

JOINT USE AGREEMENT

Allocation of Measure WW Park Bond Funds Byron Union School District Family Playground

This joint use agreement (“Agreement”) is dated _____, 2016 (the “Effective Date”), and is between the BYRON UNION SCHOOL DISTRICT, a California public school district (the “School District”), and the COUNTY OF CONTRA COSTA, a political subdivision of the State of California (the “County”).

RECITALS

- A. In November 2008, the voters of Alameda County and Contra Costa County approved the East Bay Regional Park District’s (“EBRPD”) Measure WW Park Bond Extension (“Measure WW”). A portion of the proceeds that resulted from the issuance of the Measure WW bonds have been set aside for a local grant program, under which eligible applicants are granted Measure WW funds for eligible projects.
- B. The County and EBRPD are parties to Master Contract No. ____ (the “Master Contract”), under which EBRPD is making a grant of Measure WW funds to the County for the acquisition and development of neighborhood, community and regional parks and recreation lands and facilities in the unincorporated area of Contra Costa County. The amount of such grant is referred to as the “Grant Proceeds.” A copy of the Master Contract is attached as Exhibit A.
- C. The School District owns that certain property located at 14301 Byron Highway, Byron, California, which is the location of the. A portion of the district site consists of approximately 3 acres located on the south west portion of the site (the “Project Site”). An aerial photograph that shows the Project Site is attached as Exhibit B.
- D. The County desires to use a portion of the funds it received from EBRPD under the Master Contract to renovate the Project Site by performing the tasks described on Exhibit C. The performance and completion of such tasks is the “Project.”
- E. California Education Code section 10900 et seq. authorizes counties and school districts to acquire, construct, improve, maintain, and operate recreation centers within or without their territorial limits.
- F. California Education Code section 17527 et seq. authorizes the governing board of any school district to enter into agreements permitting the use of vacant classrooms or other space in operating school buildings, and the permanent improvement of school grounds, by governmental units. To promote general educational and recreational objectives for children and adults of the community at large, the School District and the County desire that the School District and the County jointly provide a school park at the Project Site, to be used by the School District and the County.

The parties therefore agree as follows:

AGREEMENT

1. Joint Use of Project Site. For the Term of this Agreement, the School District and the County will jointly use the Project Site. Once the Project is complete, the School District shall cause the Project Site to be available for general public recreation, at a minimum, during the following times: After 3:30 p.m. on weekdays and all day on Saturday.
2. Term. The “Term” of this Agreement begins on the Effective Date and ends on the date that is twenty-five years after the date the Project is complete. If no record of the Project completion date can be found, the Term of this Agreement ends on the twenty-sixth anniversary of the Effective Date.
3. Consideration. In exchange for the County allocating \$600,000 of the Grant Proceeds to the School District, the School District shall (i) complete the improvements to the Project Site that are identified on Exhibit B, and (ii) permit the County to use the Project Site for the purposes described below.
4. Surrender of Project Site. On the last day of the Term, the County shall peaceably and quietly leave and surrender to the School District the Project Site, along with any improvements thereto.
5. Use. The County may use the Project Site for community park and recreation purposes. In accordance with Section B.10 of the General Provisions of the Master Contract, if the use of the Project Site changes to a use that is not for parks and recreation, or if the Project Site is sold or otherwise disposed of, the School District shall pay to the County the Reimbursement. The “Reimbursement” is an amount that equals (i) the Grant Proceeds, (ii) the fair market value of the Project Site, or (3) the proceeds from the sale or other disposition of the Project Site, whichever is greater. The School District shall pay the Reimbursement to the County within thirty (30) days of a demand from the County. The County shall use the Reimbursement to either make capital improvements related to parks and recreation facilities, in accordance with an agreement between the County and EBRPD, or to reimburse the Grant Proceeds to EBRPD.
6. Maintenance. The School District is responsible for maintaining the Project Site throughout the Term. The School District’s maintenance responsibilities include weed abatement, trash collection, abatement of any illegal dumping on the Project Site, and abatement of any vandalism on the Project Site.
7. Funding Acknowledgment Sign. The School District shall post, or permit the County to post, a funding acknowledgment sign on the Project Site. The funding acknowledgment sign is to remain onsite for at least three years after completion of the improvements described on Exhibit C.

8. Nondiscrimination. In accordance with Section I of the General Provisions of the Master Contract, the School District shall not (i) discriminate against any person on the basis of sex, race, color, national origin, age, religion, ancestry, sexual orientation, or disability in the use of the Project Site during the Term, (ii) discriminate against any person on the basis of residence, except to the extent reasonable differences in admission or other fees based on residence are permitted by law.
9. Site Visits. The School District shall permit representatives of the County and representatives of EBRPD to make periodic inspections of the Project Site to determine that the School District is complying with the terms of this Agreement.
10. Indemnification.
 - a. By County. County shall indemnify, defend and hold the School District harmless from the County's share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorneys' fees, caused by the willful misconduct or the negligent acts, errors, or omissions of the County, its officers, agents or employees in implementing the Site Improvements, except to the extent caused or contributed to by the negligent acts, errors, or omissions of the School District, its officers, agents or employees. During the term of this Agreement, the County must maintain liability insurance or a self-insurance fund sufficient to protect the School District from the risks stated in this section.
 - b. By School District. The School District shall indemnify, defend and hold the County harmless from School District's share of any and all claims, costs and liability for any damage, injury or death of or to any person or the property of any person, including attorneys' fees, caused by the willful misconduct or the negligent acts, errors or omissions of the School District, its officers, agents or employees with respect to the Project Site, except to the extent caused or contributed to by the negligent acts, errors, or omissions of the County, its officers, agents, or employees. During the term of this Agreement, the School District must maintain liability insurance or a self-insurance fund sufficient to protect the County from the risks stated in this section.
11. Notices. All notices required or permitted under this Agreement are to be in writing and delivered personally, or sent by overnight delivery service, or registered or certified mail, postage prepaid and directed as follows:

If to the District:

Debbie Gold
Byron Unified School District
14301 Byron Highway
Byron, CA 94514

If to County: John Kopchik
The County of Contra Costa
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Either party may, at any time or from time to time, designate in writing a substitute address for that above set forth, and thereafter notices are to be delivered to such substitute address for that above set forth. Notices to either party are effective on the date of delivery, if delivered personally, on the next business day if sent by overnight courier, and three business days after depositing in the United States Postal system if sent via registered or certified mail.

12. Project Administration. The School District shall cooperate with the County in preparing any Project Status Reports required by EBRPD during the Term.
13. Project Termination. If any portion of the grant being made to the County under the Master Contract that is intended to be used for the Project is terminated for any reason, the County has no obligation to carry out the Project.
14. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to, or does, confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
15. Governing Law. The laws of the State of California govern all matters between the parties that relate to this Agreement.

The parties are signing this agreement as of the Effective Date.

COUNTY

COUNTY OF CONTRA COSTA, a political subdivision of the State of California

By: _____
John Kopchik
Director of Conservation
and Development

SCHOOL DISTRICT

BYRON UNIFIED SCHOOL DISTRICT, a California public school district

By: _____
Debbie Gold
Superintendent