

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

To: **BOARD OF SUPERVISORS**

Date: **FEBRUARY 5, 2013**

From: ~~J~~ **JAMES DURFEE / MARK RIDEOUT** *MR*

Subject: **AUBURN RECREATION DISTRICT BALLFIELD CONVERSION PROJECT**

ACTION REQUESTED / RECOMMENDATION:

1. Approve and execute a Use Agreement with the Auburn Recreation District authorizing the use of Park Dedication Fees from Recreation Area #5, Meadow Vista/Auburn Area, in the amount of \$24,000 to partially fund the conversion of a softball field for baseball use at the Regional Park in Auburn; and,
2. Approve a Budget Revision appropriating \$24,000 to the Parks and Grounds Operating Budget from Park Dedication Fees Recreation Area #5, Meadow Vista/Auburn Area, with no net county cost.

BACKGROUND: The Auburn Recreation District (ARD) has been a Special District since 1948, and its boundaries encompass approximately one hundred square miles, from south Auburn to Meadow Vista. One of the facilities that ARD owns and operates is the 86-acre Regional Park located near Highway 49 and Dry Creek Road. Recreation facilities at this park support soccer, tennis, basketball, volleyball, disc-golf, and picnic uses. Additionally, there are three softball fields at the park, which are referred to as Regional Fields A, B, and C.

Over the last several years, ARD has experienced a steady decline in its softball program and has recognized a coincidental increase in the demand for baseball. Currently, ARD offers one full-sized baseball field at the Recreation Park in central Auburn, and has determined there are not sufficient fields to meet the baseball needs of this region. To address this situation, ARD proposes to convert Regional Field C to a baseball field. This conversion primarily involves extending the baseline distance to 90-feet, and installing turf in the dirt infield area. The estimate to remove the dirt infield, install irrigation, import topsoil, install sod, and construct a pitcher's mound totals \$27,000. ARD proposes to fund \$3,000 of this expense from their General Fund account. Local baseball clubs will provide ongoing support for this field through rental fees and volunteer maintenance. ARD plans to complete this field conversion before the 2013 baseball season begins, and is prepared to start construction when the weather permits this winter.

On June 6, 2012, the Meadow Vista MAC recommended approval of this request for Park Dedication Fees, and on June 12, 2012 the North Auburn MAC also voted to support this request. On September 14, 2012, Parks staff presented this request to the County Parks Commission, who also recommended that 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.

ENVIRONMENTAL CLEARANCE: The action requested of your Board to approve Park Dedication Fee funding is not a project pursuant to CEQA Section 15378.

FISCAL IMPACT: The uncommitted fund balance in Recreation Area #5, Meadow Vista/Auburn Area is \$258,189. With approval of the subject \$24,000 request, the balance would be \$234,189. As this expenditure is funded by Park Dedication Fees, there is no net county cost associated with this action.

JD/MR/JR/KW

ATTACHMENTS: USE AGREEMENT
BUDGET REVISION

CC: COUNTY EXECUTIVE OFFICE

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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 _____, 2013, 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 the Baseball Field Conversion Project at Regional Park in Auburn, California.

WITNESSETH:

WHEREAS, ARD is the owner of Regional Park, an eighty-six acre public community park located at 3770 Richardson Drive in Auburn, California; and,

WHEREAS, ARD has experienced a decline in the number of softball players in recent years, while the number of baseball players has greatly increased during the same time period; and,

WHEREAS, there are not sufficient baseball fields in the ARD area to accommodate the demand for baseball fields; and,

WHEREAS, ARD has proposed converting a softball field to a baseball field at Regional Park in Auburn to meet this unmet demand.

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

1. ARD shall convert Softball Field C at Regional Park into a baseball field. The main components of this conversion will include removing the existing infield dirt and replacing with new topsoil, installing irrigation to the infield, installing Bermuda sod in the infield, removing 8,600 sq. ft. of outfield turf to allow for a larger infield, moving the outfield irrigation heads to accommodate the larger infield, installing a pitcher's mound, and installing 90' bases.
2. Prior to beginning work on this project, 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 at the converted baseball field recognizing that County funding was used to pay for a portion of the costs for the Baseball Field Conversion Project.
4. Construction shall be completed by November 1, 2013, unless COUNTY grants an extension in writing.
5. COUNTY grants to ARD Park Dedication Fees in an amount not to exceed Twenty-four Thousand Dollars (\$24,000). 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.
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 (20) years commencing on the day of _____, 2013, and ending on the ___ day of _____, 2033. 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 (20) 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: 1/4/13
Chairman, Board of Directors

By:  Date: 1/4/13
Kahl Muscott, District Administrator

Placer County (COUNTY)

By: _____ Date: _____
Chairman, Board of Supervisors

Approved as to Form

By: _____ Date: _____
County Counsel

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