File No. 120905

Committee Item No. 1
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee **Date** 10/03/2012

Board of Supervisors Meeting **Date** _____

Cmte	Board	
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☐	☐	Legislative Digest
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OTHER **(Use back side if additional space is needed)**

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Completed by: Victor Young **Date** September 28, 2012
Completed by: Victor Young **Date** _____

[Accept and Expend Grant - Twin Peaks Trail System Improvements - $131,041]

Resolution authorizing the Recreation and Park Department to accept and expend a Habitat Conservation Fund Grant in the amount of $131,041 from the California Department of Parks and Recreation for the Twin Peaks Trail System Improvements.

WHEREAS, The City and County of San Francisco ("the City") owns the property located at Twin Peaks Boulevard on Block 2643, Lot 003 known as "Twin Peaks"; and

WHEREAS, The City, through the San Francisco Recreation and Park Department ("RPD"), operates and maintains Twin Peaks; and

WHEREAS, In 2008 San Francisco voters passed the Clean and Safe Neighborhood Parks Bond ("the Bond"), which allocated $5 million to the San Francisco Urban Trails Program to improve access and connectivity, promote conservation of natural resources and sensitive habitat, and to improve public safety; and

WHEREAS, The Bond identified twenty-six park sites, including Twin Peaks, as needing trail and habitat restoration; and

WHEREAS, The California Department of Parks and Recreation ("CDPR") administers the Habitat Conservation Fund (HCF) Program, which provides state funds to local entities to acquire, enhance, restore or develop facilities for public recreation purposes; and

WHEREAS, CDPR has awarded RPD an HCF grant in the amount of $131,041 ("Grant") to reconstruct existing trails and develop new trails at Twin Peaks; and

WHEREAS, The terms and conditions of the Grant are detailed in an agreement on file at the Clerk of the Board of Supervisors in File No. 120905 ("Grant Agreement") which is hereby declared to be part of this resolution as set forth fully herein; and

WHEREAS, The Grant Agreement requires the City to operate and maintain the project site for the duration of the Contract Performance Period, which extends from July 1, 2011 through June 30, 2031; and

WHEREAS, As a condition of receiving the Grant, CDPR requires the City to record a deed restriction to ensure the Twin Peaks property is used for a purpose consistent with the terms of the Grant Agreement for the duration of the Contract Performance Period from July 1, 2011 through June 30, 2031; and

WHEREAS, The Grant does not require an Annual Salary Ordinance (ASO) Amendment; and

WHEREAS, The Grant prohibits the use of grant funds for indirect costs; now, therefore, be it

RESOLVED, That the Board of Supervisors authorizes the General Manager of the Recreation and Park Department to accept and expend a Habitat Conservation Fund grant from the California Department of Parks and Recreation in the amount of $131,041 for the Twin Peaks Trail System Improvements Project; and be it

FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of indirect costs in the grant budget; and be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of Real Estate to record a deed restriction with the Assessor-Recorder against the property known as Twin Peaks, designated as Assessor Parcel Block 2643, Lot 003, providing that the use restrictions contained in the Grant Agreement will be covenants, conditions and restrictions on the use of the property for the duration of the Contract Performance Period from July 1, 2011 through June 30, 2031; and be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the General Manager, or his or her designee, to conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the project.

Recommended:

Department Head

Approved: _____

Mayor

Approved: _____

Controller

Edwin M. Lee, Mayor
Philip A. Ginsburg, General Manager

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Toni Moran, Grants Manager

DATE: June 26, 2012

SUBJECT: Accept and Expend Resolution for Habitat Conservation Fund Grant

GRANT TITLE: Habitat Conservation Fund Trails Program Grant - Twin Peaks Trail System Improvements

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Attached please find the original and 4 copies of each of the following:

_X_ Proposed grant resolution; original signed by Department, Mayor, Controller

_X_ Grant information form, including disability checklist

_X_ Grant budget

_X_ Grant application form

_X_ Grant award letter from funding agency

_X_ Other: Grant Agreement

Special Timeline Requirements: Please schedule for committee meeting review in early August.

