

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

To: **BOARD OF SUPERVISORS**

Date: **AUGUST 20, 2013**

From: *MD* **MARY DIETRICH / MARK RIDEOUT** *MR*

Subject: **ASHFORD PARK PLAYGROUND**

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 \$44,000 for a playground at Ashford Park in Auburn; and,
2. Approve a Budget Revision appropriating \$44,000 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 seven-acre Ashford Park is owned and operated by the Auburn Recreation District (ARD), and is located at 1601 Auburn Ravine Road in Auburn. Ashford Park is improved with a group picnic area, pond, dog park, and grass play area. More than 15 years ago, ARD installed a playground in Ashford Park which is extremely popular with local youth and visitors to Auburn. Because of its age, several parts of the existing play equipment have failed and replacement components are no longer available.

ARD proposes to replace the existing playground with new equipment that is in compliance with ADA and Consumer Product Safety Commission Guidelines. In addition, they intend to enhance an asphalt path for Americans with Disabilities Act (ADA) compliance, and install a picnic table to facilitate supervision of children enjoying the playground. ARD's estimate to replace the playground, improve the asphalt path, and install an ADA compliant picnic table is \$74,701. The playground equipment is estimated to cost \$50,850 and installation is estimated at \$11,114. The cost to improve the path and install a picnic table is \$12,737. ARD proposes to couple the requested County Park Dedication Fees with \$30,701 of City of Auburn Park Mitigation Funds to fully fund this project.

On May 21, 2013, Parks staff presented this proposal to the County Parks Commission, who recommended your Board approve this request. On June 5, 2013, the Meadow Vista MAC voted to support this request. On June 11, 2013, the North Auburn MAC also voted to support 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 \$232,587. With approval of this request, the balance remaining will be \$188,587. 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

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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 a new playground at Ashford Park in Auburn, California.

WITNESSETH:

WHEREAS, ARD is the owner of Ashford Park, a seven acre public park located at 1601 Auburn Ravine Road, California; and,

WHEREAS, the existing playground and the access path leading to the playground at Ashford Park are over 15 years old and no longer comply with requirements of the Americans with Disabilities Act; and,

WHEREAS, due to its age, replacement parts for the playground features are no longer available; and,

WHEREAS, playgrounds are one of the most popular recreational facilities in parks.

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

1. ARD shall remove the old playground from Ashford Park, replace the playground with a modern play structure that is in compliance with the Americans with Disability Act and install a concrete sidewalk leading from the parking lot to the playground.
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 the new playground recognizing that County funding was used to pay for a portion of the costs for the playground project.
4. Construction shall be completed by June 1, 2014, unless COUNTY grants an extension in writing.
5. COUNTY grants to ARD Park Dedication Fees in an amount not to exceed Forty-Four Thousand Dollars (\$44,000). 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 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.

AGREEMENT BETWEEN PLACER COUNTY AND ARD
FOR A PLAYGROUND AT ASHFORD PARK

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)

AGREEMENT BETWEEN PLACER COUNTY AND ARD
FOR A PLAYGROUND AT ASHFORD PARK

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: [Signature] Date: 7/15/13
Chair, Board of Directors

By: [Signature] Date: 6/10/13
Kahl Muscott, District Administrator

Placer County (COUNTY)

By: _____ Date: _____
Chair, Board of Supervisors

Approved as to Form

By: [Signature] Date: 7/19/2013
County Counsel
DEPUTY COUNTY COUNSEL

Approved as to Funds

By: [Signature] Date: 7/12/13
Placer County Auditor

PAS DOCUMENT NO.

192

Facility Service to do journal to transfer cash

BUDGET REVISION

POST DATE:

DEPT NO.	DOC TYPE	Total \$ Amount	TOTAL LINES
12	BR	88,000.00	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
12	006		100		997425	97425	8780			44,000.00
TOTAL										44,000.00

DEPT NO.	T/C	Rev	Fund	Sub Fund	OCA	PCA	OBJ 3	PROJ.	PROJ. DTL	AMOUNT
12	014		100		997425	97425	2840			44,000.00
TOTAL										44,000.00

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

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

Date: 8/20/13
 Page: _____

Budget Revision # _____ FOR INDIVIDUAL DEPT USE