

**GRANT AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO AND
THE CITY OF SOUTH SAN FRANCISCO**

This Agreement is entered into this ____ day of September, 2018, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and the City of South San Francisco, a municipal corporation, hereinafter called "Grantee." In this Agreement, County and Grantee are referred to individually as a "Party" and collectively as "Parties."

* * *

WHEREAS, Grantee has requested grant funds from the County for the purpose of funding the Project described in Exhibit A (the "Project"); and

WHEREAS, the County has approved the grant of certain funds to Grantee pursuant the terms set forth in this Agreement; and

NOW, THEREFORE, it is agreed by the Parties to this agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A: Project Description

2. Grant

County hereby grants to Grantee a sum not to exceed SIX HUNDRED NINETY THOUSAND DOLLARS (\$690,000.00) ("Grant") in consideration of and on the condition that the Grant be expended for the sole purpose of carrying out the Project, and in no event shall the County's total fiscal obligation under this Agreement exceed this amount. Grantee agrees to assume any obligation to secure and furnish all additional funds that may be necessary to carry out the Project. Should the Project not be carried out within the Term of this Agreement, the funds shall be reimbursed to the County by the Grantee.

Funds provided under this Agreement shall not be disbursed until execution of this Agreement by County and Grantee.

County shall disburse the Grant funds to Grantee in one lump sum by check or other mutually agreed means made payable to Grantee's escrow account, and upon receipt of a single invoice from Grantee.

INVOICES: Requests for grant disbursement should be (1) from Grantee's representative identified in paragraph 12 for notice purposes, (2) include date of invoice and Agreement number, and (3) submitted to the attention of:

Rolando Jorquera
Administrative Services Manager
rjorquera@smcgov.org
455 County Center, 4th Floor
Redwood City, CA
94063

3. Term & Termination

Subject to compliance with all terms and conditions, the term of this Agreement ("Term") shall begin on the date of execution by the Parties and terminate twelve (12) months thereafter, unless terminated earlier in accordance with the terms hereof. This Agreement will not automatically renew, nor shall it create any reliance on the possibility of future grants.

County may terminate this Agreement based upon the unavailability of Federal, State, or County funds by providing written notice to Grantee within a reasonable time after County learns of said unavailability of funding. Grantee acknowledges that this Agreement is subject to approval of the Board of Supervisors and assumes all risk of possible non-appropriation and non-approval of funds.

County may suspend and/or terminate this Agreement if Grantee fails to comply with the terms of this Agreement and may, in its sole discretion, withhold or cancel pending and future disbursements of grant funds and/or require Grantee to return some or all funds disbursed under this Agreement.

4. Relationship of Parties

The Parties understand and agree that County's sole obligation under this Agreement is to provide the Grant for the Project as set forth in Exhibit A, and that Grantee bears sole responsibility for any operation or maintenance of the lands described therein.

Grantee understands and agrees that the Project performed under this Agreement is not performed by Grantee as an independent contractor of the County or as an employee of County, and that neither Grantee nor its employees acquire any of the rights, privileges, powers, or advantages of County contractors or County employees. Grantee acknowledges and agrees that it is not, and will not hold itself out as, an agent, partner, or co-venturer of the County, and that this Agreement is not intended and does not create an agency, partnership, joint venture between the Parties.

5. Project Administration

The Parties agree that the Project as described in Exhibit A shall not be altered without a written amendment to this Agreement, signed by both County and Grantee.

6. Hold Harmless

Grantee shall indemnify and save harmless County and its officers, agents, employees, and servants from any and all claims, suits, or actions of every name, kind, and description resulting from this Agreement or the Project, the performance of any work or services performed of Grantee in furtherance of the Project under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Grantee or its employees/officers/agents/volunteers;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Grantee's failure to comply with any applicable federal, state, or local laws or regulations; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Grantee's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Grantee to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

The obligations set forth in this Section shall continue beyond the term of this Agreement as to any act or omission which occurred during or under this Agreement.