Departmental representative to receive a copy of the adopted resolution:

Name: Toni Moran **Phone:** (415) 581-2555

Interoffice Mail Address: 30 Van Ness Ave. 5th Floor

Certified copy required Yes ☐ No ☒

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient).

File Number: _____
(Provided by Clerk of Board of Supervisors)

Grant Resolution Information Form
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: Habitat Conservation Fund Grant – Twin Peaks Trail System Improvements

2. Department: Recreation and Park

3. Contact Person: Toni Moran Telephone: (415) 581-2555

4. Grant Approval Status (check one):

   [X] Approved by funding agency [ ] Not yet approved

5. Amount of Grant Funding Approved or Applied for: $131,041

6a. Matching Funds Required: $131,041
b. Source(s) of matching funds (if applicable): 2008 Clean and Safe Neighborhood Parks Bond

7a. Grant Source Agency: California Department of Parks and Recreation - Office of Grants and Local Services
b. Grant Pass-Through Agency (if applicable):

8. Proposed Grant Project Summary: Reconstruct approximately 1,500 feet of existing trail and develop approximately 344 feet of new trail with amenities.

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

   Start-Date: July 01, 2011 End-Date: March 31, 2016

10a. Amount budgeted for contractual services: $262,082

b. Will contractual services be put out to bid? Yes

c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? Yes

d. Is this likely to be a one-time or ongoing request for contracting out? One time only

11a. Does the budget include indirect costs? [ ] Yes [X] No

b1. If yes, how much? $
b2. How was the amount calculated?

c1. If no, why are indirect costs not included?
[X] Not allowed by granting agency [ ] To maximize use of grant funds on direct services
[ ] Other (please explain):

c2. If no indirect costs are included, what would have been the indirect costs? Administrative Costs

12. Any other significant grant requirements or comments:

****Disability Access Checklist***(Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

[ ] Existing Site(s)
[X] Rehabilitated Site(s)
[ ] New Site(s)
[ ] Existing Structure(s)
[ ] Rehabilitated Structure(s)
[ ] New Structure(s)
[ ] Existing Program(s) or Service(s)
[ ] New Program(s) or Service(s)

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments: See Attached.

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Paulina Araica
(Name)

ADA Compliance Coordinator, Recreation and Park Department, Planning & Capital Division
(Title)

Date Reviewed: 6.25.12

(Signature Required)

Department Head or Designee Approval of Grant Information Form:

Philip A. Ginsburg
(Name)

General Manager, Recreation and Park Department
(Title)

Date Reviewed: 6·18·12

(Signature Required)

Edwin M. Lee, Mayor
Philip A. Ginsburg, General Manager

TWIN PEAKS TRAIL
ADA COMMENTS

Trail improvements include trail stabilization, erosion control measures and habitat restoration. Opportunities for ADA accessibility are limited because many areas of Twin Peaks are too steep, have highly erosive soils and contain sensitive habitats that need protection, and are not suited for accessibility without damaging the natural resources.

Twin Peaks Trail
Habitat Conservation Fund

GRANT SCOPE/Cost Estimate Form
Recreation Feature - Development of 1,500 linear feet of existing trail construct. Construct new low retaining walls as needed, soil erosion control measures including biotechnical solutions, and provide new plantings and native plant restoration.
Recreation Feature - Development of 344 linear feet of new trail.
Recreation Feature - Closure of 17,500 linear feet of social trail and provide new protective fencing as needed to protect habitat and for public safety
Recreation Feature – Demo and reconstruct steps, fences, walls and wooden guard rails
Recreational Feature - Install wayfinding and interpretive signage; trail welcome signage.

