

Item # 9.2 Cover sheet – Auburn Bike Park/Bicycle Pump Track Location

August, 2013 Acquisition and Development Committee (A&D); September, 2013 Board of Directors Meeting; October, 2013 A&D Committee; November, 2013 A&D Committee meeting; November, 2013 Board of Directors meeting; December A&D Committee; December, 2013 Board of Directors meeting

The Issue

Shall the Auburn Area Recreation and Park District designate a site for the Bike Park/Pump Track?

Background

The location of a future bicycle pump track has been considered in many different locations. 17 different sites, have been reviewed in this process. At this point, staff has narrowed the possible sites down to two options: Overlook Park, referred to as site #6 in past presentations, and the two sites (now considered one site) below the Canyon View Community Center (aka the Maidu Dr. site), referred to as sites #10 and #11.

Staff has prepared a feasibility report for both locations. The reports addressed the following:

- Entitlement Requirements and Agency Review/Approval Processes
- Site context and surroundings
- Physical site advantages and constraints
- Community concerns identified with the site
- Potential costs associated with the site
- Environmental Review requirements/reviews

These reports are attached.

Director Smith made the following request at the September 26, 2013 Board of Director's meeting:

"I'm requesting an agenda item for the next ARD Board meeting that would be a fully vetted second site (other than Overlook Park) for a pump track. This should be a site that if selected could be used to construct and make available to the public a fully functional pump track. I feel this item should be presented at the same time the Overlook site evaluated but if that is unacceptable I would ask that the item be placed on the agenda ahead of the Overlook site agenda item so that it would receive a fair evaluation prior to any other decision being made on this issue".

Recommendation for the Board of Directors

Review these reports and approve either the Overlook Site or the CVCC/Maidu site.

While staff feels that the Overlook Park site has many positive attributes and could provide a well planned and well used pump track/bike park, we feel that there is a high potential for spending a lot of money and a lot of time on studies (environmental and otherwise) with a possible end result being denial of the project.

Conversely, staff feels that the site(s) below the Canyon View Community Center (the Maidu Dr. sites) will provide a good location for a pump track and bike park. While this site is not perfect (lack of amenities such as a permanent bathroom, easy parking and possible traffic concerns), it offers a multitude of possibilities and potential for a well-used addition to ARD's parks and facilities.

Special attention should be paid to the fact that USBR is requiring that ARD complete an Operation and Development Plan for all lands leased through USBR. This plan, tentatively scheduled to be completed by the end of 2014, may delay approvals of improvements/projects, including the Bike Park/Pump Track, at any USBR facility.

The ARD A&D Committee had a split recommendation. Director Gray recommends using ARD staff recommendation. Director Ainsleigh did not make a recommendation specific to either site.

Alternatives available to the Board of Directors

- 1) Do not recommend a site at this time. Request more information and send to the January, 2014 A&D Committee meeting.
- 2) Recommend conducting a “Fatal Flaw” analysis of one or both sites. This analysis, conducted by Dudek Environmental Consultants, would look at the noise, cultural and/or biological issues that could derail the project. The cost is approximately \$2,500 per issue analyzed. The analysis would take approximately 6 weeks to complete.

Fiscal Impacts:

The feasibility reports provide an estimate of cost based on the recently completed pump track in Truckee. It should be noted that this estimated cost does not include design and environmental review fees. The estimate for these costs vary for each site. The environmental review fees will most likely be significantly higher at the Overlook Park site, with enhanced studies required due to noise and use concerns of residents.

Attachments:

Overlook Park Feasibility Report
Overlook Park conceptual site design
CVCC/Maidu Feasibility Report
CVCC/Maidu conceptual site design

Auburn Area Recreation and Park District

Feasibility Report

Bike Pump Track Facility Maidu Drive Site

Site Address: 471 Maidu Drive Auburn, CA 95603

APN: 055040026000

Placer County Zoning: O (Open space)

Parcel Size: Approx 27.29 acres See attached APN Site Aerial

Agency Jurisdiction: Federal Bureau of Reclamation, ARD, Placer County, PCWA

Usable area for pump track approximately .4 acres

Usable area for bike park skills course approximately 1.4 acres

Entitlement Requirements:

- Bureau of Reclamation Development Review and Federal NEPA
- CEQA
- ARD Board of Directors Approval
- Placer County Grading and Building Permit
- State of California SWPPP (Storm Water Pollution Prevention Plan)
- Placer County Conditional Use Permit – Waived
- PCWA Encroachment Permit

Site Description:

The proposed project site is located on Bureau of Reclamation property and is bordered by Maidu Drive and Pleasant Street. The bike park at this location would occur in phases. To the east of the site is the American River Canyon, to the south is sloping oak woodland and the PCWA shop yard. The west boundary is comprised of Canyon View Community Center and sloping oak woodland are to the immediate north. Please refer to the attached aerial map showing the proposed site. Maidu Drive is a Bureau of Reclamation roadway. The proposed phase one pump track would be located on a small portion of this larger parcel on an old construction site that is just below the Canyon View Community Center lower parking lot. This is an abandoned site that was formerly the location for service trailers used during the Bureau of Reclamation Auburn Dam construction project. There are abandoned utilities at this location site that include electrical, water and gas that serviced the former trailers. The site includes a wide curb cut from Maidu Drive for vehicle access.

The area for the proposed pump track has a worn and weathered flat asphalt surface approximately .4 acres in size. This area sits on a flat bench just west of, and upgrade from the PCWA Shirland canal and there is approximately 10' in elevation change from the canal location to the flat area above it. The area for the second phase of the bike park is just below the PCWA canal and is several acres in size. It is a combination of oak grassland and open space. This area would be utilized for skills trails and bike jumps. It appears possible to design these features around the existing trees without significant impact to the drip lines or critical root

zones. It does not appear that trees over 6" in diameter would need to be removed. Actual impact to trees would be determined during the design process. The site is large enough to accommodate the desired pump track and skills riding/jump area. There is sufficient land area for expansion of the bike park in the future.

Development Potential/Requirements/Issues:

As property owned by the Federal Bureau of Reclamation, development of the bike park will have to be approved by the Bureau prior to construction. This will involve submitting construction drawings to the Bureau for their review and approval. Environmental reviews will include CEQA and NEPA approvals. ARD would be the lead agency on the CEQA and the Bureau would be the lead agency for the NEPA. Disturbed land area over 1 acre in size will require a SWPPP (Storm Water Pollution Prevention Plan) submitted to the State of California Clearinghouse. Construction documents would include site plan, grading plan, erosion control plan, SWPPP and planting plan. Plans will need to be submitted to Placer County and the Bureau, as well as plans to PCWA demonstrating that run-off will not enter the Shirland Canal. If any tree over 6" diameter is proposed for removal, a tree permit from Placer County will be needed and is approved by the County Planning Commission.

Access to the site is good from Maidu Drive. A curb cut exists at the pump track site where ADA parking can be incorporated into the site. The location is considered good for residents in south Auburn, but not optimal for those residing in north Auburn. While situated adjacent to Maidu Drive, the site is somewhat off the "beaten path" and may not get the law enforcement scrutiny that other sites would receive.

ARD staff walked this site with personnel from the Bureau of Reclamation and received favorable comments about the possibility of siting a bike park at this location. There are no red flags regarding removal of the old and abandoned utilities. It is not yet determined if any of the utilities would be usable again. This will need to be determined as development of the site will need to include some minor irrigation at the pump track at a minimum.

ARD staff also met with PCWA personnel regarding the potential to locate a pedestrian/bike small bridge across the Shirland Canal so the upper and lower bike park areas can be connected. PCWA confirmed that this is possible and provided ARD staff with the necessary application for an encroachment permit. This permit would cost approximately \$650 and take roughly 2-3 weeks for approvals. The cost of a small pedestrian/bike bridge is anticipated to be less than \$2000. The ability to build the bridge solves a significant design issue, in that it will not be necessary to connect the upper and lower bike parks along the Maidu Drive right-of-way. This was not considered a safe option. With the pedestrian/bike bridge approved by PCWA, bike users can access all of the bike park without egressing onto Maidu Drive. Staff has reviewed the site topography and believes pathway connection between the upper and lower bike park areas is very doable at reasonable expense. A maintenance pathway exists on the adjacent south side of the PCWA canal. A minimum 10' wide pathway must be preserved for maintenance equipment access. The bridge design will need to take this requirement into account as the connection is designed.

Noise studies are not anticipated at this proposed location. There does not appear to be issues of noise pollution to the surrounding land areas. The level of use may require a traffic study. Over the past 10+ years, some neighbors have voiced concern about traffic on Skyridge and Riverview Drives due to activities at the Canyon View Community Center (CVCC). ARD staff have made it a point to only share maps and information about accessing CVCC from Maidu Drive (off of Auburn/Folsom Road). This has made some impact, however many people use the "short cut" through the Skyridge/Riverview neighborhood. At a minimum, locating a pump track/bike park at this location would require increased outreach and advocacy to users of this new facility.

Parking for this site would be located in the CVCC parking lot directly above the sites and with on-street parking along Maidu Drive. The project site plans would need to provide a minimum one ADA parking space with van aisle and small viewing area. The area needed for this, including the access apron from Maidu Drive is approximately 1400 square feet. Restroom facilities would be provided via port-a-potty including an ADA accessible unit. Permanent restroom facilities, should they be determined to be necessary, would require tying into existing sewer and incur connection fees, as well as the cost of the bathroom itself.

Of significant importance in the site's development will be drainage and erosion control practices. Site runoff will need to be captured and directed through appropriate swale and filtration systems. As previously stated, runoff would also need to be worked around the Shirland Canal. These solutions will be identified as part of the grading permit and erosion control plan, which is also used to obtain the SWPPP required by the State.

Initial Cost Estimates:

Estimates of costs to build on this site are unknown at this point, however, the pump track at Truckee, as similar sized pump track facility with some similar issues cost \$43,000 to build (not including design/environmental fees). Costs that would be incurred for this site would include:

- Design and engineering fees, including bridge engineering
- PCWA Encroachment Permit Fee
- USBR review fees
- CEQA and SWPP consultant and permit fees
- Placer County grading and building permit fees
- Placer County Tree permit fees (if applicable)
- Construction Costs
 - Costs to remove or punch holes in existing asphalt
 - Fill dirt
 - Fencing
 - ADA parking area
 - PCWA maintenance pathway improvements at bridge abutment
 - Bridge across the PCWA canal

Summary:

With the information available at this time, ARD staff believes all the above agency reviews and requirements can be met and the site is very suitable for development of the bike park facility. Initial positive feedback from the Bureau of Reclamation lead staff to believe a bike park facility at this location would meet with Bureau approval. With the caveats mentioned above (possible traffic, law enforcement and tree issues), there are no identified issues at this time that leads ARD staff to anticipate unusual engineering, studies or construction costs. Entitlement processes are typical for this type of development and there are no anticipated roadblocks. Placer County has waived the Conditional Use Permit due to the site being located on Federal property which is considered a higher level of review by the County.



Auburn Area Recreation and Park District

Feasibility Report

Bike Pump Track Facility Overlook Park

Site Address: Pacific Avenue Auburn, CA 95603
APN: 004-220-047 as indicated on City of Auburn Zoning Records
City of Auburn Zoning: OSC (Open Space Conservation)
Parcel Size: Approximately 25 acres leased area from the Bureau of Reclamation
Agency Jurisdiction: Federal Bureau of Reclamation, ARD, City of Auburn
Site Area for Pump Track and Skills Area: 1.4 acres

Entitlement Requirements:

- Federal Bureau of Reclamation Development Review
- NEPA
- CEQA
- ARD Board Approval
- City of Auburn Planning Commission Use Permit
- City of Auburn Grading and Drainage Permits
- State of California SWPPP (Storm Water Pollution Prevention Plan)
- City of Auburn Tree Permit

Site Description:

The proposed site is located within Overlook Park which is owned by the Federal Bureau of Reclamation. Overlook Park is bounded on the east by the American River Canyon. The canyon extends both north and south of the park where there are residential developments including homes set at the edge of the canyon rim. Overlook Park is accessed on the west from Pacific Avenue. Overlook Park is home to the District's skate park and there is one portable building the District rents to community groups. Adjacent to the portable building is the park's restroom facility. Overlook Park derives its name from the portion of the park to the east that serves as public access and "overlook" to the American River Canyon.

