

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

To: **BOARD OF SUPERVISORS**

Date: JULY 27, 2010

From: *JD* **JAMES DURFEE / MARK RIDEOUT** 

Subject: **BUDGET REVISION APPROPRIATING AREA #5 PARK DEDICATION FEES
FOR A TRAIL AT RECREATION PARK IN AUBURN**

ACTION REQUESTED / RECOMMENDATION: Approve and execute a Use Agreement with the Auburn Recreation District authorizing the use of County Park Dedication Fees from Recreation Area #5, Meadow Vista-Auburn Area, in the amount of \$105,000 for a trail at Recreation Park in Auburn, and approve a Budget Revision appropriating the funds.

BACKGROUND: The Auburn Recreation District (ARD) is requesting County Park Dedication Fees (PDF's) to help fund a new asphalt trail in Recreation Park. This park is owned and operated by ARD, and is located on Recreation Drive in south Auburn, near the intersection of Racetrack Street and Auburn Folsom Road. The proposed 8' wide trail would provide a ¾-mile loop around the 22-acre park, and make trail connections between the various recreation facilities. The trail is designed to provide modest grades that can accommodate strollers, walkers, joggers, and those with physical impediments.

This funding request is supported by ARD's 2006/2007 district-wide needs survey, which was summarized in the 2007 ARD Strategic Master Plan. The survey and input during public forums made it clear that trails and exercise pathways are the number one priority to ARD's constituents. They expressed that these amenities should be a priority for ARD now and in the future, and shown in the survey results: trails 28%; exercise pathways 22%; dog park 11%; soccer fields 7%; baseball, soccer, tennis courts and play courts 6%.

ARD estimates that the trail project will cost approximately \$368,257. In addition to the requested PDF's, ARD will contribute \$113,257 from its Reserves and General Fund, and \$107,000 from a Land and Water Conservation Fund Grant. Additionally, the City of Auburn will contribute \$43,000 from City Park Mitigation Fees. On June 8, 2010, the North Auburn Municipal Advisory Council voted to support this request for PDF's, and on June 21, 2010, the Placer County Parks Commission voted to recommend approval. To support this ARD request, staff recommends that your Board execute the attached Agreement and approve the attached Budget Revision to appropriate the funds.

ENVIRONMENTAL CLEARANCE: ARD secured a Negative Declaration for the trail pursuant to the California Environmental Quality Act (CEQA). The action requested of your Board to approve PDF funding is not a project pursuant to CEQA Section 15378.

FISCAL IMPACT: As of April 30, 2010, the uncommitted balance of PDF's in Recreation Area # 5, Meadow Vista-Auburn Area is \$276,194. Also, on your Board's agenda today is a funding request from the Department of Facility Services for \$150,000 of Area #5 PDF's for expansion amenities at Hidden Falls Regional Park. If this Hidden Falls Regional Park funding request approved, the \$126,194 balance is sufficient to fund this ARD request.

ATTACHMENTS: BUDGET REVISION
AGREEMENT

JD:MR:JR:DB

T:\FBSMEMO2010\ARD TRAIL - REC PARK.DOC

AGREEMENT NO.: _____

DESCRIPTION: **AGREEMENT BETWEEN THE AUBURN AREA RECREATION AND PARK DISTRICT AND THE COUNTY OF PLACER**

THIS AGREEMENT, made and entered into this ___ day of _____, 2010, by and between the COUNTY OF PLACER, hereinafter referred to as "COUNTY", and the AUBURN AREA RECREATION AND PARK DISTRICT, hereinafter referred to as "ARD", to effect construction of a new asphalt trail at Recreation Park in Auburn, California.

WITNESSETH:

WHEREAS, ARD is the owner of Recreation Park, a public community park located at 123 Recreation Drive, in Auburn, California; and

WHEREAS, ARD conducted a survey in 2006/2007 which identified that the number one response for facilities most desired was for trails; and

WHEREAS, there is not a trail at Recreation Park that runs throughout the park and that can accommodate park users with physical impediments.