GRANT SCOPE items – PRE-CONSTRUCTION costs	HCF Grant	Required Match	Total
Pre-Construction and Planning Cost funded by non-grant match.	Subtotal: $0	$0	$0
GRANT SCOPE items – ACQUISITION or CONSTRUCTION costs	HCF Grant	Required Match	Total
Demo Steps	$5,552.00	$5,552.00	$11,104.00
Demo Fence	$384.00	$384.00	$768.00
Demo Wall	$70.00	$70.00	$140.00
Demo Guardrail	$3,380.00	$3,380.00	$6,760.00
New Trail	$8,600.00	$8,600.00	$17,200.00
Box steps (4' wide)	$55,950.00	$55,950.00	$111,900.00
Split Rail Fencing	$3,680.00	$3,680.00	$7,360.00
Low Rail Fence	$2,550.00	$2,550.00	$5,100.00
New Landing (4' x 4')	$1,920.00	$1,920.00	$3,840.00
Scarify & Seed (3' wide)	$2,985.00	$2,985.00	$5,970.00
Rice Straw, Seed & Plug	$1,880.00	$1,880.00	$3,760.00
New Retaining Wall	$595.00	$595.00	$1,190.00
New Guardrail	$15,180.00	$15,180.00	$30,360.00
Sign - Wayfinding	$250.00	$250.00	$500.00
Sign - Interpretive	$7,500.00	$7,500.00	$15,000.00
Sign - Trail Welcome	$2,800.00	$2,800.00	$5,600.00
New Stringer Steps (4') wide	$16,900.00	$16,900.00	$33,800.00
Water Bars	$865.00	$865.00	$1,730.00
Total:	$131,041.00	$131,041.00	
TOTAL PROJECT COST			**$262,082**

APPLICANT's MATCH Sources (by name and date committed)	Total
2008 Clean and Safe Neighborhood Parks Bond , July 1, 2009	**$131,041**
Total of MATCH Sources	**$131,041**

CALIFORNIA WILDLIFE PROTECTION ACT OF 1990
HABITAT CONSERVATION FUND GRANT PROGRAM
PROJECT APPLICATION FORM

COPY

TRAILS CATEGORY

PROJECT NAME Twin Peaks Trail System Improvement Project	Grant Request Amount $131,041 Required Match Amount $131,041 TOTAL PROJECT COST $262,082
GRANT APPLICANT (agency and address, include zip code) San Francisco Recreation and Park Department Capital Improvement Division 30 Van Ness Avenue, Fifth Floor San Francisco, CA 94102-6020	COUNTY San Francisco PROJECT ADDRESS (OR NEAREST CITY) 41 Crestline Drive, San Francisco NEAREST CROSS STREET Twin Peaks Boulevard

APPLICATION CONTACT PERSON
Toni Moran, Environmental Specialist, Grant Manager toni.moran@sfgov.org 415 581-2555 415 582-2540
Name (typed or printed) and Title | Email Address | Phone | Fax

PERSON WITH DAY-TO-DAY RESPONSIBLITIES FOR PROJECT IF DIFFERENT FROM AUTHORIZED REPRESENTATIVE
Meghan Tiernan, Project Manager, RPD Capital Division meghan.tiernan@sfgov.org 415 581-2557 415 581-2540
Name (typed or printed) and Title | Email Address | Phone | Fax

GRANT APPLICANT'S REPRESENTATIVE AUTHORIZED IN RESOLUTION
Dawn Kamalanathan,
Capital Program & Planning Division Manager Dawn.Kamalanthan@sfgov.org 415 581-2559 415 581-2540
Name (typed or printed) and Title | Email Address | Phone | Fax

For acquisition projects, project land will be	For enhancement or restoration projects, land tenure is:
_____ Acres to be acquired in fee simple by applicant. _____ Acres to be acquired as permanent easement (explain): _____	27.34 Acres owned in fee simple by applicant. See Attached _____ Recordation number(s) (attach additional sheet if necessary) See Attached Land Tenure Documentation _____ Acres available under a _____ year lease. _____ Acres other interest (explain):

GRANT SCOPE: I represent and warrant that this APPLICATION PACKET describes the intended use of the requested GRANT to complete the RECREATION FEATURES and MAJOR SUPPORT AMENITIES listed in the attached GRANT SCOPE/Cost Estimate Form. I declare under penalty of perjury, under the laws of the State of California, that the information contained in this APPLICATION PACKET, including required attachments, is accurate.