The site has functioned as the "overlook" to the American River Canyon for many years. At the time of the dam construction project the proposed pump track area housed an informational kiosk. When the dam project was put on hold this facility was removed and all that remains is a deteriorating asphalt surface. This promontory affords some good views of the river and canyon and is a popular location for the general public to access views and walking trails.

Overlook Park is also known as an area that attracts less than desirable use. This includes loitering, partying, the playing of loud music and the use/dealing of alcohol and drugs. The ARD Board has recently approved a plan to lock Overlook Park on a nightly basis. This plan is under review with the Bureau of Reclamation. It has been suggested that approving and developing

other use of Overlook Park may deter and drive away the people who are causing problems at the park.

The area identified for potential development as a bike park is located at the east end of the park and is approximately 1.4 acres in size. The bike park would include a pump track and trail skills area. The pump track portion site has been identified as the "overlook" undeveloped area at the east end of the park and is approximately .3 acres in size. A skills riding/jump area has been identified between the overlook area and the skate park. Please refer to the attached schematic conceptual site plan.

Because of its' unique views and access to the canyon, it is highly desirable to preserve this function and incorporate permanent improved public access to the overlook as well as provide buffering of the potential pump track/bike park. Conceptual designs illustrate pathways and an overlook platform to preserve public access and provide a pleasant experience for the public who wish to use this area to view the canyon and river. This area could also incorporate an expanded viewing area that would include the existing fenced in area along the south east end of the parking lot. Please refer to the attached schematic concept plan which illustrates how this public access and buffer could be developed.

Development Potential/Requirements/Issues:

Overlook Park already has parking and restroom facilities that can support the development of the bike park. Access from Pacific Avenue is good and the site is well located for local users. The location is considered good for residents in south Auburn, but not optimal for those residing in north Auburn.

As property owned by the Federal Bureau of Reclamation, development of the bike park will have to be approved by the Bureau prior to construction. This will involve submitting construction drawings to the Bureau for their review and approval. Environmental reviews will include CEQA and NEPA approvals. ARD would be the lead agency on the CEQA and the Bureau would be the lead agency for the NEPA. Disturbed land area over 1 acre in size will require a SWPPP (Storm Water Pollution Prevention Plan) submitted to the State of California Clearinghouse. Plans will need to be submitted to the City of Auburn and the Bureau. If any tree over 6" diameter is proposed for removal, a tree permit from the City of Auburn will be needed and is approved by the Planning Commission. Due to issues involving noise levels the project might generate, it is very possible a sound study will need to be done as part of the CEQA/NEPA process.

Staff walked the Overlook site with personnel from the Federal Bureau of Reclamation. Response from the Bureau personnel was less than favorable. They cited potential conflict in use with siting a bike facility at the overlook, change in land use from an overlook area to a bike park and concerns over impacts on the surrounding neighborhood. They also discussed concerns about the visual impact of a pump track facility at the overlook and the need to preserve this area, or portion thereof, for the general public's access to viewing the canyon and river. Staff believes obtaining approval from the Bureau of Reclamation would be a lengthy, costly and difficult prospect. Staff does not expect the Bureau to approve a bike park at

Overlook Park, however Bureau staff cannot state unequivocally either way until they finish their NEPA review.

There have been several public meetings held to discuss the project at this location. At this time there is opposition from the local neighborhood and many neighbors have spoken firmly against the project with the greatest concern being the increased noise level a bike park might generate. The neighbors have voiced the problems that already exist from the skate park development. In addition to the public meetings, staff has held several separate meetings with both the neighbors and the bike committee at the ARD offices. At this time the neighbors are clear in their resistance to the project and their intent to oppose approval.

The site is located in the City of Auburn OSC zone (Open Space Conservation). Development of the bike park will require a Use Permit. The time to obtain a Use Permit, once the application is deemed complete, will be 5-6 months or longer. Decisions can be appealed to the City Council and extend the timeframe significantly. The applicant bears the cost of the application fees (in excess of \$2000) as well as paying for the City of Auburn staff time to review and administer the process. The cost of this can vary greatly depending upon the issues involved and the time needed to reach a decision. Projects with controversial issues are vulnerable to denial under the Use Permit process.

Of significant importance in the site's development will be drainage and erosion control practices. Site runoff will need to be captured and directed through appropriate swale and filtration systems. These solutions will be identified as part of the grading permit and erosion control plan, which is also used to obtain the SWPPP required by the State.

Initial Cost Estimates:

Estimates of costs to build on this site are unknown at this point, however, the pump track at Truckee, as a similar sized pump track facility with some similar issues cost \$43,000 to build (not including design/environmental fees). Costs that would be incurred for this site would include:

- Design and engineering fees
- USBR review fees
- CEQA and SWPP consultant and permit fees
- Noise Study
- City of Auburn Use Permit process
- City of Auburn grading and building permit fees
- City of Auburn Tree permit fees (if applicable)
- Construction Costs
 - Costs to remove or punch holes in existing asphalt
 - Fill dirt
 - Fencing
 - Overlook pathway and platform
 - Buffer landscaping

Summary:

With the information available at this time, ARD staff believes that this project site has some significant issues to be resolved before a bike park could be constructed at Overlook Park. Although the site has many desirable attributes, is large enough for the planned design, is well situated for access by the south Auburn community and amenities such as parking and restrooms exist, the entitlement processes are substantial and will be lengthy and costly without a guarantee of success. It is possible a significant amount of money will be spent working through these processes with the end result being denial of the project.



Item 9.3 Cover sheet – Christian Valley site Conservation Easement

**Auburn Area Recreation and Park District Acquisition and Development Committee December, 2013;
Board of Directors meeting December, 2013**

The Issue

Shall the Auburn Area Recreation and Park District (ARD) Board of Directors approve Resolution #2013-17 authorizing the District Administrator to sign a Conservation Easement for the fee title donation of land from PG&E at the Christian Valley site?

Background

The Stewardship Council's is a private, nonprofit foundation responsible for developing and implementing a land conservation plan for 140,000 + acres of land owned by PG&E. As part of this plan, PG&E will make portions of the 140,000 acres available for fee title donation to organizations interested in preserving and enhancing the lands consistent with six Beneficial Public Values (BPV). Those six BPV are:

- Habitat protection
- Preservation of open space
- Outdoor public recreation
- Sustainable forestry
- Agricultural uses
- Cultural and historical resources

ARD applied for fee title donation for a +/- 42 acre parcel of land adjacent to and including Christian Valley Park ("CV site", attached Map 4) and for three parcels that combine to form a +/- 22 acre land area off of Bell Rd. and New Airport Rd. ("Bell Rd. site", attached Map 5). The Stewardship Council Board of Directors has approved ARD's application.

In January 2012, ARD was asked to sign a Letter of Intent to the Stewardship Council. This letter was approved by the ARD Board of Directors.

ARD has been working with staff from PG&E, the Stewardship Council and Placer Land Trust to come to an agreement on documents related to the transfer of land.

The ARD Board of Directors reviewed these documents and considered approval at the October 30, 2013 Board of Directors meeting. At that time, the ARD Board elected not approve the signing of the Conservation Easements for either of the sites. This decision was based on the following:

- 1) A resolution passed by the Placer Land Trust that stated the following:

Placer Land Trust approves the Conservation Easements for ARD Bell Road and ARD Christian Valley substantially in the form of the draft documents presented to the Board on October 18, 2013, and directs staff to work with ARD and other project partners to finalize the Conservation Easements and related documents, including the Management Plans, subject to the resolution of those issues noted by the Board (for example, the allowance of ball fields and shade structures), due diligence, funds availability, legal review, and final Placer Land Trust Board approval of all project documents.

- 2) Concerns about the Placer Land Trust resolution not allowing the possibility of future development of ball field(s) at the Bell Rd. site.

- 3) Concerns that the Conservation Easement for the Christian Valley site did not adequately state that the existing ball field was protected or “grandfathered” in to the document.

The Placer Land Trust has sent a modified Conservation Easement for the Christian Valley site. This document in its entirety is attached for review.

Section 4.2 (page 5) of this document has been amended as follows:

- (b) Existing Developed Area. In addition to the rights and activities described in Section 4.2(a) above, Grantor reserves to itself and its successors and assigns the right to construct, erect, maintain, alter, improve, remove, and replace structures and improvements within the Existing Developed Area, as defined, set forth, and limited by the terms in Exhibit E. **Specifically, Grantor retains the right to maintain and enhance existing parking lot and ball field as described in the Baseline Documentation Report.**

Recommendation

Staff recommends that the ARD Board of Directors review the amended Conservation Easement for the Christian Valley site and approve Resolution 2013-17 authorizing the District Administrator to sign all the Conservation Easement.

The Acquisition and Development Committee recommends approving the Resolution.

Fiscal Impact

With the exception of ARD staff time, there have been no fiscal impacts to this point. The Stewardship Council has agreed to pay for up to \$5,000 in attorney fees for review of the Transaction Documents. As of the writing of this report, the attorneys have billed \$3,087.50 for their review of the documents.

Attachments

- 1) Conservation Easement – Christian Valley Property (amended)
- 2) Resolution #2013-17

Recorded at the request of, and
when recorded return to:

Placer Land Trust
Attn: Executive Director
11661 Blocker Drive, Suite 110
Auburn, CA 95603

**DEED OF CONSERVATION EASEMENT
(ARD Christian Valley Property, Placer County)**

On this _____ day of _____, the Auburn Recreation and Park District, a special district of the State of California, having an address at 471 Maidu Drive, Suite 200, Auburn, CA, 95603 (hereinafter the “**Grantor**”), for full and fair consideration paid, hereby grant to Placer Land Trust, a California nonprofit public benefit corporation, having an address at 11661 Blocker Drive, Suite 110, Auburn, CA, 95603 (hereinafter the “**Grantee**”) the following described conservation easement (hereinafter the “**Easement**”) on real estate in the County of Placer in the State of California, designated as a portion of Placer County Assessor’s Parcel Number 077-050-056, and more particularly described in Exhibit A, attached hereto and made a part hereof by reference (hereinafter the “**Property**”); exclusively for the purpose as follows:

1. **PURPOSE.** The purpose of this Easement is as follows (hereinafter the “**Purpose**”): (a) to ensure that the Property, with the exception of the Existing Developed Area as described in Recital L herein, will be retained in perpetuity in its natural, scenic, recreational, or open space condition; and (b) to prevent any use of the Property that will significantly impair the Conservation Values as described in Recital F herein. Grantor and Grantee intend that this Easement will confine the use of the Property only to such activities that are consistent with the purposes and terms of this Easement.

2. **RECITALS.** The following recitals are incorporated in this Easement.
 - A. The Grantor is the sole owner in fee simple of the Property, which consists of approximately _____ acres of land with existing recreational structures.

 - B. Grantee is a publicly supported, tax-exempt nonprofit public benefit organization under Section 501(c)(3) and qualified to acquire and hold conservation easements for public benefit under Section 170(h), respectively, of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (hereinafter the “**Internal Revenue Code**”). Grantee is also qualified to acquire and hold conservation easements

in California under Sections 815 and 816 of the California Civil Code. Grantee's primary purpose is the preservation of natural and agricultural land in Placer County.