7. Insurance

a. General Requirements

Prior to its receipt of any funds pursuant to this Grant Agreement, Grantee shall obtain all insurance required under this Section; such insurance shall be subject to the approval by County's Risk Management; and Grantee shall use diligence to obtain such insurance and to obtain such approval. Grantee shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Grantee's coverage to include the contractual liability

assumed by Grantee pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Grantee shall have in effect during the entire Term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Grantee certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing or continuing the performance of Project work for which it would receive grant funds.

c. Liability Insurance

Grantee shall take out and maintain during the Term of this Agreement such bodily injury liability and property damage liability insurance and shall protect Grantee and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Grantee's operations under this Agreement, whether such operations be by Grantee, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- | | | |
|-------------------------------------|--|-------------|
| <input checked="" type="checkbox"/> | Comprehensive General Liability... | \$1,000,000 |
| | (Applies to all agreements) | |
| <input type="checkbox"/> | Motor Vehicle Liability Insurance... | \$1,000,000 |
| | (To be checked if motor vehicle used in performing services) | |
| <input type="checkbox"/> | Professional Liability..... | \$1,000,000 |
| | (To be checked if Grantee is a licensed professional) | |

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend any payment pursuant to this Agreement.

8. Prevailing Wage

Per Labor Code Section 1720, the Project may be a public work for purposes of the Labor Code. Grantee hereby agrees that all persons providing labor on the Project will be paid not less than prevailing rates of wages and that Grantee will ensure compliance with all the provisions of the California Labor Code, Article 2-Wages, Chapter 1, Part 7, Division 2, Section 1770 et seq., if required. A copy of the prevailing wage scale established by the Department of Industrial Relations is on file in the office of the County's Director of Public Works, and available at www.dir.ca.gov/DLSR or by phone at 415-703-4774. California Labor Code Section 1776(a) requires each contractor and subcontractor on the Project to keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.

Additionally, Grantee agrees the Project will meet the following requirements:

- No contractor or subcontractor may be listed on a bid proposal for the Project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract on the Project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This Project may be subject to compliance monitoring and enforcement by the Department of Industrial Relations.

9. Assignability and Subcontracting

Grantee shall not assign this Agreement or any portion of it to a third party. Grantee shall not subcontract with a third party other than a Real Estate Broker, to perform the Project. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice, and the County shall have the right to a refund of all funds disbursed under this Agreement.

10. Compliance with Laws

All services to be performed by Grantee in connection with the Project shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including, but not limited to, any laws related to payment of prevailing wages pursuant to the California Labor Code. In connection with the Project, Grantee bears responsibility to obtain, at Grantee's expense, any license, permit, or approval required from any agency.

11. Merger Clause: Amendments

This Agreement, including Exhibit A, constitutes the sole Agreement of the Parties regarding the Grant, and correctly states the rights, duties, and obligations of each Party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the Parties concerning the Grant that are not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the Parties.

12. Controlling Law: Venue

The validity of this Agreement and of its terms, the rights and duties of the Parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

13. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:	In the case of Grantee, to:
<p>Invoice should be submitted to the attention of:</p> <p>Rolando Jorquera, Administrative Services Manager rjorquera@smcgov.org 455 County Center, 4th Floor Redwood City, CA 94063</p>	<p>Richard Lee, Director of Finance richard.lee@ssf.net P.O. Box 711, City of South San Francisco, CA 94083</p>

14. Electronic Signature

If both County and Grantee wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any Party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☐ ☐ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Grantee: ☒ ☐ If this box is checked by Grantee, Grantee consents to the use of electronic signatures in relation to this Agreement.

* * *

THIS AGREEMENT IS NOT VALID UNTIL SIGNED BY ALL PARTIES. NO FUNDS WILL BE DISTRIBUTED UNTIL THIS DOCUMENT HAS BEEN SIGNED BY THE COUNTY'S AUTHORIZED DESIGNEE.

For Grantee:


(signature)
Authorized Representative
Grantee

8/27/18
Date

CITY of South
SAN FRANCISCO
Name of Grantee

Mike Farrell
(please print name)
Authorized Representative
Grantee

For County:

COUNTY MANAGER

(Signature)
Authorized Designee
County of San Mateo

Date

Job Title (please print)

Budget Unit

(please print name)
Authorized Designee
County of San Mateo

JL Code

Exhibit A

The County and Grantee agree that the Grant funds shall be used solely for the following Project, described below and in the Board transmittal and Resolution, attached hereto:

- The purchase by Grantee of approximately 0.13 acres of land that have been assigned San Mateo County Assessor Parcel Number(s) 012-121-130 ("Parcel") in the vicinity of Sign Hill Park, in the City of South San Francisco. The Parcel shall be used by Grantee as a city park and/or open space. Grantee shall be solely responsible for all operational and maintenance costs related to the park and/or open space to be located on the Parcel.