SIGNED		DATE 1-28-2011
	Grant Applicant's Authorized Representative as shown in Resolution	
NAME	Dawn Kamalanathan, San Francisco Recreation & Park Department	

State of California • Natural Resources Agency
Edmund G. Brown Jr., *Governor*
DEPARTMENT OF PARKS AND RECREATION • P.O. Box 942896 • Sacramento, CA 94296-0001
Ruth Coleman, *Director*
(916) 653-4260

JUL 29 2011

Toni Moran
Grants Manager
City & County of San Francisco RPD
30 Van Ness Avenue, Fifth Floor
San Francisco, CA 94102

Re: Twin Peaks Trail System Improvements $ 131,041

Dear Toni Moran:

The Office of Grants and Local Services (OGALS) has completed the application review process for the Habitat Conservation Fund (HCF) Program. We are pleased to inform you that the project identified above has been selected for funding. Congratulations! Following is important information and requirements for grantees.

As an HCF grant recipient, you or another representative from your agency must attend an HCF Grant Administration workshop to learn more about the HCF contract and grant administration process. Workshop attendance is mandatory prior to receiving a grant contract. More information about these workshops will be forthcoming. OGALS will initiate a contract and send it to you for your signature after mandatory workshop attendance has occurred.

Each HCF Program grantee which has been awarded funds to purchase property is required to obtain an appraisal of the real property before the initiation of negotiations. Prior to grant payment, grantees must provide an appraisal supporting the purchase price and a written concurrence from an independent third party appraiser. The appraiser conducting the appraisal review should have Certified General – AG rating.

Additionally, each HCF Program grantee awarded funds for acquisition, enhancement, restoration, or development projects must record a Deed Restriction on the project property (if owned by the grantee). The Deed Restriction ensures that the property is used for a purpose consistent with the grant scope for the length of the contract performance period. The Deed Restriction is required after the acquisition is complete (for acquisition projects) or prior to paying for enhancement, restoration, or development costs (for enhancement, restoration, or development projects).

In the meantime, if you have any questions about your project or the HCF Program, please contact your project officer, Albert Ventura, by phone at (916) 651-8579, or by email at avent@parks.ca.gov. Additional grant program information is available on OGALS website at http://www.parks.ca.gov/grants and by using the links to "Annual Programs" and "Habitat Conservation Fund Program."

Congratulations again on your successful application! We look forward to working with you to deliver quality recreation opportunities for your constituents.

Sincerely,

Sedrick Mitchell, Deputy Director
External Affairs

cc: Project File

State of California - Natural Resources Agency

Department of Parks and Recreation

GRANT CONTRACT

Habitat Conservation Fund

Trails

FILE COPY

RECEIVED SEP 2 0 2011

GRANTEE City & County of San Francisco

PROJECT PERFORMANCE PERIOD is from July 01, 2011 thru March 31, 2016

PROJECT TITLE TWIN PEAKS TRAIL SYSTEM IMPROVEMENTS PROJECT NUMBER HT-38-001

Under the terms and conditions of this agreement, the applicant agrees to complete the project as described in the project description, and the State of California, acting through its Director of Parks and Recreation pursuant to the program named above, agrees to fund the project up to the total grant amount indicated.

PROJECT DESCRIPTION

Reconstruct approximately 1,500 feet of existing trail and develop approximately 344 feet of new trail, with amenities.

Total State Grant not to exceed $131,041.00 (or 50% of the total project, which ever is less)

City & County of San Francisco
Grantee

By Philip A. Ginsburg
Typed or printed name of Authorized Representative

Signature of Authorized Representative

Address 501 Stanyan St., San Francisco CA. 94118

Title General Manager

Date September 2, 2011

The General and Special Provisions attached are made a part of and incorporated into the Contract.