- C. Pacific Gas and Electric Company, a public utility corporation (hereinafter "**PG&E**"), transferred to Grantor fee title in the Property in accordance with that certain Grant Deed, recorded in the Official Records of the County of _____, on _____, 20____, as Instrument Number _____ (hereinafter the "**Grant Deed**"), attached hereto as Exhibit B and incorporated herein by reference, subject to (1) PG&E's reservation of certain rights in and to the Property, as set forth in the Grant Deed (hereinafter "**PG&E Reserved Rights**"), and (2) those legally-enforceable third-party rights to use the Property in effect as of the Effective Date, as listed on Exhibit C attached hereto and incorporated herein by reference (hereinafter the "**Existing Third-Party Uses**").
- D. PG&E transferred fee title to the Property to Grantor in connection with PG&E's implementation of the "Land Conservation Commitment," defined below, provided for in the following documents and described more fully below:
- (a) That certain Settlement Agreement (hereinafter the "**Settlement Agreement**") as modified and approved by the Public Utilities Commission of the State of California (hereinafter the "**Commission**") in its Opinion and Order of December 18, 2003 (Decision 03-12-035); and
 - (b) That certain Stipulation Resolving Issues Regarding the Land Conservation Commitment dated September 25, 2003 (hereinafter the "**Stipulation**").
- E. The Settlement Agreement and the Stipulation (hereinafter, collectively, the "**Governing Documents**") require PG&E to ensure that approximately 140,000 acres of watershed lands, all located in California and owned by PG&E as of the date the Governing Documents were entered into (hereinafter, collectively, the "**Watershed Lands**"), are conserved for a broad range of beneficial public values, including the protection of the natural habitat of fish, wildlife and plants; the preservation of open space; outdoor recreation by the general public; sustainable forestry; agricultural uses; and historic values (hereinafter, collectively, the "**Beneficial Public Values**" or "**BPVs**"). A Land Conservation Commitment constitutes the obligations of PG&E to convey fee title and conservation easements to Watershed Lands, and to protect the Beneficial Public Values of the Watershed Lands, as well as certain other obligations related thereto (hereinafter the "**Land Conservation Commitment**"), as set forth in detail in the Governing Documents.
- F. The Property is included in the Watershed Lands, and contains significant natural and recreational values of great importance to Grantor, Grantee, the people of Placer County and the State of California. The Property includes the specific Beneficial Public Values identified on Exhibit D attached hereto and incorporated herein by reference (hereinafter, collectively, the "**Conservation Values**"). The Conservation Values are further described in the *Baseline Documentation Report for ARD Christian Valley Property, Placer County*, dated _____, incorporated by this reference and on file in the office of the Grantee (hereinafter the "**Baseline Documentation Report**"), which consists of reports, maps, photographs, and other documentation that the Grantor

and Grantee agree provide, collectively, an accurate representation of the Property and the existing Beneficial Public Values at the time of this Easement and which is intended to serve as an objective, though nonexclusive, information baseline for monitoring compliance with the terms of this Easement.

- G. The protection of the Property is consistent with multiple goals and objectives of the State of California. The Legislature of the State of California, as set forth in California Civil Code section 815 et seq., has found and declared it to be the public policy and in the public interest of this state to encourage the preservation of land predominantly in its natural, scenic, agricultural, historical, forested, or open space condition.
- H. The protection of the Property is consistent with the County of Placer's public policy to "protect and conserve open space, natural resources and agricultural lands throughout the county" and is consistent with the goals of the Placer County General Plan (1994) and the Placer Legacy Open Space and Agricultural Conservation Program (2000).
- I. The Governing Documents require that conservation easements include an express reservation of a right for continued operation and maintenance of hydroelectric facilities and associated water delivery facilities, including, project replacements and improvements required to meet existing and future water delivery requirements for power generation and consumptive water use by existing users, compliance with any Federal Energy Regulatory Commission (hereinafter the "**FERC**") license, FERC license renewal or other regulatory requirements.
- J. The Governing Documents also include a requirement that conservation easements encumbering Watershed Lands honor existing agreements for economic uses, including consumptive water deliveries.
- K. Pursuant to the Governing Documents, the Pacific Forest and Watershed Lands Stewardship Council, a California nonprofit public benefit corporation (hereinafter the "**Stewardship Council**"), was created to oversee and carry out the Land Conservation Commitment. Pursuant to the Governing Documents, the Stewardship Council developed a plan for protection of the Watershed Lands for the benefit of the citizens of California (hereinafter the "**Land Conservation Plan**" or "**LCP**"). The LCP includes, among other things, objectives to preserve and/or enhance the Beneficial Public Values identified on each parcel of Watershed Lands, including the Property.
- L. Grantor and Grantee each desires through this Easement to ensure the permanent protection of the Conservation Values on the Property, subject to PG&E's Reserved Rights and the Existing Third-Party Uses, and, with the exception of the Existing Developed Area, as further described and depicted in Exhibit E, attached hereto and made a part hereof by reference (hereinafter, respectively, the "**Existing Developed Area**"). Grantor and Grantee further intend (a) to honor Existing Third-Party Uses as described in Exhibit C and (b) to continue to permit compatible and beneficial uses of the Property including but not limited to outdoor recreation by the general public. While Existing Third-Party Uses do not supersede the Purpose, it is intended that this

Easement shall allow uses on the Property that are consistent with the protection and preservation of each of the Conservation Values in harmony with each other. While permitted actions required or taken to protect and preserve one or more individual Conservation Values may impair, on an individual and stand-alone basis, one or more other Conservation Values, Landowner and Easement Holder understand that achieving the Purpose requires the preservation and protection, on balance, of all of the Beneficial Public Values actually existing on the Property, to the extent possible. It is recognized that in protecting and/or enhancing one or more of the Conservation Values, another Conservation Value may be impaired, but this is not meant to be a permanent occurrence, nor a reason to re-prioritize one Conservation Value over another. All attempts should be made to balance on a collective basis, the whole Property whenever possible. This Easement prohibits use of the Property for any purpose that would impair, degrade or interfere with the Conservation Values on a collective, not individual basis, taking into account the relative condition and quality of each of the Conservation Values as of the date of this Easement.

M. In furtherance of the Land Conservation Commitment and the above-described public policy purposes, Grantor intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity according to the terms and conditions of this Easement.

3. INCORPORATION OF PURPOSE AND RECITALS.

NOW THEREFORE, in consideration of the foregoing Purpose and Recitals, for the benefit of the general public, and pursuant to the laws of the State of California; the Grantor and Grantee have established this Easement on, over, and across the Property consisting of the foregoing Purpose and Recitals and the following terms, covenants, restrictions, conditions, exhibits, and affirmative rights that the Grantor has voluntarily granted to Grantee, which shall run with and bind the Property in perpetuity.

4. RESTRICTIONS AND RESERVED RIGHTS. To further accomplish the Purpose of this Easement, the Grantor and Grantee agree to the following restrictions and reserved rights.

4.1 Subdivision. The Property shall remain in unified ownership, which may be joint or undivided, but without division, subdivision, partition or other legal or *de facto* creation of lots or parcels in separate ownership. The foregoing does not prohibit the lease of all or a portion of the Property if otherwise consistent with the terms of this Easement.

4.2 Development. No new structures, temporary or permanent, may be constructed, located, placed, or installed on the Property, with the following exceptions.

(a) **Recreational and Maintenance Structures and Improvements; Activities Required by Local Jurisdiction.** Grantor reserves to itself and its successors and assigns the following rights and allowable activities outside of the Existing Developed Area: (1) as specifically allowed and described in the Management Plan, the right to construct, erect, maintain, alter, improve, remove, and replace recreational and maintenance structures and improvements that are necessary to facilitate the

recreational use of the Property as part of the Conservation Values, including but not limited to: fences, gates, corrals, shade structures, picnic shelters, picnic tables, benches, interpretive kiosks and displays, hardscape or natural trails, boardwalks and bridges, and (2) if required by a local jurisdiction, the right to construct, erect, maintain, alter, improve, remove, and replace sidewalks, curbs, gutters, sewer and storm water systems.

- (b) Existing Developed Area. In addition to the rights and activities described in Section 4.2(a) above, Grantor reserves to itself and its successors and assigns the right to construct, erect, maintain, alter, improve, remove, and replace structures and improvements within the Existing Developed Area, as defined, set forth, and limited by the terms in Exhibit E. Specifically, Grantor retains the right to maintain and enhance existing parking lot and ball field as described in the Baseline Documentation Report.
- (c) Property Signage. Property signage as required by PG&E, Commission, Grantor or Grantee to acknowledge persons or organizations contributing funds or approval for the purchase of the Easement or the protection of the Property is allowed as generally described in the Management Plan. Signs on exterior fence lines deterring trespassing or clarifying allowed or prohibited uses, interpretive and educational signs, directional and informational signs, and signs as needed for Americans with Disabilities Act compliance or for public health and safety, are allowed.

4.3 Transfer of Rights. All rights to develop or use the Property that are prohibited or inconsistent with this Easement are extinguished, and cannot be used now or in the future to use or transfer development rights to other land not subject to this Easement, or to permit, entitle or otherwise facilitate increased development density or increased natural resource use or extraction on other land not subject to this Easement.

4.4 Land Use. Land uses that significantly impair the Conservation Values of the Property or are inconsistent with the purpose of this Easement are prohibited. Without limiting the generality of the foregoing, the following land uses and activities on the Property are expressly prohibited:

- (a) Industrial activity. Any and all industrial activity on the Property is prohibited.
- (b) Mining and excavation activity. Mining and the removal or extraction of soil or minerals from the Property is prohibited. Filling, excavating, draining, dredging, mining, drilling, removing, exploring for or extracting minerals, loam, gravel, soil, rock, sand or other material on or below the surface of the Property, or granting or authorizing surface entry for any of these purposes, is prohibited. However, Grantor reserves the right to permit limited excavation of the surface of the Property to create recreational improvements as described in Section 4.2(b) above, or for ecological or scientific research or archaeological investigation, if conducted under then current generally accepted professional standards without adverse impact to the Conservation Values.

- (c) Commercial activity. Any and all commercial activity on the Property is prohibited, except for activities that enhance or protect the Conservation Values.
- (d) Overgrazing. Overgrazing, as further defined in the Management Plan, is prohibited.
- (e) Irrigation. Irrigation outside of the Existing Developed Area is prohibited, except as necessary to facilitate restoration and enhancement of natural habitat and approved by Grantee.
- (f) Off-road motorized vehicles. The use of motorized vehicles off of established road is prohibited, except: (i) if by Grantor or under the Grantor's control for property management, or (ii) if the use of motorized vehicles is by Grantee for the purposes of monitoring and enforcing this Easement and the Management Plan.
- (g) Roads. The construction or creation of new roads is prohibited.
- (h) Dumping. The dumping or accumulation of trash, ashes, garbage, inoperative or unserviceable vehicles, equipment or parts thereof, waste, or other debris on the Property including, without limitation Hazardous Materials, is prohibited. For the purposes of this instrument, "**Hazardous Materials**" shall mean any substance defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulations, or requirements as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment. This prohibition shall not be construed to prevent the use, storage, or disposal of organic matter or compost that is not detrimental to the Conservation Values. No filling, dumping, excavation, or other alteration may be made to the surface or subsurface of the Property or to its surface waters or wetlands.

4.5 Water Quality and Water Protection. Activities and uses otherwise permitted under this Easement, which result in significant damage or degradation of water quality, are prohibited. Stockpiling animal wastes, compost, loose soil or toxic materials in a manner whereby runoff or leakage adversely affects water quality, is prohibited. Discharge of any septic waste, wastewater, toxic waste, pollution, or other environmentally harmful substances into surface waters, springs or drainages on the Property is prohibited.

4.6 Water and Mineral Rights. Grantor warrants that the Property includes all surface and subsurface mineral rights, including all mining and quarrying rights and all right to excavate or remove subsurface oil, gas, and other minerals, all geothermal energy rights (hereinafter, collectively the "**Mineral Rights**"). To the best of Grantor's knowledge, the Property includes all water and water rights, ditches and ditch rights, springs and spring rights, reservoir and storage rights, wells and groundwater rights, and other rights in and to the use of water historically used on the or otherwise appurtenant to the Property (hereinafter, collectively, the "**Water Rights**").

Grantor reserves all Water Rights, provided that such Water Rights, if any, are used on

the Property in a manner not inconsistent with the purpose and terms of this Easement, and provided that any and all Water Rights necessary to maintain or restore the Conservation Values are used accordingly.