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

1. ARD shall construct a ¾ mile long, 8' wide, asphalt trail at Recreation Park located at 123 Recreation Drive in Auburn. The trail will provide a loop around the entire twenty-two acre park. The trail will provide access to the baseball field and the lower park restrooms. The trail will be designed so that there are two main ADA accessible access points to the new trail. The trail will be 100% ADA accessible.
2. Prior to beginning construction of the new trail, ARD shall submit plans to COUNTY for the purpose of allowing COUNTY to verify the work to be done is consistent with the scope of work specified in this Agreement.
3. ARD shall post a sign near the new trail at a location determined by COUNTY recognizing that County funding was used to pay for a portion of the costs for the trail.
4. Construction shall be completed by November 1, 2012, unless COUNTY grants an extension in writing.
5. COUNTY grants to ARD Park Dedication Fees in an amount not to exceed One Hundred Five Thousand Dollars (\$105,000). Funds shall be released on a reimbursement basis. After the improvements are installed, COUNTY shall perform an audit of all expenses incurred. COUNTY will physically inspect and approve the facility before releasing any funds.
6. ARD, at its sole cost and expense, shall provide all water, electricity, and utilities, and shall provide all necessary maintenance and repair to the recreational facility during the term of this Agreement.
7. All improvements purchased and/or installed by ARD pursuant to this Agreement shall become the sole and separate property of ARD as of the time said improvements are installed.

As approved by Rob S 7/8/10 and forwarded to Kahl for signature 7/9/10.

- 8. ARD 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. ARD shall keep detailed accounting records. COUNTY shall have the right to inspect said records at any reasonable time.
- 10. The term of this Agreement shall be for a period of twenty-five (25) years commencing on the ___ day of _____, 2010, and ending on the ___ day of _____, 2035. Either party may terminate this Agreement, without cause, upon providing a minimum sixty (60) days advanced written notice to the other party. If ARD cancels this Agreement during the twenty-five (25) year term, ARD shall reimburse COUNTY for the actual amount granted by COUNTY to ARD, not to exceed the amount specified in Section 5, 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 ARD or COUNTY at:

COUNTY: Placer County Parks Administrator
 Department of Facility Services
 11476 C Avenue
 Auburn, CA 95603

ARD: District Administrator
 Auburn Recreation District
 123 Recreation Drive
 Auburn, CA 95603-5427

12. **HOLD HARMLESS AND INDEMNIFICATION AGREEMENT**

ARD 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 ARD, any of ARD'S employees, or any subcontractor's.

The ARD 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 ARD as a result of work performed or completed, pursuant to this agreement, ARD 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.

13. INSURANCE

ARD shall 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. ARD 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 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 Worker's 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."

ARD shall require all SUBCONTRACTOR'S 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 ARD, 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 ARD 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 ARD'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 ARD 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 ARD 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:

ARD 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 ARD 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 ARD, 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."

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.

(CONTINUED)

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 Parks Administrator
Attn.: John Ramirez
Department of Facility Services
11476 C Avenue
Auburn, CA 95603

Auburn Recreation District Administrator
Attn.: Kahl Muscott
Auburn Recreation District
123 Recreation Drive
Auburn, CA 95603-5427

Remit to: Auburn Recreation District
123 Recreation Drive
Auburn, CA 95603-5427

Auburn Area Recreation and Park District (ARD)

By: _____ Date: _____
Chairman, Board of Directors

By: _____ Date: _____
Kahl Muscott, District Administrator

Placer County (COUNTY)

By: _____ Date: _____
Chairman, Board of Supervisors

Approved as to Form

By: _____ Date: _____
County Counsel

PAS DOCUMENT NO.

Facility Service to do journal to transfer cash

BUDGET REVISION

POST DATE:

DEPT NO.	DOC TYPE	Total \$ Amount	TOTAL LINES
12	BR	210,000.00	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			105,000.00	12	014		100		997425	97425	2840			105,000.00
TOTAL										105,000.00	TOTAL										105,000.00

REASON FOR REVISION: TO APPROPRIATE EXPENDITURES AND OFF-SETTING REVENUES IN THE PARKS & GROUNDS BUDGET FROM THE PARK DEDICATION FEE AREA #5, MEADOW VISTA/NORTH AUBURN, FOR A TRAIL AT RECREATION PARK IN AUBURN.

Prepared by Valerie Bayne Ext 6803
 Department Head Valerie Bayne
 Board of Supervisors _____

Date: 7/27/10
 Page: _____

Budget Revision # _____ FOR INDIVIDUAL DEPT USE

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