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

By

Date 9/22/11

CERTIFICATION OF FUNDING

CONTRACT NO C9767012	AMENDMENT NO	CALSTARS VENDOR NO. 0000003038-02			PROJECT NO. HT-38-001
AMOUNT ENCUMBERED BY THIS DOCUMENT $131,041.00		FUND. Habitat Conservation Fund			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT		ITEM 3790-101-0262(1) ✓	CHAPTER 33/11 ✓	STATUTE 11 ✓	FISCAL YEAR 2011/12
TOTAL AMOUNT ENCUMBERED TO DATE $ $131,041.00		INDEX 1091 ✓	OBJ. EXPEND 702	PCA 63660 ✓	PROJECT / WORK PHASE
T.B.A. NO.	I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance.				
B.R. NO.	ACCOUNTING OFFICER'S SIGNATURE				DATE 9/26/11

ENCUMBERED 449
Batch Type 07 Batch Number
FM DB Batch Date 9/26

Actng 9/22/11

GRANT CONTRACT

I. RECITALS

1. This agreement is entered into between the State of California, by and through the California Department of Parks and Recreation (hereinafter referred to as "STATE") and the City & County of San Francisco (hereinafter referred to as "grantee").

2. The California Wildlife Protection Act of 1990, Fish and Game Code, Chapter 9, commencing with Section 2780 (the ACT) authorizes the STATE to award grants to eligible entities.

3. Pursuant to the California Wildlife Protection Act of 1990, Fish and Game Code, Chapter 9, commencing with Section 2780, the STATE is authorized to oversee and manage grants to eligible entities for the purposes stated within its provisions. Funding for this $2,000,000 GRANT program was made available through the California Wildlife Protection Act of 1990, Fish and Game Code, Chapter 9 (commencing with Fish and Game Code § 2780).

4. The STATE hereby grants to grantee a sum (hereinafter referred to as "grant monies") not to exceed one hundred thirty one thousand forty one Dollars ($131,041), subject to the terms and conditions of this agreement, the HCF Application GUIDES, any legislation applicable to the ACT and the APPLICATION.

5. In consideration thereof grantee agrees to abide by the terms and conditions of this agreement as well as the provisions of the ACT. Grantee acknowledges that the grant monies are not a gift or a donation.

6. In addition to the terms and conditions of this agreement, the parties agree that the terms and conditions contained in the documents set forth below are hereby incorporated into and made part of this agreement.

   a. The Grant Administration Guide
   b. The APPLICATION GUIDE
   c. The submitted APPLICATION

II. SPECIAL PROVISIONS

1. This agreement includes the following special provisions, when project circumstances warrant (by either party):

III. GENERAL PROVISIONS

A. Definitions

As used in this agreement, the following words shall have the following meanings:

1. The term "ACT" means the statutory basis for this grant program.

2. The term "APPLICATION" means the individual project APPLICATION packet for a grant pursuant to the enabling legislation and/or grant program process Grant Administration Guide requirements.

3. The term "ACQUISITION" means to obtain fee title of real property or a permanent easement which provides the recipient permanent rights to use the property for the purposes of the project. Leases or rentals do not constitute ACQUISITION.

4. The term "CONTRACT PERFORMANCE PERIOD" means the period of time described in Section 1 of this agreement.

5. The term "DEVELOPMENT" (trails category only) means capital improvements to real property by, but not limited to, improvement, construction, reconstruction, and/or protection of permanent or fixed features of the property.

6. The term "ENHANCEMENT" means to increase the habitat value of the land to benefit the targeted species.

7. The term "GRANT PERFORMANCE PERIOD" means the period of time described in Section 1 of this agreement, during which eligible costs can be charged to the grant and which begins on the appropriation date and ends on the fund liquidation date.

8. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE /cost estimate form found in the APPLICATION.

9. The term "GUIDES" means the documents identified as the APPLICATION and Grant Administration GUIDES for the Habitat Conservation Fund program for deer/mountain lion habitat, rare, endangered, threatened, or fully-protected species habitat, wetlands, anadromous salmonids and trout habitat, riparian habitat, trails, and WILDLIFE AREA ACTIVITIES.

10. The term "RESTORATION" means the act of bringing either land or a species back into a former, non-impaired condition.