Grantor shall not transfer, encumber, sell, lease, or otherwise separate the Mineral Rights or Water Rights from the Property, or in the case of Water Rights, in any way diminish or reduce the historic use of the Water Rights, without the consent of the Grantee. Grantor shall not abandon or allow the abandonment of, by action or inaction, any of the Water Rights without the consent of the Grantee.

4.7 Surface Alterations. As of the date of this grant, there are surface alterations on the Property, as documented in the Baseline Documentation Report. Any new alteration to the surface of the Property is prohibited, with the exception of the following reserved rights of the Grantor:

- (a) Grantor reserves the right to make new surface alterations reasonably necessary to manage the Property, to enhance or restore habitat consistent with the Conservation Values, and to create and maintain recreational improvements as described in Section 4.2(b) above.
- (b) Subject to Exhibit E, the Grantor reserves the right to make surface alterations within the Existing Developed Area.

4.8 Fire Suppression. This Easement shall not prohibit Grantor from retaining and satisfying the obligation to comply with any applicable local, state, and federal laws or guidelines regarding the prevention and suppression of wildfire.

4.9 Express Third Party Uses. Exhibit C hereto describes the existing third party uses of the Property that Grantor and Grantee recognize as permitted uses (hereinafter “**Express Third Party Uses**”). Grantor retains the right to maintain, renew, and replace all agreements memorializing the Express Third Party Uses (hereinafter “**Third Party Use Agreements**”) and to engage in all activities reasonably required to comply with Grantor’s obligations with respect to the Express Third Party Uses, subject to the following conditions:

- (a) Any (i) increase in the intensity, or (ii) expansion of the location or size, or (iii) change in the use, of an Express Third Party Use, whether through a new agreement or an amendment to an existing agreement, that Grantor determines in Grantor’s reasonable discretion exercised in good faith are likely to significantly impair the Conservation Values shall be subject to Grantee’s prior written consent, which consent shall not be unreasonably withheld, conditions or delayed by Grantee.
- (b) All Third Party Use Agreements existing on the Effective Date of this Easement are identified in Exhibit C. As Third Party Use Agreements are renewed or replaced, either with an existing or new user, Grantor, in consultation with Grantee, shall include contractual provisions to bring the continuation of the Express Third Party Use and the preservation of the Conservation Values into

alignment to the fullest extent reasonably practicable.

- (c) If Grantor or Grantee discovers any default under a Third Party Use Agreement that significantly impairs the Conservation Values (and if Grantee makes such discovery, Grantee gives Grantor written notice thereof), Grantor shall use reasonable efforts to enforce or otherwise remedy such violation, at Grantor's sole expense.

4.10 Public Access and Informal Uses. Grantor and Grantee recognize that the Property has been used by third parties for recreational, cultural, and other non-commercial or informal purposes without formal written agreements to conduct such activities (hereinafter "**Informal Uses**"). Grantor and Grantee further recognize that access to the Property is inherent or may be inherent in the enjoyment of the Conservation Values and the Informal Uses. Consistent with the objectives articulated in the Governing Documents to provide continued reasonable access by the public to the Watershed Lands, Grantor shall allow public access to the Property and Informal Uses on the Property that are substantially consistent with the public access and Informal Uses existing on the Effective Date of this Easement. Grantor reserves the right to make reasonable rules and regulations to control, limit, or, as necessary, exclude Informal Uses and public access. Grantor shall not allow Informal Uses that significantly impair the Conservation Values.

As outlined in paragraph 5(b) herein, Grantee or its designee may access the Property for purposes of monitoring and enforcing this Easement and the Management Plan. Additionally, with prior approval of Grantor, Grantee or its designee may lead educational tours as allowed, limited, and described in the Management Plan.

Grantor and Grantee claim all of the rights and immunities against liability for injury to the fullest extent allowable by law.

4.11 PG&E Reserved Rights. All rights and obligations of Grantor and Grantee under this Easement are subject to the PG&E Reserved Rights specified in the Grant Deed in Exhibit B. In the event PG&E notifies Grantor of its intention to exercise any of the PG&E Reserved Rights, Grantor shall notify Grantee, in writing, of said intention within sixty (60) days.

5. GRANTEE'S AFFIRMATIVE RIGHTS. To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

- (a) To identify, preserve and protect the Conservation Values, and to prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and the Management Plan.
- (b) To access, enter upon, monitor, inspect, observe, and study the Property, including the right to access the Property, including the Existing Developed Area, by motorized vehicle over and on roads owned by Grantor and any rights-of-way or other access ways now or hereafter available to Grantor for access to the Property, at reasonable times not more often than four times per year except when necessary to prevent a violation or

potential violation of the terms of this Easement or to monitor and observe specific activities to ensure compliance with the terms of this Easement and the Management Plan. Grantor shall provide Grantee with keys, combinations, instructions or other means to open any locked gates that are on the Property and/or that are necessary to access the Property. Grantee will make reasonable efforts to notify Grantor prior to entry onto the Property except when immediately necessary to prevent a violation of the terms of this Easement. Notwithstanding anything to the contrary contained herein, Grantee when entering or traveling on the Property for inspection or monitoring purposes shall be entitled to travel on all existing roads on the Property.

- (c) To prevent any activity on, use of or practice on the Property that is inconsistent with the purpose and terms of this Easement and the Management Plan and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to the remedies set forth in Section 8 below.
- (d) To require that Grantor's reserved rights be exercised in a manner that avoids unreasonable or significant harm to the Conservation Values.
- (e) To erect and maintain Property signage as defined in the Management Plan.
- (f) To pursue damages from third parties, but not to the exclusion of any right of the Grantor to seek damages or relief from any third party for damage to the Property.

6. RIGHTS OF LANDOWNER. In addition to any specific reserved rights set forth in Section 4 above, Grantor reserves to itself, its representatives, assigns, and all future transferees, all rights accruing from its ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that do not significantly impair the Conservation Values, are not expressly prohibited herein, and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following activities and uses are specifically reserved as Grantor's rights as owner of the Property:

- (a) The ownership and right to sell or transfer the Property in its entirety.
- (b) Those rights relative to the Existing Developed Area specified in the Easement.
- (c) The right to control predatory and invasive animals (including feral pigs) by the use of selective control techniques.
- (d) The right to utilize the Property for recreational or educational purposes (including organized sporting activities in the Existing Developed Area, and non-motorized recreational and educational activities throughout the Property) that are compatible with the protection of the Conservation Values and require or cause no significant surface alteration or other development or impairment of the land outside of the Existing Developed Area.
- (e) All rights for the management and improvement of the Property that are specifically allowed by the Management Plan.

7. NOTICE TO GRANTEE, GRANTEE APPROVAL.

- 7.1 Means of Notice.** Any notices to Grantee required in this Easement shall be sent by first class postage prepaid mail, or other courier providing reliable proof of delivery, or served personally to the following person and address, or other person or address as may be hereafter specified:

Placer Land Trust
Attn: Executive Director
11661 Blocker Drive, Suite 110
Auburn, CA 95603

All other communication shall be made by reasonable means under the circumstances, provided that facsimile and electronic mail (hereinafter “E-mail”) will not be deemed received unless accompanied by delivery of one of the foregoing methods. For routine communication, Grantee may be contacted by telephone, facsimile, or E-mail as follows:

Telephone: (530) 887-9222
Facsimile: (530) 888-7720
E-mail: info@placerlandtrust.org

It shall be the duty and responsibility of the Grantee, or its assigns, representatives or successors to notify the Grantor of any and all change of address to which legal notice is to be directed, in writing, by certified U.S. Mail, or other such equivalent mail delivery, within thirty (30) days of such change. Grantee will also endeavor to inform Grantor of any other changes to its contact information.

- 7.2 Purpose and Content of Notice.** The purpose of requiring Grantor to notify Grantee prior to undertaking certain activities as permitted and limited in Section 4 above, is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner consistent with the terms and Purpose of this Easement. Further, the purpose of notice is to prevent Easement violations through a cooperative approach. Notices to Grantee or requests for Grantee consent, required or contemplated hereunder, must include, at a minimum, sufficient information, including the nature, scope, design, location, timetable, and any other material aspect of the proposed activity, in sufficient detail to enable Grantee to determine whether proposed plans are consistent with the requirements of this Easement.
- 7.3 Process of Notice and Approval.** Whenever notice to Grantee is required, and unless otherwise specified to the contrary in this Easement, Grantor shall notify Grantee in writing not less than 30 days prior to the date Grantor intend to undertake the activity in question. Where Grantee’s approval is required, as in Section 4 above, Grantee shall grant or withhold its approval in writing within 30 days of receipt of Grantor’s written request therefore. Grantee’s approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement and the protection of the Conservation Values.

7.4 Failure to Respond. If Grantee approval is required under the terms of this Easement prior to the exercise of a reserved right that is the subject of the notification and request for approval, failure of Grantee to respond within thirty (30) days shall be deemed to be approval of any activity not specifically prohibited by or materially inconsistent with this Easement.

7.5 Transfers of Ownership. Grantor may transfer of any interest in the Property, including but not limited to any sale, gift, conveyance, or phased transfer subject to Grantee's approval and the conditions herein. Grantor agrees to give written notice to Grantee of the intended transfer at least thirty (30) days prior to the date of the beginning of such transfer. Prior to any such transfer, Grantor shall provide written notice to the prospective transferee(s) that the Property is subject to this Easement, with a copy of this notice provided to Grantee. Prior to Grantor's transfer of the Property, Grantor shall pay, or cause to be paid, to Grantee an unrestricted sum of Ten Thousand Dollars (\$10,000.00) in consideration of the increased cost of Easement stewardship. If Grantor fails to provide the notice and \$10,000.00 as required herein, Grantee may withhold approval of the transfer. Grantor shall provide Grantee with written proof of any transfer of ownership within fifteen (15) days after the date of any such transfer, which notice shall include a certified copy of the grant deed.

8. GRANTEE'S REMEDIES.

8.1 Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened or impending, Grantee shall give written notice to Grantor within three (3) business days of Grantee's determination. If the violation has occurred, Grantee has the right and authority to demand corrective action from the party causing the violation, sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by Grantee.

8.2 Injunctive Relief. If Grantor fails to cure the violation within 30 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to any such injury. Nothing in this Easement shall be construed to impair Grantee's right to seek temporary or permanent injunctive relief, including emergency relief, *ex parte* as necessary, to enforce the terms of this Easement against a violation or threatened violation hereof.

8.3 Damages. Grantee shall be entitled to recover actual damages from Grantor for actions by Grantor in violation of the terms of this Easement or causing injury to any

Conservation Values protected by this Easement, including, without limitation, actual damages for the loss of scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. In any action brought to enforce the obligations of Grantor under this Agreement, the judgment or decree shall be enforceable as far as the issue of monetary damages only in an amount not to exceed the Purchase Price in the aggregate, with the Purchase Price being the amount paid by Grantee to Grantor for this Easement.

- 8.4 Emergency Enforcement.** If Grantee, in its reasonable discretion, determines that immediate action is required to prevent or mitigate significant damage to the Conservation Values of the Property, Grantee may pursue its remedies under this Section 8 without prior notice to Grantor or without waiting for the period provided for cure to expire. In the event Grantee takes action pursuant to this Section, Grantee shall as soon as reasonably practical give notice to Grantor of the situation giving rise to the need for immediate action and the action taken and to be taken.
- 8.4 Scope of Relief.** Grantee's rights under this Section 8 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in paragraph 8.2 above, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Section 8 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
- 8.5 Costs of Enforcement.** All reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor following a breach by Grantor of the terms of this Easement that remains uncured after the expiration of the cure period, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor; provided, however, that if Grantor ultimately prevails in a judicial enforcement action Grantee shall pay all costs and expenses of suit and reasonable attorneys' fees incurred by Grantor in the defense of such action. Grantor or Grantee, as applicable, shall reimburse the prevailing party for any reasonable costs of enforcement, including court costs, reasonable attorney's fees, and any other payments ordered through mediation as described in Section 10 below, or as ordered by a court of competent jurisdiction.
- 8.6 Forbearance.** Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon

any breach by Grantor shall impair such right or remedy or be construed as a waiver.

