



Board Agenda Item 49

DATE: September 11, 2018

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Department of Public Works and Planning

SUBJECT: Fresno County Disc Golf License Agreement

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute a License Agreement with Fresno County Disc Golf, for construction and installation of an 18-hole disc golf course at Kearney Park, effective upon execution, not to exceed five consecutive years, which includes a three-year base contract and two automatic one-year renewals (\$0).**
- 2. Authorize the Director of the Department of Public Works and Planning, subject to review and approval by County Counsel and Auditor-Controller/Treasurer-Tax Collector, to execute final escrow agreement, including any changes to the form to finalize it for the parties' execution, among the County, Fresno County Disc Golf, and a bank selected by Fresno County Disc Golf.**

The recommended actions are based on your Board's direction on December 12, 2017, in which your Board approved Fresno County Disc Golf's (FCDG) proposal to construct an 18-hole course at Kearney Park. Additionally, staff was directed to negotiate an agreement with FCDG for construction of the course. The course construction will be paid for and maintained with private funds, with no increase in Net County Cost. This item relates to property located in District 1.

ALTERNATIVE ACTION(S):

Your Board may deny or direct staff to modify the language of the proposed agreement. If denied, the course will not be constructed.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. FCDG will utilize private funds to construct the course at Kearney Park. FCDG has agreed to enter into an escrow agreement with the County to establish a maintenance trust fund and deposit \$1,000 into the fund within 30 days of the execution of the proposed agreement. In addition, FCDG will make annual deposits of \$200 into the trust fund, until the fund reaches a maximum balance of \$2,000, to ensure that maintenance dollars are available for the County to use to maintain the course during the term of the License Agreement.

DISCUSSION:

Under the recommended License Agreement, FCDG will construct and install the disc golf course in a currently little-used portion of the eastern side of Kearney Park. Among the terms outlined in the

recommended agreement is the requirement that all expenses related to the construction and maintenance of the disc golf course be the sole responsibility of FCDG. Additionally, FCDG must maintain insurance in compliance with County Risk Management's requirements while constructing and installing the disc golf course. Upon completion of the project, the project shall become the property of the County, the gift of property shall be subject to formal acceptance by County via a resolution adopted your Board.

The proposed License Agreement provides:

- FCDG acknowledges that the users of the disc golf course remain subject to any and all applicable County rules and regulations for use of Kearney Park, as well as park vehicle entrance fees.
- FCDG agrees/acknowledges that its use and its member's use is non-exclusive and may not create any interference with nearby park users.
- FCDG and its members agree to conduct their disc golf activities in a safe and orderly manner.
- FCDG agrees that County may prohibit any disc golf use during special events at the park.
- To ensure that there are adequate and available funds to maintain the project for its useful life, FCDG and County will enter into an escrow agreement and FCDG shall deposit at least \$1,000 into a trust fund pursuant to that escrow agreement within 30 days of the execution of the License Agreement. Thereafter, FCDG shall make additional annual contributions of not less than \$200, no later than the anniversary of deposit. These funds shall be used by the County for maintenance expenses during the term of the License Agreement after the project is gifted to the County.
- If the License Agreement is terminated at any time prior to the completion of the project, FCDG shall restore the project area to its prior existing condition, at FCDG's sole expense.
- If your Board at any time declares the project is no longer being used by the public, including FCDG, or conflicts with another use or planned use of Kearney Park by the County, your Board may direct the immediate removal of the project. If any funds remain in the trust fund upon such removal, such funds shall be refunded to FCDG, but if FCDG is no longer in existence at that time, the funds shall revert to the County.

FCDG has selected a bank to enter into the escrow agreement and establish the future maintenance trust fund described above.

The term of the proposed agreement is three years with two automatic one year extensions. Prior to the termination of the recommended agreement, Department of Public Works and Planning staff will return to your Board with a new proposed agreement at which time the Board may consider whether to continue maintenance for another five years.

REFERENCE MATERIAL:

BAI #35, December 12, 2017
BAI #47, December 13, 2016
BAI #17, May 10, 2016

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with Fresno County Disc Golf

CAO ANALYST:

Sonia M. De La Rosa