11. The term "STATE" refers to the State of California acting by and through the Department of Parks and Recreation.

12. The term "WILDLIFE AREA ACTIVITIES" means an event, or series of events to be accomplished with grant funds, such as a nature interpretation, educational, or other enrichment project, (e.g., classes, trips, etc.), organized and/or conducted by the grantee, and intended to bring urban residents into park and wildlife areas.

B. Project Execution

1. Subject to the availability of grant monies in the ACT, the STATE hereby grants to the grantee a sum of money not to exceed the amount stated in Section I of this agreement, in consideration of, and on condition that, the sum be expended in carrying out the purposes set forth in the GRANT SCOPE, and under the terms and conditions set forth in this agreement.

   The grantee shall assume the obligation to furnish any additional funds that may be necessary to complete the GRANT SCOPE.

2. After the STATE has approved the APPLICATION, all changes and alterations to the GRANT SCOPE must be approved in writing by the STATE. Grantee's failure to comply with this provision may be construed as a breach of the terms of the agreement and result in the termination of payment of the grant monies provided for in this agreement.

3. To maintain the integrity of the competitive grant program, the grantee agrees that any other project changes or alterations which deviate from the GRANT SCOPE in the original competitive APPLICATION must be submitted in writing to the STATE for prior approval.

4. The grantee shall complete the GRANT SCOPE in accordance with the time of the GRANT PERFORMANCE PERIOD set forth on page one of this agreement, and under the terms and conditions of this agreement.

5. The grantee shall comply with the California Environmental Quality Act (Public Resources Code, Section 21000, et. seq., Title 14, California Code of Regulations, Section 15000 et. seq.).

6. The grantee shall at all times comply with all applicable current laws and regulations affecting ACQUISITION, ENHANCEMENT, RESTORATION, DEVELOPMENT, AND WILDLIFE AREA ACTIVITIES projects, including, but not limited to, legal requirements for construction contracts, building codes, health and safety codes, and laws and codes pertaining to individuals with disabilities, including but not limited to the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et. seq.) and the California Unruh Act (California Civil Code §51 et seq.)

7. If the GRANT SCOPE includes ACQUISITION of real property, the grantee agrees to comply at all times with all applicable STATE and local laws or ordinances affecting relocation and real property ACQUISITION.

8. Grantee agrees that lands acquired with grant monies shall not be acquired through the use of eminent domain.

C. Project Costs

1. Grantee agrees to abide by the GUIDES.

2. Grantee acknowledges that the STATE may make reasonable changes to its procedures as set forth in the GUIDES. If the STATE makes any changes to its procedures and guidelines, the STATE agrees to notify grantee within a reasonable time.

D. Project Administration

1. If the STATE advances grant monies for ACQUISITION projects, the STATE shall place the grant monies in an escrow account. If grant monies are advanced and not expended, the unused portion of the advanced funds shall be returned to the STATE within 60 days after the close of escrow.

2. If grant monies are advanced for an ENHANCEMENT, RESTORATION, DEVELOPMENT, or WILDLIFE AREA ACTIVITIES project, the advanced funds shall be placed in an interest-bearing account until expended. Advanced funds must be spent within six months from the date of receipt, unless the STATE waives this requirement. Interest earned on the advanced funds shall be used on the project as approved by the STATE. If grant monies are advanced and not expended, the unused portion of the grant and any interest earned shall be returned to the STATE within 60 days after project completion or the end of the GRANT PERFORMANCE PERIOD, whichever is earlier.

3. The grantee shall submit written status reports within 30 calendar days after the STATE has made such a request. In any event, the grantee shall provide the STATE a report showing total final project expenditures within 60 days of project completion or the end of the GRANT PERFORMANCE PERIOD, whichever is earlier. The GRANT PERFORMANCE PERIOD is identified on page one of this agreement.

4. The STATE shall have the right to inspect all property or facilities acquired and/or developed pursuant to this agreement and the grantee shall make such property or facilities available for inspection upon 24 hours notice from the STATE.

5. The grantee and the STATE agree that if the GRANT SCOPE includes ENHANCEMENT, RESTORATION, DEVELOPMENT, or WILDLIFE AREA ACTIVITIES project activities, final payment may not be made until the work described in the GRANT SCOPE is complete.