8.7 Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural environmental causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement caused by earthquake, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. In addition, Grantor shall have no liability under this Easement to prevent or remediate any naturally-occurring deterioration or degradation of the Conservation Values or damage to the Property or Conservation Values caused by acts of Grantee or third parties.

9. NOTICE TO GRANTOR.

9.1 Means of Notice. Any notices to Grantor required in this Easement shall be sent by first class postage prepaid mail, or other courier providing reliable proof of delivery, or served personally to the following person and address, or other person or address as may be hereafter specified:

Auburn Recreation and Park District
Attn: District Administrator
471 Maidu Drive, Suite 200
Auburn, CA 95603

All other communication shall be made by reasonable means under the circumstances. For routine communication, Grantor may be contacted by telephone as follows:

Telephone: (530) 885-0611

It shall be the duty and responsibility of the Grantor, or its heirs, assigns, representatives or successors to notify the Grantee of any and all change of address to which legal notice is to be directed, in writing, by certified U.S. Mail, or other such equivalent mail delivery, within 30 days of such change. Grantor will also endeavor to inform Grantee of any other changes to their contact information.

9.2 Grantor's Designee. In the event that the Property is ever owned by a trust, business entity, or any common or jointly held ownership, the Grantor shall provide Grantee with written notice of a designated representative, who shall be responsible for the receipt of notices on behalf of Grantor hereunder. The approval of, or notice to, the designated representative shall be deemed the approval of, or notice to, the entity or all owners, as the case may be.

10. MEDIATION. If a dispute arises between the Grantor and Grantee (hereinafter, each individually a "**Party**", and collectively the "**Parties**") concerning use or activities on the Property, or the terms and conditions of this Easement, either Party may refer the dispute to mediation by request made in writing to the other, and the Parties agree not to proceed with the use or activity pending resolution of the dispute. Within ten (10) days of the receipt of

such a request, the Parties shall select a single trained and impartial mediator. If the Parties are unable to agree on the selection of a single mediator, then the Parties shall, within fifteen (15) days of receipt of the initial request, jointly apply to a proper court for the appointment of a trained and impartial mediator. Mediation shall then proceed in accordance with the following guidelines:

- (a) Purpose. The purpose of the mediation is to: (i) promote discussion between the Parties; (ii) assist the Parties to develop and exchange pertinent information concerning the issues in dispute; and (iii) assist the Parties to develop proposals which will enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or *de facto* modification or amendment of the terms, conditions, or restrictions of this Easement.
- (b) Participation. The mediator may meet with the Parties and their counsel jointly or *ex parte*. The Parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of the Parties with settlement authority will attend mediation sessions as requested by the mediator.
- (c) Confidentiality. All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the Parties or their respective counsel. The mediator shall not be subject to subpoena by any Party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceeding or construed as an admission of a Party.
- (d) Time Period. Neither Party shall be obligated to continue the mediation process beyond a period of ninety (90) days from the date of receipt of the initial request or if the mediator concludes that there is no reasonable likelihood that continuing mediation will result in a mutually agreeable resolution of the dispute.
- (e) Costs. The costs of the mediator shall be borne equally by Grantor and Grantee; the Parties shall bear their own expenses, including attorneys' fees, individually.

11. COSTS, LIABILITIES, TAXES AND ENVIRONMENTAL COMPLIANCE.

11.1 Control. Grantor acknowledges that Grantee has neither possessory rights in the Property, nor any responsibility or right to control, maintain, or keep up the Property other than those rights assigned to Grantee in Section 5 above, and those rights assigned to Grantee in the Management Plan. Nothing in this Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Property, or any of Grantor's activities on the Property, or otherwise to become an "owner" or "operator" with respect to the Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USCA Section 9601 *et seq.*) or any successor or related law (hereinafter "CERCLA"), and corresponding state statute.

11.2 Taxes. Grantor shall pay and discharge before delinquency all taxes, assessments,

fees, and charges of whatever description levied on or assessed against the Property and any uses thereof by competent authority (hereinafter, collectively “Taxes”), including any Taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee may, at its discretion, pay any outstanding Taxes and shall then be entitled to reimbursement by Grantor.

- 11.3 Liens.** Grantor represents that as of the date of this grant, there are no liens or mortgages outstanding against the Property, except any listed in Exhibit A that are subordinated to Grantee’s rights under this Easement. Grantor has the right to use the Property as collateral to secure the repayment of debt, provided that any lien or other rights granted for such purpose, regardless of date, are subordinate to Grantee’s rights under this Easement. Under no circumstances may Grantee’s rights be extinguished or otherwise affected by the recording, foreclosure, or any other action taken concerning any subsequent lien or other interest in the Property, including without limitation those arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.
- 11.4 Hold Harmless.** Grantor shall indemnify, defend, and hold harmless Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys’ fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, in each case, due solely to the acts of Grantor and its employees, agents, and contractors and the heirs, personal representatives, successors; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA and corresponding state statute by Grantor and its employees, agents, and contractors and the heirs, personal representatives, successors, in any way affecting, involving, or relating to the Property; and (3) the release in, on, from, or about the Property by Grantor and its employees, agents, and contractors and the heirs, personal representatives, successors, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment.
- 11.5 Liability Insurance.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate liability insurance coverage. Grantor shall provide Grantee with a certificate of insurance naming Grantee as additional insured. Additionally, Grantee shall provide Grantor a certificate of insurance naming Grantor as additional insured relative to Grantee’s activities on the Property.

11.6 Permits and Applicability of Other Laws. Grantor remains solely responsible for obtaining any applicable governmental permits and approvals for any construction or other activity or use permitted by this Easement, and all such construction or other activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Nothing herein shall be construed to: (i) supersede or exempt the Property from the application of laws and regulations affecting land uses on the Property, or to (ii) permit any activity otherwise prohibited by existing or future laws and regulations imposed by any federal, state, or local government or governmental agency having jurisdiction of the Property, or to (iii) prohibit the imposition of further land use restrictions consistent with the terms of this Easement and Management Plan by Grantor or by operation of law.

11.7 Environmental Laws and Remediation. Grantor is solely responsible, and Grantee has no responsibility whatsoever, for the operation of the Property or the monitoring of hazardous and other conditions thereon. Grantor is solely responsible for compliance with any federal, state, local, or administrative agency statute, regulation, rule, ordinance, order, or requirement relating to environmental conditions or hazardous substances. Notwithstanding any other provision of this Easement to the contrary, the Parties do not intend, and the Easement shall not be construed, such that it creates in the Grantee obligations or liabilities of a person described in 42 U.S. Code Section 9607(a)(3) or any successor or related law.

If there occurs a release in, on, or about the Property of any substance which causes damage to the values protected by this Easement and either Grantor caused the release or Grantor is required by federal, state, local, or administrative agency statute, regulation, rule, ordinance, order, or requirement to take steps to assure its containment and remediation, including any cleanup and restoration that may be required, Grantor agrees to take all such steps unless the release was caused by Grantee, in which case Grantee shall be responsible for those costs.

12. CONSERVATION EASEMENT REQUIREMENTS UNDER STATE AND FEDERAL LAW.

12.1 Qualified Organization. As described in Recital B, Grantee is an organization qualified to accept and hold agricultural conservation easements. The acceptance of this Deed of Agricultural Conservation Easement is consistent with the Grantee's mission to work with willing landowners to permanently preserve natural and agricultural lands in the Placer County region.

12.2 Voluntary and Involuntary Assignment, Executory Limitation, Successors. Grantee may voluntarily assign its rights and obligations under this Easement and its interest in this Easement only to an organization that is: (i) qualified to hold a conservation easement under Section 815.3 of the California Civil Code, (ii) experienced in holding and monitoring conservation easements on properties similar to the Property, and (iii) willing and financially able to assume all of the responsibilities imposed on the Grantee under this Easement. Before assigning its interest in this

Easement, Grantee shall provide written notice of such intention to transfer to both the Sierra Nevada Conservancy (hereinafter “SNC”) or its successor organization, and the Grantor (hereinafter “Transfer Notice”). To the extent possible under the circumstances of the transfer, Grantee will provide the Transfer Notice to Grantor and SNC at least 60 days prior to the date of transfer. The Transfer Notice shall identify the proposed assignee and include a description of how the proposed assignee meets the assignee designation criteria set forth in this section. The failure of Grantee to provide the Transfer Notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way. If SNC or the Grantor does not approve the proposed assignee, SNC or the Grantor shall provide the other party and the Grantee with the reasons behind such decision. SNC’s or Grantor’s approval of the transfer may not be unreasonably withheld.

Further, if Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code, or to be authorized to acquire and hold conservation easements under Sections 815 and 816 of the California Civil Code, then SNC shall, in consultation with Grantor, select an assignee that meets all the designation criteria specified in this section. If SNC is unable to identify an assignee that: (i) meets all the designation criteria specified in this section, and (ii) is willing to accept such assignment, then SNC may elect to serve as such assignee. Notwithstanding the foregoing, SNC may elect to exercise the rights of Grantee hereunder during any period that a successor assignee for Grantee is not yet in place.

As conditions to any assignment of this Easement, Grantee and/or SNC shall: (i) require the assignee to expressly agree in writing to assume Grantee’s obligations hereunder, and (ii) ensure that assignee has the resources to fulfill its obligations under the Easement.

Upon any liquidation or dissolution of SNC, SNC or the State of California shall have the right to assign SNC’s rights and obligations under this section to another entity that has a conservation mission and level of expertise consistent with that of SNC and sufficient resources and capacity to carry out the obligations of SNC.

The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Parties hereto and any heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. A Party’s rights and obligations under this Easement terminate upon transfer of the Party’s interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

13. EXTINGUISHMENT, VALUATION, AND CONDEMNATION.

13.1 Extinguishment. The Grantor and Grantee, and subsequent landowners and holders of the Easement, cannot voluntarily extinguish the Easement. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale,

exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be the stipulated fair market value of the Easement, or proportionate part thereof, as determined in accordance with paragraph 13.2 below.

13.2 Valuation. This Easement constitutes a real property interest immediately vested in Grantee, which the Parties stipulate to have a fair market value determined by the standard practice of determining the appraised value of the Property with and without the Easement at the time of termination. This appraisal valuation is to be completed following accepted Internal Revenue Service and Unified Standards of Professional Appraisal Practice (USPAP) standards, by an appraiser approved by Grantee and Grantor with experience valuing conservation easements. The appraisal will determine the value of the Easement being the difference between the value of the Property at its highest and best use according to economic value, and the value of the Property with this Easement in effect, as of the date of the appraisal. The appraisal will take into account investments made by any party into the Property that may affect valuation.

13.3 Condemnation. If all or any part of the Property is acquired by exercise of the power of eminent domain or by purchase in lieu of a related condemnation proceeding, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Property subject to the taking or in lieu purchase and all direct or incidental damages resulting there from and to have their interests valued separately to the extent reasonably possible. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall first be paid out of the amount recovered. Then, the Grantee's share of the amount recovered after expenses shall be equal to the proportion that the value of the portion of the Easement that is so taken (based upon the total value for the Easement set forth in Section 13.2 above) bears to the fair market value of the fee interest in the Property that is so taken. Any remaining amount shall be paid to the Grantor. Notwithstanding anything to the contrary contained in this Section 13.3, Grantor shall be entitled to the full amount of any condemnation award, proceeds from a purchase in lieu of a related condemnation proceeding or any other type of compensation with respect to the Existing Developed Area.

13.4 Application of Proceeds. Grantee shall use any proceeds received under the circumstances described in this Section 13 in a manner consistent with its stated conservation purposes.

14. GENERAL PROVISIONS.

14.1 Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of California.

