, picnics and windsurfing.

On November 13, 2008, the North Tahoe Regional Advisory Council voted in favor of allocating \$72,427 of County Park Dedication Fees from Recreation Area #2, Tahoe City PUD, for extension of a water line, fire hydrant and drinking fountain at Lake Forest Beach Park. On January 29, 2009, the Squaw Valley Municipal Advisory Council voted to oppose this request.

**ENVIRONMENTAL CLEARANCE:** This action is not a project as defined by the California Environmental Quality Act (CEQA) and therefore, this action is not subject to CEQA. The TCPUD will undergo the CEQA process after design of the project is completed.

**FISCAL IMPACT:** The available fund balance in Recreation Area #2, Tahoe City Public Utility District, is \$336,233. The use of these funds is contingent upon the property owner's approval of a TCPUD special assessment to reconstruct the Lake Forest water system. The TCPUD conducted a public hearing on April 6, 2009, to consider protests and tabulate assessment ballots pursuant to Proposition 218. Sixty percent (60%) of the affected property owners returned ballots and seventy-four percent (74%) of the ballots voted in favor of the assessment.

AVAILABLE FOR REVIEW AT THE CLERK OF THE BOARD  
ATTACHMENT: BUDGET REVISION

USE AGREEMENT

AR/JR/DB

T:\FAC\BSMEMO2009\TCPUD LAKE FOREST WATER.DOC

PLACER COUNTY

PAS DOCUMENT NO. \_\_\_\_\_

Facility Service to do journal to transfer cash

**BUDGET REVISION**

OCA=780210 PCA=07802 OL3=3780

**POST DATE:**

DEPT NO.	DOC TYPE	Total \$ Amount	TOTAL LINES
12	BR	144,854.00	2

- Cash Transfer Required
- 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			72,427.00	12	014		100		997425	97425	2840			72,427.00
<b>TOTAL</b>											<b>TOTAL</b>										
72,427.00											72,427.00										

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

FEE AREA #2, TAHOE CITY PUD, FOR A WATER LINE, FIRE HYDRANT, AND DRINKING FOUNTAIN AT LAKE FOREST BEACH.

Prepared by Valerie Boyne Ext 6803  
 Department Head Valerie Boyne  
 Board of Supervisors \_\_\_\_\_

Date: 7/21/09  
 Page: \_\_\_\_\_

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

168

AGREEMENT NO. \_\_\_\_\_

**DESCRIPTION:       AGREEMENT BETWEEN THE TAHOE CITY PUBLIC UTILITY DISTRICT  
AND THE COUNTY OF PLACER FOR USE OF PARK DEDICATION FEES**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the COUNTY OF PLACER, hereinafter referred to as "COUNTY", and the TAHOE CITY PUBLIC UTILITY DISTRICT, hereinafter referred to as "TCPUD", to effect the extension of a water line, and installation of a fire hydrant and drinking fountain at Lake Forest Beach Park.

**WITNESSETH**

**WHEREAS**, TCPUD operates several public beaches located in the Tahoe City area of Lake Tahoe; and

**WHEREAS**, TCPUD desires to extend water service from the Lake Forest Improvement District water system to Placer County's Lake Forest Beach Park; and

**WHEREAS**, TCPUD also desires to purchase and install a fire hydrant and drinking fountain at the Lake Forest Beach Park; and

**WHEREAS**, the TCPUD has requested the COUNTY'S assistance in helping to fund the cost of this project.

**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 extend water service from the reconstructed water system in the Lake Forest Improvement District to Lake Forest Beach Park. County Park Dedication Fees are also authorized to pay for a portion of the cost to purchase and install a fire hydrant and drinking fountain at Lake Forest Beach Park.
2. COUNTY hereby grants to TCPUD County Park Dedication Fee funds in an amount up to **SEVENTY-TWO THOUSAND, FOUR HUNDRED TWENTY-SEVEN DOLLARS (\$72,427)**. 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, 2012, unless an extension is approved in writing by the Director of

the Placer County Department of Facility Services "Director". Prior to commencement of this Project, TCPUD will seek approval of area property owners to assess themselves for the cost of water system reconstruction and extension of water service to Lake Forest Beach Park. This Agreement is contingent upon successful assessment ballot results. Therefore, should the election not be successful, then this Agreement shall be immediately terminated and the approved Park Dedication Fees, specified in Section #2 above, shall be returned to the Recreation Area #2 uncommitted fund balance."

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 twenty (20) years commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 2029.

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 twenty (20) 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>	<u>Years in use</u>	<u>Percent Reimbursed</u>
1	95	11	45
2	90	12	40
3	85	13	35
4	80	14	30
5	75	15	25
6	70	16	20
7	65	17	15
8	60	18	10
9	55	19	5
10	50	20 or more	0

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 Parks Administrator  
Department of Facility Services  
11476 C Avenue  
Auburn, CA 95603

TCPUD: General Manager  
Tahoe City Public Utility District  
P.O. Box 5249  
Tahoe, CA 96145

The parties may amend their addresses for notice by notifying the other parties in writing.

12. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

The TCPUD hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. TCPUD agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the TCPUD. TCPUD also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against TCPUD or the COUNTY or to enlarge in any way the TCPUD'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from TCPUD'S performance pursuant to this contract or agreement.

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

13. 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.

14. WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Worker's 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 TCPUD'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 Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to the County of Placer."

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

15. 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) Contractual liability insuring the obligations assumed by TCPUD in this Agreement.

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
- One million dollars (\$1,000,000) 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
- One million dollars (\$1,000,000) 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
  - One million dollars (\$1,000,000) General Aggregate
- (2) The insurance coverage provided by TCPUD shall contain language providing coverage up to six (6) months 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.

16. 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 canceled or materially changed without first giving thirty (30) days' prior written notice to the County of Placer."

17. 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.

18. 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.

- 19. 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.
- 20. 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

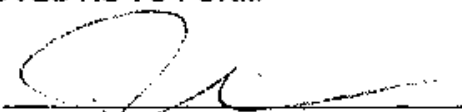
\_\_\_\_\_  
Date

**Tahoe City Public Utility District (TCPUD)**

By:   
President, Board of Directors

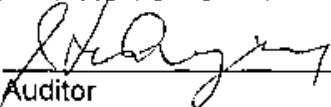
7/20/09  
Date

**APPROVED AS TO FORM**

By:   
County Counsel

8/26/09  
Date

**APPROVED AS TO FUNDS**

By:   
Auditor

8/20/09  
Date