6. Any grant funds that have not been expended by the grantee shall revert to the STATE.

E. Project Termination

1. In the event of non-completion of a GRANT SCOPE, the STATE may request the return of any grant funds advanced or reimbursed.

2. This agreement may be rescinded, modified or amended only by mutual written agreement between the grantee and the STATE, unless the provisions of this agreement provide that mutual agreement is not required for a rescission, modification or amendment.

3. Failure by the grantee to comply with the terms of this agreement, as well as any other agreements that grantee has entered into with STATE, may be cause for suspension of all obligations of the STATE under this agreement unless the STATE determines that such failure was due to no fault of the grantee. In such case, STATE may reimburse grantee for eligible costs properly incurred in performance of this agreement despite non-performance of the grantee. To qualify for such reimbursement, grantee agrees to mitigate its losses to the best of its ability.

4. The grantee agrees that in the event of a breach of this agreement, the STATE may seek, in addition to all remedies provide by law, specific performance of the agreement in accordance with the purpose of the agreement to preserve, protect and increase the quantity and quality of habitat opportunities and/or resources available to the people of the State of California.

F. Budget Contingency Clause

For purposes of this program, if funding for any fiscal year is reduced or deleted by the budget act, executive order, the legislature, or by any other provision of statute, the STATE shall have the option to either cancel this agreement with no liability occurring to the STATE, or offer an amendment to the agreement to reflect a reduced grant amount. This paragraph shall not require the mutual agreement as addressed in Paragraph E, subsection 2, of this agreement.

G. Indemnity

1. The grantee shall waive all claims and recourse against the STATE including the right to contribution for loss or damage to persons or property or property arising from, growing out of or in any way connected with or incident to this agreement, except valid legal claims arising from the concurrent or sole negligence of the STATE, its officers, agents, and employees.

2. To the fullest extent of the law, the grantee shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of an ACQUISITION, ENHANCEMENT, RESTORATION, DEVELOPMENT, or WILDLIFE AREA ACTIVITIES project, construction, operation or maintenance of the property described as the project which claims, demands or causes of action arise under California Government Code Section 895.2 or otherwise except for liability arising out of the concurrent or sole negligence of the STATE, its officers, agents, or employees.

3. The grantee agrees that in the event the STATE is named as codefendant under the provisions of California Government Code Section 895 et. seq., the grantee shall notify the STATE of such fact and shall represent the STATE in the legal action unless the STATE undertakes to represent itself as codefendant in such legal action in which event the STATE shall bear its own litigation costs, expenses, and attorney's fees.

4. The grantee and the STATE agree that in the event of judgment entered against the STATE and the grantee because of the concurrent negligence of the STATE and the grantee, their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction.

5. The grantee shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses or liability costs arising out of legal actions pursuant to items to which the grantee has certified. The grantee acknowledges that it is solely responsible for compliance with items to which it has certified.

H. Financial Records

1. The grantee shall maintain satisfactory financial accounts, documents and records for the project and make them available to the STATE for auditing at reasonable times. The grantee also agrees to retain such financial accounts, documents and records for at least five years following project termination or final payment, whichever is later.

2. The grantee shall keep such records as the STATE shall prescribe, including records which fully disclose (a) the disposition of the proceeds of grant monies, (b) the total cost of the project, (c) the amount and nature of project funds provided by other sources, and (d) any other records that will facilitate an effective audit of the grant monies.

3. The grantee agrees that the STATE shall have the right to inspect and make copies of any books, records or reports pertaining to this agreement or matters related thereto during regular office hours. The grantee shall maintain and make available for inspection by the STATE accurate records of all of its costs, disbursements and receipts with respect to its activities under this agreement. Such accounts, documents, and records shall be retained by the GRANTEE for at least 5 years following final payment of grant monies.

4. The grantee shall use a generally accepted accounting system.

I. Use of Facilities

1. The grantee agrees to operate and maintain project sites and/or locations for the duration of the CONTRACT PERFORMANCE PERIOD. If any property is acquired, enhanced, restored, or developed with grant monies, the grantee is required to operate and maintain the same for the duration of the CONTRACT PERFORMANCE PERIOD.