14.2 Liberal Construction. This Easement shall be liberally construed in favor of the grant

to affect the purpose of this Easement and the policy and purpose of California State Civil Code, Sections 815 and 816. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

- 14.3 Joint Obligation.** A person's obligation hereunder as Grantor, or successor owner of the Property, shall be joint and several, and will cease, if and when such person or entity ceases to have any present, partial, contingent, collateral, or future interest in the Property (or pertinent portion thereof), but only to the extent that the Property (or relevant portion thereof) is then in compliance herewith. Responsibility of owners for breaches of this Easement that occur prior to the transfer of title will survive such transfer, provided that the new owner shall also be responsible for bringing the Property into compliance.
- 14.4. Subsequent Deeds and Transfers.** Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor shall adhere to Section 7.5 herein for any such divestment or transfer. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The grant or transfer of any new or existing easement or license for public or private ingress and egress through or across the Property or benefitting any other Property not subject to this Easement is prohibited. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.
- 14.5. Estoppel Certificates.** Upon request by Grantor, Grantee shall execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, which indicates the extent to which, to the best of Grantee's knowledge after due inquiry, the Property is in compliance with the terms of this Easement, after an inspection by Grantee made at Grantor's cost within a reasonable time after Grantor's written request therefore. Such certificate shall be limited to the condition of the Property as of Grantee's most recent inspection.
- 14.6 Amendment.** The Parties recognize that circumstances could arise which justify amendment of certain of the terms, covenants, or restrictions contained in this Easement, and that some activities may require the discretionary consent of Grantee. To this end, Grantor and Grantee have the right to agree to amendments and discretionary consents to this Easement without prior notice to any other party, provided that in the sole and exclusive judgment of the Grantee, such amendment or discretionary consent furthers or is not inconsistent with the purpose of this Easement. Amendments will become effective upon the signature of both Parties and recording at the Placer County Recorder's Office. Notwithstanding the foregoing, the Grantor and Grantee have no right or power to consent to any action or agree to any amendment that would increase the level of residential development permitted by the terms of this

Easement or limit the term or result in termination of this Easement, or adversely affect the qualification of this Easement or the status of Grantee under applicable laws, including the Internal Revenue Code.

- 14.7 Economic Hardship.** In making this grant, Grantor has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. It is the intent of both Parties that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement pursuant to Section 13 above. In addition, the inability of Grantor, or its heirs, successors, or assigns, to conduct or implement any or all of the uses permitted under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment.
- 14.8 Waiver of Certain Defenses.** The failure or delay of Grantee, for any reason whatsoever, to discover a violation or initiate an action to enforce this Easement shall not constitute a waiver or estoppel of its rights to do so at a delayed or later time. Grantor hereby waives any defense of laches, estoppel or prescription with regard to the enforcement of all other terms of this Easement.
- 14.9 Severability.** If any provision of this Easement or the application of any provision to a particular person or circumstance is found to be invalid, the remainder of this Easement and the application of such provision to any other person, or in any other circumstance, shall remain valid.
- 14.10 Entire Agreement.** This instrument (including all Attachments) sets forth the entire agreement of the Parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.
- 14.11 No Forfeiture.** Nothing contained herein will result in a forfeiture of this Easement or reversion to Grantor of any rights conveyed hereby.
- 14.12 Standing to Enforce.** Only Grantee and Grantor may bring an action to enforce this grant, and nothing herein should be construed to grant any other individual or entity standing to bring an action hereunder, nor any rights in the Property by adverse possession or otherwise, provided that nothing in this Easement shall affect any public rights in or to the Property acquired by common law, adverse possession, prescription, or other law, independently of this grant.
- 14.13 Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- 14.14 Additional Conservation Grants.** Nothing contained in this Easement shall be

construed either to limit the Grantor's rights to take additional conservation actions, such as further restrictions on the use of all or a portion of the Property, or to limit Grantor's right to cease using the Property for activities permitted herein in order to protect the Conservation Values of the Property, or otherwise.

14.15 Counterparts. The Parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by all Parties; each counterpart shall be deemed an original instrument as against any Party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

14.16 Recordation. Grantee shall record this instrument in timely fashion in the official records of Placer County, California, and may re-record it at any time as may be required to preserve its rights in this Easement.

TO HAVE AND TO HOLD the said Easement unto the said Grantee and its successors and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

Grantor: Auburn Recreation and Park District
471 Maidu Drive, Suite 200
Auburn, CA 95603

Grantee: Placer Land Trust
11661 Blocker Drive, Suite 110
Auburn, CA 95603

Fred Yeager
President

Gregg McKenzie
Treasurer

SCHEDULE OF EXHIBITS

- Exhibit A Legal Description of Property
- Exhibit B Grant Deed & PG&E Reserved Rights
- Exhibit C Existing Third-Party Uses
- Exhibit D Existing Beneficial Public Values (Conservation Values)
- Exhibit E Existing Developed Area Description, Restrictions and Allowable Activities

Note: Notary acknowledgements also attached as unnumbered pages.

Exhibit A

Legal Description of Property

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA,
COUNTY OF PLACER, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS:

PROPERTY

Exhibit A (continued)

MAP

Exhibit B

Grant Deed and PG&E Reserved Rights

Exhibit C
Existing Third-Party Uses

Exhibit D

Existing Beneficial Public Values (Conservation Values)

The purpose of conservation easements for Land Conservation Commitment is to protect the Beneficial Public Values (BPVs) of the properties in the Land Conservation Plan (LCP).

The specific BPVs for this Property (Conservation Values) are summarized below and described in more detail in the Baseline Documentation Report:

- (a) Habitat for plants, trees and wildlife that are native to the area.
- (b) Scenic character of the Property, including viewsheds from adjoining public roadways.
- (c) Recreational access and use of the Property, including organized sporting activities, hiking, exercising, picnicking, having group gatherings, playing games, relaxing, enjoying recreational amenities (such as ball fields), and similar recreational uses that are not incompatible with the Conservation Values of the Property.

Exhibit E

Existing Developed Area Description, Restrictions and Allowable Activities

1. DESCRIPTION

The Existing Developed Area is the southwestern portion of the Property, approximately ____ acres in size and further described below, containing primarily a parking lot and ball field.

a) Geographic Description

The Existing Developed Area is geographically located using Geographic Positioning Systems (GPS) and Geographic Information Systems technology, which at the time of the recordation of this Easement locates geographic points with a degree of accuracy within approximately 30 feet; the Parties agree that the geographic description of the Existing Developed Area may vary by this 30-foot amount. The coordinate system for the GPS points listed below is NAD_1983_StatePlane_California_II_FIPS_0402_Feet.

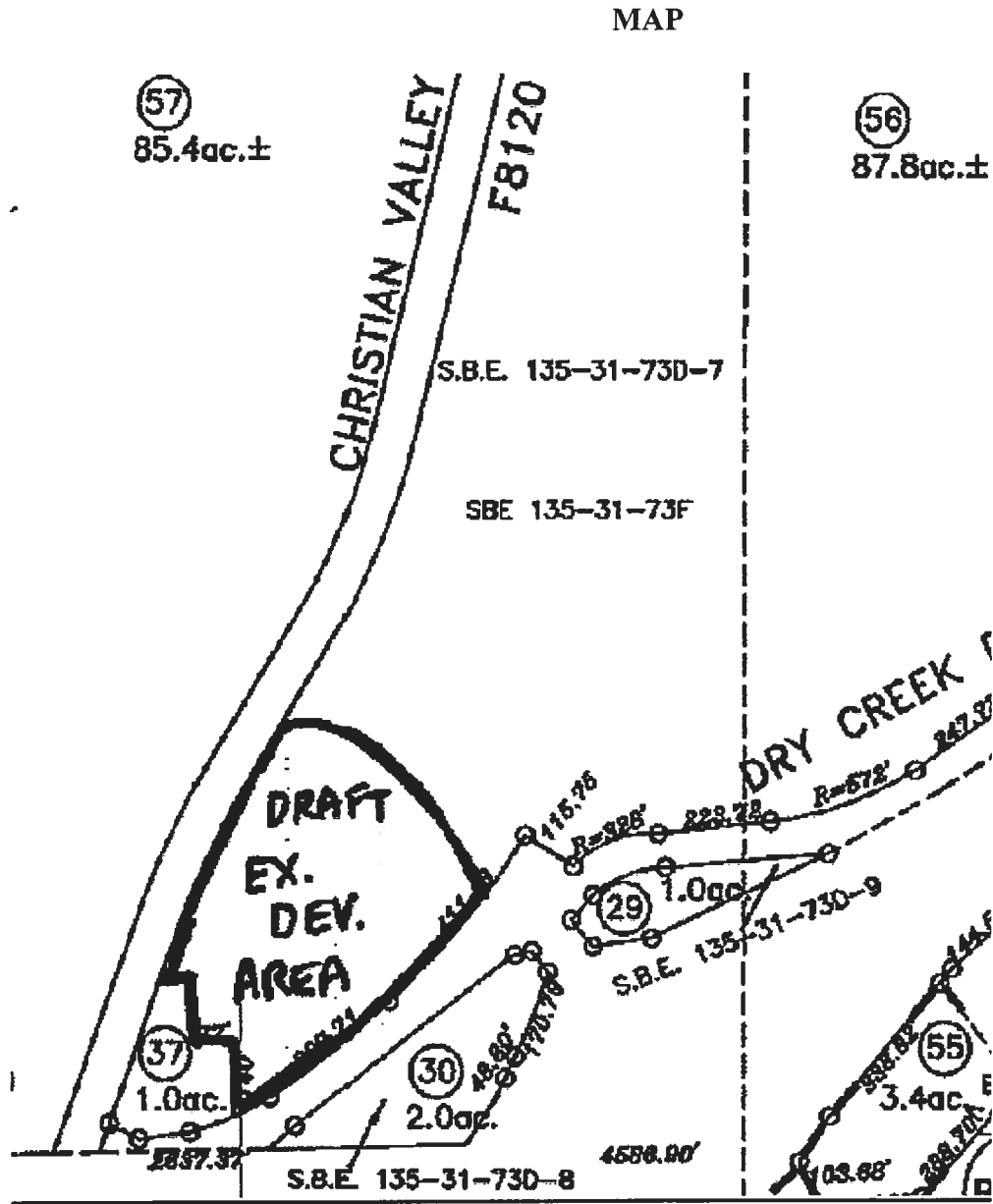
The Existing Developed Area is contained within an area bounded by the following GPS points, listed counter-clockwise starting at _____:

GPS Point	Northing	Easting	Description
1			
2			
3			
4			
5			
6			
7			

Although it is not required by this Easement, the Grantor may, at its own cost, survey the Existing Developed Area to create a legal description to more precisely define this area; in such case, the resulting legal description, if approved by the Parties in writing, would replace the above geographic description of the Existing Developed Area.

b) Map

This map of the Property shows the approximate location of the Existing Developed Area, with GPS points noted.



2. RESTRICTIONS

Grantor shall ensure that no activity in the Existing Developed Area is inconsistent with the protection of the Conservation Values on the remainder of the Property, with the exception of those activities in the Existing Developed Area that may affect the scenic values of the Property.

3. ALLOWABLE ACTIVITIES

Grantor reserves to itself and its successors and assigns the right to construct, maintain, alter, and improve, remove, and replace structures in the Existing Developed Area, subject to the restrictions in this Easement. Grantor shall be entitled to make other use of the Existing Developed Areas permitted by the Placer County's Zoning Ordinance that is in effect on the Property as of the date of this Easement, provided such use is not inconsistent with the protection of the Conservation Values. This Easement anticipates and allows public recreational use of the Property, including the Existing Developed Area. Specifically within the Existing Developed Area, this Easement anticipates and allows certain development including, but not limited to, park development, parking lot, ball fields, restrooms, storage buildings, picnic areas, concrete slabs, signage, kiosks, interpretive displays, fencing, gates, and similar development. Specifically within the Existing Developed Area, this Easement also anticipates and allows maintenance activities including, but not limited to, site preparation, grading, leveling, landscaping, tree and vegetation trimming and removal, mowing, and similar activities.

