



# Monterey County

## Parks Commission

### Agenda Item #4

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Receive a report on the status of Amendment No. 3 to the Agreement between the County of Monterey and Urban Park Concessionaires, dba Monterey Lakes Recreation Company (CalParks).

#### RECOMMENDATION:

It is recommended that the Parks Commission:

Receive a report on the status of Amendment No. 3 to the Agreement between the County of Monterey and Urban Park Concessionaires, dba Monterey Lakes Recreation Company (CalParks).

#### SUMMARY:

The Resource Management Agency (RMA) is in the process of re-negotiating Amendment No. 3 to the Agreement with CalParks for management of County facilities at Lake Nacimiento and Lake San Antonio. This Amendment was presented to the Board of Supervisors on June 27th. Questions were raised about impact to existing staffing levels, so the board referred this to the Parks Committee for consideration.

On July 10, 2017, the RMA presented the proposed Amendment No. 3 in its original form to the Parks Committee requesting their support in bringing the amendment back to the Board of Supervisors and after staff presented its report the Parks Committee supported the recommendation to move Amendment No. 3 to the Board of Supervisors.

Following the Parks Committee meeting, the Auditor-Controller's Office requested changes be made to the amendment. These changes include reducing the term extension from two (2) years as recommended by RMA to eight (8) months, and adding language to clarify how independent audits will be conducted. RMA is working with the Auditor-Controller's Office, County Counsel, and CalParks to finalize these changes.

This Amendment does not change in any way the duties assigned to either County staff or Calparks. Resource Management Agency (RMA) will continue to assign staff as needed for management of County parks regardless of this agreement. This Amendment allows RMA to continue operating Lake San Antonio and Lake Nacimiento and maintain services levels at other county parks, similar to how the County is operating the Laguna Seca Raceway park. The 2-year timeframe is to allow time to solicit proposal for a long-term agreement.

Revenues at the lakes are uncertain. Having an agreement such as this allows flexibility to maintain services with the ebb-and-flow of revenue.

DISCUSSION:

On October 1, 2007, the County took ownership of assets from Water World Resorts, Inc. and Lake San Antonio Resorts, Inc., including both real and personal property, as authorized by the Board of Supervisors on July 24, 2007. Six months later, on April 22, 2008, the County contracted with a management company to operate the resort business operations at both lakes which include marinas, stores, restaurants, fueling facilities, lodging units, and boat rentals.

Subsequently, on May 3, 2011 the Board of Supervisors approved the Management Agreement with Urban Park Concessionaires (commonly referred to as CalParks) for an 18-month term from May 11, 2011 through October 31, 2012. The Board also approved Addendum No. 1 to extend the term for a one-year extension through October 31, 2013 and Addendum No. 2 to extend the term through January 31, 2015. The agreement and addenda have authorized CalParks to manage operations at Lakes San Antonio and Nacimiento ("Lakes").

On May 17, 2016, the Board of Supervisors approved a new agreement through July 26, 2016. This date was agreed to allow the Fiscal Year 2016-17 budget process to be completed. The proposed budget had contemplated layoffs of full time County employees. The Board allocated one-time funding for Fiscal Year 2016-17 that allowed for the restoration of three (3) employees and expense funds for the County to continue with the operations of resort repairs, public safety, water, sewer and trash removal.

On July 19, 2016, the Board of Supervisors approved Amendment No. 1 to the new agreement, extending the term through October 31, 2017. This was intended to allow the County time to begin the analytical work needed to decide whether to negotiate a new agreement for up to a five-year period as requested by the vendor, or to rebid as either a Management Agreement, Concession Agreement or a combination.

Pursuant to direction of the Board of Supervisors during the June 2, 2016 Budget Hearings, the Resource Management Agency (RMA) Director was appointed as the interim Parks Director effective July 20, 2016.

On December 13, 2016, the Board of Supervisors approved the integration of the Monterey County Parks Department into the Resource Management Agency. As part of the integration, RMA generally assumed responsibility for Parks agreements; however, the County Administrative Office (CAO) assumed lead for agreements with Laguna Seca. It was determined that the County would issue a new Request for Proposal (RFP) for Lakes management. In preparation of this RFP, staff is requesting a two (2) year extension of the current agreement with CalParks to allow time to prepare a complete and thorough scope of work that will clearly detail the roles and responsibilities of both the County and the contractor.