2. The grantee agrees that during the GRANT PERFORMANCE PERIOD, any income earned by the grantee from a STATE-approved use of the project shall be used for project purposes, or, if approved by the STATE, for other purposes within the grantee's jurisdiction.

3. The grantee acknowledges that reasonable public access shall be provided except when that access may interfere with habitat protection.

4. All facilities shall have operating hours consistent with the times proposed in the APPLICATION and be open to members of the public in accordance with the project selection criteria in the APPLICATION, unless otherwise granted permission by the STATE and except as noted under the special provisions of this agreement or under provisions of the enabling legislation and/or grant program.

5. The grantee agrees that for the duration of the CONTRACT PERFORMANCE PERIOD, any property acquired, enhanced, restored or developed with grant monies under this agreement shall be used only for the purposes of the grant and consistent with the GRANT SCOPE referenced in the APPLICATION unless prior written approval is given by the STATE.

6. The grantee agrees to use any property acquired, enhanced, restored, or developed with grant monies under this agreement only for the purposes of the grant and no other use, sale, or other disposition shall be permitted except as authorized by a specific act of the legislature in which event the property shall be replaced by the grantee with property of equivalent value and usefulness as determined by the STATE.

7. The property acquired, enhanced, restored, or developed with grant monies may be transferred to another eligible entity only if the successor entity assumes the obligations imposed under this agreement and with written approval of the STATE.

8. Any real property (including any portion of it or any interest in it) may not be used as security for any debt or mitigation, without the written approval of the STATE, provided that such approval shall not be unreasonably withheld as long as the purposes for which the grant monies were awarded are maintained. Any such permission that is granted does not make the STATE a guarantor or a surety for any debt or mitigation, nor does it waive the STATE's rights to enforce performance under this agreement.

9. All real property or rights thereto, acquired with grant monies shall be subject to an appropriate form of restrictive title, rights, or covenants required and approved by the STATE. If the project property is taken by use of eminent domain, grantee shall reimburse the STATE an amount at least equal to the amount of grant monies received from the STATE or the pro-rated full market value of the real property, including improvements, at the time of sale, whichever is higher.

10. If eminent domain proceedings are initiated against grantee, grantee shall notify the STATE within 10 days of receiving the complaint.

J. Nondiscrimination

1. The grantee shall not discriminate against any person on the basis of sex, race, creed, color, national origin, age, religion, ancestry, sexual orientation, disability, medical condition, or marital status in the use of project site(s) as included in the APPLICATION.

2. The grantee shall not discriminate against any person on the basis of residence, and shall not apply differences in admission or other fees on the basis of residence. Fees shall be reasonable and not unduly prevent use by economically disadvantaged members of the public.

K. Severability

If any provision of this agreement or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the agreement which can be given effect without the invalid provision or application, and to this end the provisions of this contract are severable.

L. Liability

STATE assumes no responsibility for assuring the safety of construction, site improvements or programs related to the GRANT SCOPE. The STATE's rights under this agreement to review, inspect, and approve the GRANT SCOPE and any final plans of implementation shall not give rise to any warranty or representation that the GRANT SCOPE and any plans or improvements are free from hazards or defects.

M. Assignability

Without the written consent of the STATE, the grantee's interest in and responsibilities under this agreement shall not be assignable by the grantee either in whole or in part.

N. Section Headings

The headings and captions of the various sections of this agreement have been inserted only for the purpose of convenience and are not a part of this agreement and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this agreement.

O. Waiver

Any failure by a party to enforce its rights under this agreement, in the event of a breach, shall *not* be construed as a waiver of said rights; and waiver of any breach under this agreement shall *not* be construed as a waiver of any subsequent breach.

City and County of San Francisco
Grantee

By:_____
Signature of Authorized Representative (Position Authorized in the Resolution)

Title: General Manager, San Francisco Recreation and Park Dept.

Date: September 2, 2011