RESOLUTION NUMBER 2013-17

A RESOLUTION OF THE GOVERNING BOARD OF DIRECTORS OF THE AUBURN AREA RECREATION AND PARK DISTRICT AUTHORIZING THE DISTRICT ADMINISTRATOR TO SIGN A CONSERVATION EASEMENT WITH THE PLACER LAND TRUST FOR THE CHRISTIAN VALLEY PROPERTY DONATED BY PG&E

WHEREAS The Pacific Forest and Watershed Lands Stewardship Council (“Stewardship Council”) is a private, nonprofit foundation responsible for developing and implementing a land conservation plan for 140,000 + acres of land owned by Pacific Gas and Electric (“PG&E”), and

WHEREAS, PG&E has made available property adjacent to and including the Auburn Area Recreation and Park District’s (“ARD”) Christian Valley Park, and

WHEREAS, ARD is desirous of receiving this property through Fee Title Donation from PG&E, through the Stewardship Council and with a Conservation Easement being held by the Placer Land Trust, a nonprofit organization working with willing landowners and conservation partners to permanently preserve Placer County’s natural and agricultural lands for future generations, and

WHEREAS, the Fee Title Donation of these properties is contingent upon the ARD signing a Conservation Easement with the Placer Land Trust.

NOW, THEREFORE BE IT RESOLVED that the Auburn Area Recreation and Park District Board of Directors approves the Conservation Easement between ARD and the Placer Land Trust for the Christian Valley Park location and furthermore authorizes the ARD District Administrator to sign said Conservation Easement

APPROVED, PASSED, AND ADOPTED ON December 19, 2013 by the following roll call vote:

Ayes:

Noes:

Absent:

Abstain:

James A. Gray
Chairman of the Governing Board

ATTEST:

Clerk to the Governing Board

Item 9.4 Cover sheet – Railhead Park Improvements Notice of Exemption

December 9, 2013 Acquisition and Development Committee; December 19, 2013 Board of Directors meeting

Subject: CEQA Notice of Categorical Exemption for Improvements at Railhead Park

The Issue: Shall the Auburn Area Recreation and Park District adopt Resolution #2013-18, approving the Notice of Categorical Exemption for the playground and site improvements at Railhead Park?

Background: Staff has been working on development plans for Railhead Park that includes the installation of a new playground, shade structure and landscaping. As lead agency, ARD has authority to determine what level of CEQA environmental review, if any, is required. Staff has reviewed the currently adopted CEQA Guidelines and determined that the project qualifies for a NOE (Notice of Categorical Exemption.) As the project qualifies for an NOE, the project is exempt from CEQA based upon the following:

- Section 15303 New Construction or Conversion of Small Structures Class 3
- Section 15304 Minor Alteration to Land Class 4

As a project within an existing developed park area, the project would not have a significant effect on the environment and none of the exceptions to the applicability of a categorical exemption (section 15300.2 of the CEQA Guidelines) apply to the project. Please refer to the attached NOE for a more detailed explanation of why the project is exempt under the above referenced Sections.

Recommendation: Staff recommends the ARD Board of Directors approve Resolution #2013-18 and the NOE for the Railhead Park.

The Acquisition and Development Committee recommends approval of the Resolution.

Fiscal Impacts: There is a nominal filing fee with Placer County of approximately \$50.00.

Attachments:

- Notice of Categorical Exemption
- Resolution #2013-18

Notice of Categorical Exemption

To:

- Office of Planning and Research
Or
- County Clerk-Recorder-Registrar
Placer County
2954 Richardson Drive
Auburn, CA 95603

From:

Auburn Recreation District
471 Maidu Drive
Auburn, CA 94603

Project Title: Railhead Park Site Improvements

Project Location: Pacific Avenue, Auburn, CA

APN: 004 280 009 000

Project Location - County: Placer

Project Description:

Railhead Park is currently developed park with two large soccer fields, field lights, small shade structure, picnic tables, irrigation pond, parking lot, restroom and landscaping. Auburn Recreation District will construct an approximately 1300 square foot new metal shade structure with concrete slab, new concrete ADA compliant sidewalks and a new small play structure. There are several low areas on the project that collect standing water in the winter time. Minor surface grading will occur to correct this defect and to direct water into sub-surface area drains that will connect to the City of Auburn existing storm water inlet that is currently located in the project area. The minor site grading will not result in any export or import of material. New landscaping, including trees, shrubs, groundcover and sod will be installed to soften and beautify the existing park setting and to blend with the existing grass playfields. Fully automatic in-ground irrigation will be installed in the landscaped areas to assist in establishing the new plant materials and ensure their survival. The project site is approximately 13,000 square feet, (or .3 acres) total in size. The playground area is approximately 50' x 50' (2500 sq. ft.) and will include a perimeter safety fence. The shade shelter is approximately 1300 square feet and the landscaping is approximately 9200 square feet.

Lead Agency: Auburn Recreation District

Exempt Status: (check one)

- Ministerial Project
- Declared Emergency
- Categorical Exemption. Section 15303 New Construction or Conversion of Small Structures, Class 3, Section 15304 Minor Alteration to Land Class 4
- Statutory Exemption. State Code section number:

Reason why project is exempt: The project is within a developed park area and would not have a significant effect on the environment and none of the exceptions to the applicability of a categorical exemption (Section 15300.2 of the CEQA Guidelines) apply to the project. As an existing facility, Railhead Park functions as a neighborhood and community park serving the general Auburn Area. There is an existing wood shade structure in the project area that needs to be replaced due to age and deterioration. This would be replaced with a newer more durable structure suitable to serve the large existing soccer community that has used the park for many years. Section 15303 of the CEQA Guidelines provides for accessory structures. The shade structure and playground can be considered accessory structures and do not exceed the 2500 square feet limitation. Section 15304, Class 4 provides that projects involving minor alterations to land are categorically exempt from provisions of CEQA. This allows for new landscaping and minor trenching and backfilling where the surface is restored. Therefore the new landscaping and minor trenching for drainage is allowed and exempt from CEQA.

Lead Agency Contact Person: Kahl Muscott, District Administrator
Telephone: 530-885-0611. X102

Signature

Date

Title

Date Received for Filing: _____, 2013

(Clerk Stamp Here)

County Clerk

RESOLUTION NUMBER 2013-18

A RESOLUTION OF THE GOVERNING BOARD OF DIRECTORS OF THE
AUBURN AREA RECREATION AND PARK DISTRICT ADOPTING NOTICE OF
EXEMPTION PURSUANT TO CEQA GUIDELINES SECTION 15303 AND
SECTION 15304 IN CONNECTION TO THE CONSTRUCTION OF A NEW
PLAYGROUND, SHADE STRUCTURE AND LANDSCAPE IMPROVEMENTS AT
RAILHEAD PARK

WHEREAS on February 28, 2013, the Auburn Area Recreation and Park District Board of Directors approved the construction of a new playground, new shade structure and landscape improvements at Railhead Park, Auburn, California; and

WHEREAS, the California Environmental Quality Act (“CEQA”) requires a lead agency to consider the potential environmental effects of any project; and

WHEREAS, the Auburn Area Recreation and Park District staff evaluated the proposed project and recommended a CEQA Notice of Exemption pursuant to CEQA Guidelines Sections 15303 (new construction or conversion of small structures) and 15304 (minor alterations to land).

NOW THEREFORE BE IT RESOLVED AND ORDERED that the Auburn Area Recreation and Park District finds the Projects to be exempt from the provisions of CEQA under Class 3 Categorical Exemption Section 15303 (New Construction or Conversion of Small Structures) and Class 4 Categorical Exemption Section 15304 (Minor Alterations to Land), and approves the filing of the CEQA Notice of Exemption.

APPROVED, PASSED, AND ADOPTED ON December 19, 2013 by the following roll call vote:

Ayes:

Noes:

Absent:

Abstain:

James A. Gray
Chairman of the Governing Board

ATTEST:

Clerk to the Governing Board

SECTION 9.0

**ITEM: 9.5 CALIFORNIA SPECIAL DISTRICTS ASSOCIATION
(CSDA) CALL FOR NOMINATIONS - BOARD OF
DIRECTORS REGIONA 2, SEAT C**

DESCRIPTION:

INFORMATION: SEE ATTACHMENTS

STAFF

**RECOMMENDATION: BOARD OF DIRECTORS REVIEW INFORMATION
FROM CSDA , FOLLOW NOMINATION
PROCEDURES**



**California Special
Districts Association**
Districts Stronger Together

DATE: November 15, 2013
TO: CSDA Voting Members – REGION 2
FROM: CSDA Elections and Bylaws Committee
**SUBJECT: CSDA CALL FOR NOMINATIONS – Board of Directors
Region 2, Seat C**

CSDA is conducting a call for nominations for a Region 2, Seat C Director for the remainder of the 2012-2014 term.

The leadership of CSDA is elected from its six geographical regions. Each of the six regions has three seats on the Board with staggered 3-year terms. Candidates must be affiliated with an independent special district that is a CSDA regular member located within the geographic region that they seek to represent. (See attached Region Map)

The CSDA Board of Directors is the governing body responsible for all policy decisions related to CSDA's member services, legislative advocacy, education and resources. The Board of Directors is crucial to the operation of the Association and to the representation of the common interests of all California's special districts before the Legislature and the State Administration.

Commitment: Serving on the Board requires one's interest in the issues confronting special districts statewide. A board member is expected to attend all board meetings held every other month at CSDA's office in Sacramento. Besides serving on the Board, each Board Member is expected to participate on at least one committee, which usually meets 3-4 times a year in Sacramento. CSDA reimburses directors for their related expenses for Board and Committee meetings as outlined in Board Policy. In addition, all Board Members are expected to attend CSDA's two annual events: Special Districts Legislative Days (held in the spring) and the Annual Conference (held in the fall) as part of their obligation to the CSDA membership; expenses for these two events are not reimbursed by CSDA, even if a board meeting or committee meeting is held in conjunction with the event. Within 2 years of being elected, a board member is also expected to complete all four modules of CSDA's Special District Leadership Academy.

Nomination Procedures: Any regular member Independent Special District is eligible to nominate one person, a board member or managerial employee (as defined by that district's Board of Directors), for election to the CSDA Board of Directors. **A copy of the member district's resolution or minute action and a letter of experience or resume from the nominee must accompany the enclosed nomination form. The deadline for receiving nominations is January 10, 2014.** Nominations and supporting documentation may be mailed or faxed.

Nominated candidates will then be interviewed by the Region's existing directors and the successful candidate will be appointed by vote of the CSDA Board.

If you have any questions, please contact Charlotte Lowe at 877-924-CSDA or charlottel@cda.net.



