

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF AUBURN AND THE AUBURN AREA
RECREATION AND PARK DISTRICT REGARDING USE
OF PARK IMPACT MITIGATION FEES AND
ENFORCEMENT OF APPLICABLE LAWS, ORDINANCES,
RULES, AND REGULATIONS IN PARKS**

This MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into effective _____ of 2019 (the “Effective Date”) by and between the City of Auburn, a California municipal corporation and general law city (hereinafter “City”) and the Auburn Area Recreation and Park District, a California special district organized and operating under California Public Resources Code section 5780 et seq. (hereinafter “ARD”) (collectively, the “Parties”) with respect to the following Recitals:

RECITALS

WHEREAS, the City and ARD desire to enter into this MOU: (1) regarding the use of Park Impact Mitigation Fees, (2) to ensure the rehabilitation and maintenance of all parks within the City’s sphere of influence in a suitable and timely manner, and (3) to authorize the City’s peace officers and other authorized staff to enforce laws, ordinances, rules, and regulations in parks owned and operated by ARD and lying within the incorporated areas of the City; and

WHEREAS, California Public Resources Code section 5786.17 makes a violation of any ARD rule, regulation, or ordinance unlawful and authorizes citations for violations of state law, city or county ordinances, or district rules, regulations, or ordinances, when the violation occurs in a recreational facility, as defined; and

WHEREAS, Public Resources Code section 5786.11 authorizes ARD to enter into a cooperative agreement with the City to do all things necessary or convenient in carrying out the purposes and intent of Public Resources Code section 5780 et seq. including, but not limited to, an agreement regarding use of Park Impact Mitigation Fees, rehabilitation and maintenance of parks, and enforcement of laws, ordinances, rules and regulations.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter provided, the City and ARD hereby agree as follows:

1. The Recitals above are true and correct and hereby fully incorporate herein.
2. **Use of Park Impact Mitigation Fees and Rehabilitation and Maintenance of Parks.**
 - a. Starting September 30 of each year, at the end of each quarter, the City shall convey to ARD Park Impact Mitigation Fees collected by the City.
 - b. The City and ARD agree that Park Impact Mitigation Fees collected by the City will be spent and used within a two mile radius of the City, with a minimum of seventy-five percent (75%) of said fees being spent within the City limits.

- c. ARD agrees that it shall provide to the City, by August 31 of each year, the following reports:
 - i. A report which details the expenditure of Park Impact Mitigation Fees forwarded to ARD in the preceding fiscal year. The report shall detail projects and costs expended for each project; and
 - ii. A report which details the proposed expenditures of Park Impact Mitigation Fees to be conveyed to ARD in the current fiscal year. The report shall detail the projects and costs to be expended for each project.
- d. ARD shall be responsible for ensuring the spending and use of Park Impact Mitigation Fees under this MOU complies with the requirements of applicable state law and the Auburn Municipal Code, as those laws and the code may change from time to time.
- e. The City and ARD will establish a Project Review Committee to provide the Parties an opportunity to review all ARD projects wholly or partially City funded through City Mitigation Fees. The Committee will consist of one ARD Board Member, the ARD Executive Director, one City Council Member and the Auburn City Manager. ARD shall submit three copies of preliminary plans to the City Manager once any project, wholly or partially funded by City Mitigation Fees, reaches the preliminary plan phase. The Project Review Committee shall not have regularly scheduled meetings. However, any member of the Project Review Committee may request the Committee meet to discuss the impacts of the project that has reached the preliminary plan phase. Upon such request, the Project Review Committee shall convene within 30 days.
- f. The City and ARD agree individually to assume rehabilitation and maintenance responsibility for the following specific tasks for those city parks listed in Paragraph (g), below. The City and ARD also agree to work together, as necessary, to perform these tasks by sharing equipment and labor when appropriate or if tasks not specified arise during the term of this agreement. Such performance shall be agreed to in writing beforehand by the City Manager and District Manager of the City and ARD, respectively. Vandalism shall be repaired by agency responsible for the items/tasks vandalized.

