

AGREEMENT NO: _____

DESCRIPTION: **AGREEMENT BETWEEN THE CITY OF COLFAX AND THE COUNTY OF PLACER FOR CONSTRUCTION OF A SKATEPARK FEATURE AT LYONS PARK**

THIS AGREEMENT is made and entered into this _____ day of _____, 2022, by and between the COUNTY OF PLACER, hereinafter referred to as "COUNTY", and the CITY OF COLFAX, hereinafter referred to as "CITY", to provide funding for a skatepark feature at Lyons Park in Colfax, California.

WHEREAS, COUNTY has received funds for public parks and recreation facilities pursuant to California Government Code Section 66477, commonly known as the Quimby Act, and Placer County Code Sections 15.34.010, 16.08.100 and/or 17.54.100 (D); and,

WHEREAS, CITY owns a 2.7-acre park called Lyons Park (previously referred to as "Colfax Regional Park" in agreements referenced below), located at 101 Park Hill Drive in the City of Colfax; and,

WHEREAS, Lyons Park was constructed with active and passive recreational facilities including a swimming pool, ballpark, picnic area, basketball court and children's play area; and,

WHEREAS, the swimming pool facility was antiquated and not up to current building and accessibility standards, and was therefore demolished in 2010; and,

WHEREAS, on December 13, 2011, the COUNTY Board of Supervisors appropriated \$100,000 in park fees to the CITY for the construction of a new 45' x 75' heated swimming pool, but after the CITY was unsuccessful in securing matching funds for the project, on August 21, 2012, the Board of Supervisors redirected the funds to construction of a splash play area adjacent to the pool location, which was subsequently constructed; and,

WHEREAS, given the cost of construction and operation, the CITY considers the construction and operation of a swimming pool at the previously identified location to be infeasible in the foreseeable future, and continues to seek an alternate location and partnership for development of a swimming pool to serve the greater Colfax area; and,

WHEREAS, the parties are interested in constructing a skatepark feature at the prior pool location since the skatepark would have public benefits, including providing a safe environment for skateboarding, giving physical and mental health benefits to the users, promoting healthy and active lifestyles, and reducing damage to private property; and,

WHEREAS, the skatepark feature will serve the recreational needs of residents of the CITY and COUNTY in a cost effective manner.

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

1. COUNTY will provide Park Dedication Fees to the CITY in an amount not to exceed **Seventy-Five Thousand and no/100 Dollars (\$75,000.00)** (the "Funds") for the procurement and installation of a new skatepark feature at Lyons Park (the "Project" or "Improvements").

2. Prior to release of the Funds, the CITY must provide the COUNTY with detailed invoice(s) identifying the total costs incurred by the CITY. COUNTY Funds shall not exceed actual costs incurred. After the Improvements are complete, COUNTY shall perform an audit of all expenses incurred and may also physically inspect the facility before releasing any Funds.
3. Prior to beginning work on this Project, CITY shall submit plans and/or specifications to COUNTY for review to verify the work to be done is consistent with the scope of work specified in this Agreement.
4. CITY shall post a sign near the Improvements during the term of this Agreement recognizing County funding was used to pay for a portion of Project costs.
5. Construction shall be completed by December 31, 2024, unless COUNTY grants an extension in writing.
6. CITY shall comply, to the extent applicable, with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) with regard to its use of the Funds received hereunder.
7. CITY, at its sole cost and expense, shall obtain all necessary permits, provide all utilities for the Improvements, shall maintain the insurance levels set forth in Exhibit A, and shall operate, maintain, and repair the Improvements during the term of this Agreement as set forth below.
8. All Improvements purchased and/or installed by CITY pursuant to this Agreement shall become the sole and separate property of CITY as of the time said Improvements are installed.
9. CITY agrees the Funds shall not be used for any purpose not specified in this Agreement.
10. CITY shall keep detailed accounting records. COUNTY shall have the right to inspect said records at any reasonable time.

11. The term of this Agreement shall be for a period of twenty (20) years commencing on the _____ day of _____, 2022 and ending on the _____ day of _____, 2042.

12. Either party may terminate this Agreement, without cause, upon providing a minimum sixty (60) days advanced written notice to the other party. If CITY terminates this Agreement or otherwise fails to maintain and operate the Project during the twenty (20) year term of this Agreement, CITY shall reimburse COUNTY a specified percentage of the Funds, not to exceed the amount specified in Section 1, in accordance with the following schedule:

<u>Years in use</u>	<u>Percent to be Reimbursed by CITY</u>	<u>Years in use</u>	<u>Percent to be Reimbursed by CITY</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

13. 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 CITY or COUNTY at:

COUNTY: Placer County Parks Administrator
County of Placer
Department of Parks & Open Space
3091 County Center Dr., Ste 220
Auburn, CA 95603

CITY/Remit To: City Manager
City of Colfax
33 S. Main Street
Colfax, CA 95713

14. CITY hereby agrees to protect, defend, indemnify, and hold 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 COUNTY incident to, in connection with, or arising directly or indirectly out of, this Agreement, including but not limited to the completion of the Project and subsequent use of the Improvements. CITY agrees to investigate, respond to, provide defense for, and defend any such claims, demands, or suits at the sole expense of CITY. CITY also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. As used in this section, the term COUNTY means Placer County

or its officers, agents, employees, and volunteers. This section shall survive expiration or termination of this Agreement.

15. 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 which the real property and facilities herein referred to may be transferred by reason of incorporation, annexation, unification, consolidation or for any other reason.

16. 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 shall not affect the validity of any other provision of this Agreement.

17. Any waiver of any covenant, obligation or requirement under this Agreement must be in writing and signed by both parties. Waiver by either party of a breach of any covenant or a waiver of any obligation of this Agreement shall not constitute a waiver of any subsequent breach or obligation of this Agreement.

18. 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.

19. Each person executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity which it purports to bind

20. This Agreement may be executed in electronically and/or in counterparts, each of which shall be deemed an original, and all of which when affixed together shall constitute but one and the same instrument.

** REMAINDER OF PAGE LEFT BLANK **

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

City of Colfax (CITY)

By: _____ Date: _____
Title:

Placer County (COUNTY)

By: _____ Date: _____
Director of the Department of Public Works

Approved as to Form:

By: _____ Date: _____
Placer County Counsel

Approved as to Funds:

By: _____ Date: _____
Placer County Auditor

Exhibit A: Insurance Requirements

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EXHIBIT A
INSURANCE REQUIREMENTS

1. It is agreed that CITY shall maintain at all times during the performance of this Agreement insurance coverage or self-insurance in the amounts of not less than One Million Dollars (\$1,000,000) to cover all of its operations, including, but not limited to not less than One Million Dollars (\$1,000,000) general liability, One Million Dollars (\$1,000,000) automobile Liability, and One Million Dollars (\$1,000,000) workers' compensation.