**California Special
Districts Association**
Districts Stronger Together

BOARD OF DIRECTORS NOMINATION FORM

PLEASE BE SURE THE CANDIDATE'S PHONE NUMBER IS ONE WHERE WE CAN REACH THE CANDIDATE

Name of Candidate: _____

District: _____

Mailing
Address: _____

Region: 2

Telephone: _____

Fax: _____

E-mail: _____

Nominated by (optional): _____

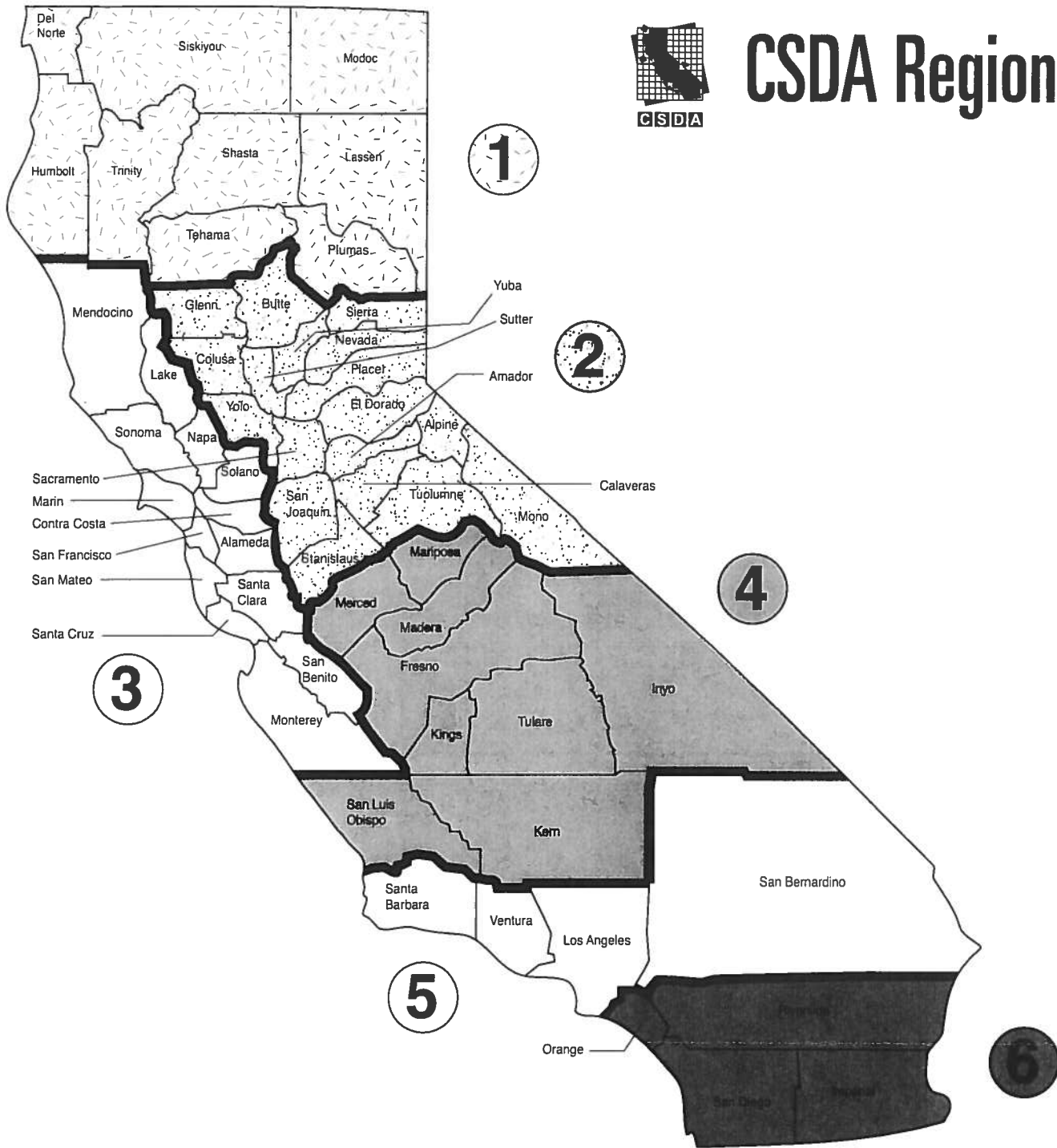
Return this **form, letter of experience/resume and a Board resolution/minute action**
supporting the candidate by fax or mail to:

CSDA
Attn: Charlotte Lowe
1112 I Street, Suite 200
Sacramento, CA 95814
(877) 924-2732 (916) 442-7889 fax

DEADLINE FOR RECEIVING NOMINATIONS – January 10, 2014



CSDA Regions



2013 Board of Directors by Region

Region 1

John Woolley, *Manila CSD*
 Greg Orsini, *McKinleyville CSD*
 Phil Schoefer, *Western Shasta RCD*

Region 2

Vacant
 Noelle Mattock, *El Dorado Hills CSD*
 Ginger Root, *Tuxedo Country Club FPD*

Region 3

Vincent Ferrante, *Moss Landing Harbor District*
 Sherry Sterrett, *Pleasant Hill RPD*
 Stanley Caldwell, *Mt. View Sanitary District*

Region 4

Steven Esselman, *North of the River MWD*
 Tim Ruiz, *East Niles CSD*
 Steve Perez, *Rosamond CSD*

Region 5

Elaine Freeman, *Rancho Simi RPD*
 Kathy Tiegs, *Cucamonga Valley Water District*
 Jim Acosta, *Saticoy Sanitary District*

Region 6

Jo MacKenzie, *Vista Irrigation District*
 Bill Nelson, *Orange County Cemetery District*
 Elaine Sullivan, *Leucadia Wastewater District*

SECTION 13.0

**ITEM: CORRESPONDENCE/COMMUNICATIONS AND
INFORMATIONAL**

1. Thank you note from the American Legion Post # 620 Rocklin.



Thank You For Your Donation

To: The Auburn Recreation Center:

We thank you for your support of our Veterans Bunco Fundraiser by providing us with card tables. We had a good turn out and raised \$6,900 plus a generous amount of canned goods to help our local veterans and their families in need. This can only be done with the help of community supporters and we thank you sincerely,

Lou & Shirley Skulis and

The American Legion Post # 620 Rocklin

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November 19, 2013 | Your Neighbor Since 1872

Auburn Journal

currently **52°F**
Scattered Clouds

tomorrow **High 61°F**
Low 46°F

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Tuesday Nov 19 2013 | 1 comments

ARD board to continue talks about bike track, Overlook Park

Large crowd expected; possibilities include sharing track with skaters

By: Amy Lobenberg, Journal Staff Writer

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Members of the Auburn Recreation District are set to continue talks on a possible bicycle pump track and other future plans for Overlook Park.

The board of directors is scheduled to vote Thursday night to officially make Overlook Park the set location for the proposed bicycle pump track. The meeting will also include further discussion of park security and a plan to mix bike riders with skateboarders at the skate park.

Board member Curtis Smith expects the meeting to draw another large crowd of people who are

now more willing to compromise on the issues revolving around the park and pump track.

"We have been trying to figure out how to deal with the problem at Overlook Park for many years," Smith said. "I am very much in favor of us spending the money to secure that park at night. Hopefully it will cut down the loitering and noise. I think it will be a very good thing for the community. Those folks have come to several meetings and are trying to get along. That's a result of people standing out in the parking lots after meetings, trying to figure out a way to come together. I think it's super that these folks are trying to work things out."

After originally not seeing eye to eye, groups such as Auburn Bike Park and the Sierra Club have been working together to reach a compromise.

"We have made amazing headway," said Diana Boyer, coordinator of the Auburn Bike Park Committee. "The problem is not with the skate park. People recognize that the skate park is really pretty quite. The problem is with loitering. People are pulling up to the end of the park and blasting loud music. We are also seeing issues with transients. We have some plans with putting a gate in and locking it at night, and we are also looking at closing off some of the parking at the end of the lot."

The agenda also suggests a sort of trial run -- allowing cyclists access to the skate park a few days a week. However, not everyone is in support of the idea.

"That suggestion came from the ARD committee, and I am not going to support it because it creates conflict between user groups," Boyer said. "I think it's better to be left alone. If the neighbors want to know who the bikers are they can go there and see."

Board member Scott Holbrook initially proposed the idea of finalizing the location of the pump track at Overlook Park. He believes it is an issue that needs to be immediately addressed.

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"Being on the board as long as I have, I have found that if we can solidify a location, the earlier the better," Holbrook said. "That way we can mitigate concerns as soon as they come up. I'm glad it's getting some of the forefront. It is a cool area, and I think the more we can do to get people out there to recreate, the better. We will have a full house at the meeting, I'm sure, but there all good people involved, which is good. I sympathize with neighbors and support the use of this track."

The ARD Board of Directors meeting begins at 6 p.m. Thursday in the Canyon View Community Center board room, 471 Maidu Drive.

Keywords:

overlook park pump track Curtis Smith Diana Boyer Scott Holbrook ARD board of directors meeting



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 **Pablo Sust** Top Commenter Auburn, California
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Pump track encounters more problems

Agenda item leads to confusion and controversy

By: Amy Lobenberg, Journal Staff Writer



The Auburn Recreation District board meeting was rife with controversy Thursday evening over an agenda item that called for the designation of the site for the Auburn Bike Park/Pump Track.

About 50 proponents of the track and eight members of the Gold and Belmont streets community showed up for the 6 p.m. meeting to argue the pros and cons of a possible pump track being added to Overlook Park.

Several ARD directors were upset that the item had been added to the agenda, noting that it unnecessarily brought people out of their homes.

"I don't think we should be voting on anything tonight because even the acquisition and development board does not have enough information yet," ARD Director Jim Gray said. "I don't know why it's even on here."

Director Gordy Ainsleigh was apologetic.

"I would like to apologize to you that all of this happened," Ainsleigh said. "There is really no reason for you to be out here tonight."



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Director Scott Holbrook, the member responsible for adding the controversial agenda item, said that he had hoped further discussion would speed up the decision-making process.

"We don't have to make a final choice, but maybe we can narrow it down," Holbrook said.

Diana Boyer of a group called the Auburn Bike Park Committee was the first up for public comment and expressed gratitude for the directors' consideration of the pump track.

"We want to honor your process," Boyer said. "We are just happy that you are willing to bring a bike park to Auburn."

Other members of the bike group stated that the process had been taking too long and that their kids would be grown by the time a decision was made.

Two residents of the Gold and Belmont neighborhood spoke and reiterated their concern that the track would bring increased noise and loitering issues. Several appeared to be in favor of closing the park at night and installing a gate.

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"Our concern is noise," said neighborhood resident Bud Rietjens. "Noise is the issue. We are going to be getting people noise that will be amplified into our backyard."

At press time on Thursday night the board had yet to consider other agenda items.

The next ARD Board of Directors meeting will be at 6 p.m. Dec. 19 at 471 Maidu Drive in Auburn.

Keywords:

Auburn Recreation District pump track jim gray Gordy Ainsleigh Scott Holbrook Diana Boyer Auburn Bike Park Committee Bud Rietjens



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Diana Boyer Auburn, California
 Re: "50 proponents" – it was closer to 100 counting all of the kids there too! And there are hundreds more who support our efforts. Truly Auburn needs a bike park and it needs to be centrally located so that its accessible and so our kids can get there safely. We heard great input from the community last night and we're ready to keep moving this forward, working with ARD and with the community's support!
[Reply](#) [3 Like](#) November 22 at 7:12am

Scott Holbrook Top Commenter CEO/Janitor at Scott's Econo Lube N' Tune & Brakes
 Despite some confusion, and misunderstandings - it was a good meeting, the turnout was great - we had a ton of discussion & it turned out to be very productive & some good progress was made & for many some clarity provided. I look fwd to the next step in bringing a Pump Track to Auburn, as the turnout showed it will likely be a very popular and used facility & a great addition to the community!
[Reply](#) [2 Like](#) November 22 at 6:23am

Bob Ward Top Commenter Placer High
 Why is it called a "pump" track?
[Reply](#) [1 Like](#) November 22 at 7:07am

Jared Mickel Top Commenter
 Bob Ward Its called a pump track because, if designed correctly, the track can be navigated with little or no pedaling. In the way that a play ground swing is motivated by pumping your legs, the necessary energy for navigating a pump track can be built and maintained by moving the riders center of gravity relative to the bike and terrain. It ends up being much more of a timing, balance, and whole body core strength experience than simple pedaling.
[Reply](#) [1 Like](#) November 22 at 1:27pm

Frederic Bastiat Top Commenter
 Scott Holbrook's actions resulted in confusion and misunderstanding? Big surprise
[Reply](#) [2 Like](#) November 22 at 9:45am

Bob Ward Top Commenter Placer High
 How would this thing be paid for?
[Reply](#) [Like](#) November 22 at 8:38am

Scott Holbrook Top Commenter CEO/Janitor at Scott's Econo Lube N' Tune & Brakes
 This facility would be funded by a variety of sources - as was the case with the Ashley Memorial Dog Park, a group of community folks have come together to support this facility, so far the Auburn Bike Park supporters have raised 10's of thousands of dollars with more on the horizon, in addition the ARD will likely utilize some funds, be it Mitigation or from our Capital Improvement reserves - What is cool about this project, is the impact on tax payers is very minimum - the cost / benefit ratio is extremely high, it is a relatively low maintenance facility & in addition to funding, the supporters like with the dog park are providing design & construction help via tradesmen and other industry specialist willing to donate to the cause. Further there will be a Memorandum of Understanding created with the Bike Park group for the ongoing maintenance. This is a great model for Public / Private - Community Project - minimum expenditures & cost with a big use potential & great opportunity for many in the community, - when a temporary mini-course was set up, literally 100's showed up to use it - and as an expert who spoke last night highlighted, the facility will serve folks from all ages - I am really looking forward to adding this to our parks!
[Reply](#) [1 Like](#) November 22 at 8:57am

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