ARD Responsibilities

- i. Garbage collection and clean up within the parks on a daily basis.
- ii. Landscape maintenance. This shall include mowing (2 times per month during the months of April thru November, leaf blowing (1 time per week during the months of October thru January, trimming (1 time per month) and weed eating in Auburn Ravine 2 times during the months of April thru

July (with additional weed eating as needed) and brush removal. Also includes graffiti inspection/removal (1 time per week).

- iii. Electrical infrastructure, including lighting fixture maintenance.
- iv. Water fountain repair and maintenance.
- v. Minor repairs to bridges, decks and walkway structures.
- vi. Maintenance of the creek to prevent dams created by park users or fallen timber.

City of Auburn Responsibilities

- i. Fencing.
 - ii. Major repairs or replacements of bridges, decks and walkway structures.
 - iii. Irrigation and backflow devices.
 - iv. Large tree maintenance/removal.
- g. The obligations in Paragraph 2(f) of this MOU only apply to the following City parks:
- i. Bicentennial Park.
 - ii. Chana Park.
 - iii. Herschel Young Park.
 - iv. Auburn Ravine Trail.
- h. The following pocket parks are specifically excluded from the obligations on Paragraph 2(f) of this MOU, and shall be the sole responsibility of the City:
- i. Clock Tower Park.
 - ii. Tennis Way Park.
 - iii. Livingston Building Park.
 - iv. Court View Park.
 - v. East Placer Park.
 - vi. Maple Street Park.
 - vii. Magnolia Street Park.
 - viii. Conheim Train Station.
 - ix. The Lewis Street Park
 - x. School Park Preserve
- i. ARD agrees to provide the services in Paragraph 2(f) in accordance with the attached ARD facilities maintenance policy, when applicable.
- j. City and ARD staff members shall meet quarterly to review each Party's obligations under this Agreement.

3. City Enforcement of Applicable Laws.

- a. ARD hereby authorizes and consents to the City enforcing ARD rules, regulations and ordinances and other applicable laws, including, but not limited to, the Auburn Municipal Code, when necessary and appropriate within properties

owned, operated, or controlled by the ARD lying within incorporated areas of the City.

- b. The City has sole discretion to make enforcement decisions and determine the level of service provided under this section of the MOU. In the event of a conflict between laws, codes, rules, and/or regulations, the City may in its sole discretion choose which to enforce. The City alone shall control and determine the performance of personnel providing the services under this section of this MOU, including, but not limited to, the standards of personnel performance and discipline.
- c. The City will not charge ARD for services rendered under this section of this MOU; provided, however, that ARD will reimburse the City for any costs associated with administrative enforcement under chapter 10.80 et seq. of the Auburn Municipal Code. Nothing in this section of this MOU requires ARD to reimburse the City for any costs associated with civil or criminal enforcement under the Auburn Municipal Code or other law.
- d. The City reserves the right to reopen this agreement at any time to discuss cost sharing of emergency services, should the City see a rise in demand of said services.

4. **Indemnification, Term, and Termination**

- a. ARD shall indemnify, defend, and hold the City, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage arising out of the performance of this section of the MOU, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent, intentional, or wrongful acts or omissions of ARD, its officers, agents, or employees.
- b. The City shall indemnify, defend, and hold ARD, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage arising out of the performance of this section of the MOU, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent, intentional, or wrongful acts or omissions of City, its officers, agents, or employees.
- c. The term of this MOU shall be five years. This MOU may be terminated by either party for any reason and at any time by giving the other party 120 days written notice. This MOU may be amended at any time with concurrence of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be executed on the date listed below.

City of Auburn

Auburn Recreation District

Robert Richardson
City Manager

Kahl Muscott
District Administrator

Date

Date

Attest:

Amy Lind
City Clerk

Date