Staff will be developing and conducting a comprehensive RFP of qualified bidders to enter a long-term agreement to manage three Lakes operations, which include Nacimiento, Lake San Antonio-South Shore and Lake San Antonio-North Shore. In the meantime, RMA will continue to work closely with CalParks to consider additional assigned duties, a process which is separate from this Amendment. Additional duties may include maintenance and

repair of all buildings and facilities at the Lakes, maintenance of grounds and open space, security for the Lakes during peak season, and environmental monitoring. Assigning these duties to CalParks will allow management to utilize current county staff to address unmet needs within the Park and Lake operations. County staffing levels would not be affected by this action.

OTHER AGENCY INVOLVEMENT:

On June 27, 2017, the Auditor identified concerns relative to attaching a signed agreement, required audits and review by his office.

The Auditor's Office expressed concern that the original contract was not properly signed, in that it did not include signatures from the Auditor's office. The original Agreement and Amendments 1 and 2 were drafted and executed prior to the integration of Parks into RMA. All previous agreement documents do not include signature lines for the Auditor's office. The specific circumstances surrounding these documents are not fully known, however, RMA follows standard County practice that all agreements be sent to the Auditor's office for signature. RMA will continue to send agreements to the Auditor's office for signature and going forward will include the Auditor's office in pre-reviews of agreements going to the Board of Supervisors.

The Auditor-Controller called attention to Section 6 of the Agreement, Management and Management Incentive Fees, which addresses the basis for calculating the monthly management fee and annual incentive fee. The section states that the fees will be based on CalPark's Profit and Loss Statement (P&L), and allows for the County to audit and approve the P&L. CalParks submits their P&L, Trial Balance, and General Ledger one month after each month end closes and County staff reviews and verifies the financial statements to ensure they comply with the Agreement. County staff then prepares and submits to the Auditor-Controller an accounting entry to record CalParks monthly gross sales, cost of goods sold, expenses, management fees, and management incentives, and staff also provides the summarized P&L for support documentation. The Auditor-Controller's Office has the final authority to approve or reject the proposed entry, which includes the management fees and management incentives.

The draft agreement/amendment was sent to County Counsel and the Auditor's office for signature on 6/23/2017. Contract routing records show that the Auditor Controller received the amendment on 6/26/17. The Auditor's office expressed concern that it was not provided sufficient time to review the provisions of the amendment and the previously executed amendments and agreement. RMA circulated Amendment No. 3 and the associated Board Report on June 9, 2017 for review by RMA Staff, County Counsel and the County Administrative Office Budget Analyst for review. Per past instructions given by the Auditor's office, Auditor-Controller was not included in this review. Comments and changes were provided by all reviewers and the documents finalized. The routing for signature on June 23 was to collect official signatures on pre-approved documents. Going forward, RMA will include the Auditor's office in all contract reviews going to the Board of Supervisors. This will ensure that RMA can address any comments or concerns reviewers may have.

FINANCING:

The Parks Lake Resort Operations Fund is a County enterprise fund, and as such, its operations are to be financed and operated in a manner similar to private business enterprises, where services provided are primarily funded through user charges. The Lakes adopted FY 2017-18 budget includes \$4.6 million in appropriations, funded by \$2.2 million in Revenue from Use of Money and Property, \$1.7 million in Charges for Services, and \$0.7 million in Other Financing Sources. The FY 2017-18 adopted budget for the Lake Operations, Fund 452, Appropriation Unit RMA102 has sufficient appropriations to cover the cost associated with this Agreement.

Under the current Agreement and the proposed Amendment No. 3, CalParks draws a monthly Management Fee of 1.5% of Monthly Gross Revenue, 2.5% if Lake San Antonio is closed, and an annual Management Incentive Fee of 25% of the Annual Net Profit as defined in the Agreement. CalParks submits P&L financial statements monthly. If the monthly statement shows a profit, 1.5% of revenue is retained by Calparks and reported on the P&L. Conversely, if there is a loss, CalParks will invoice the County, which is then paid out of the Lakes Fund. There is no change to the payment provisions in the proposed Amendment.

As the drought officially ended on April 7, 2017, when Governor Brown lifted the Drought Emergency in most of California, and the lake levels have recovered, the Lakes Resorts will be in full operation and are expected to experience a profitable recreational season.

Prepared by: John Snively, Management Analyst I, x6617

Approved by: Shawne Ellerbee, RMA Deputy Director of Administrative Services

Approved by: Carl P. Holm, AICP, RMA Director

Dated: July 27, 2017

Attachments:

Attachment A - Agreement

Attachment B - Amendment 1

Attachment C - Amendment 2

Attachment D - Amendment 3 (Previous Version)

(Attachments on File)