

File No. 210609

Committee Item No. 3

Board Item No. 34

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: July 1, 2021

Board of Supervisors Meeting:

Date: July 27, 2021

#### Cmte Board

- |                                     |                                     |                                              |
|-------------------------------------|-------------------------------------|----------------------------------------------|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution - Version 2                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU                                          |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Information Form                       |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Public Correspondence                        |

#### OTHER

- |                                     |                                     |                                                         |
|-------------------------------------|-------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <u>RPD Memo Addressing Retroactivity – July 7, 2021</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>RPD Reso No. 1811-002 – November 15, 2018</u>        |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>RPD Reso No. 1811-003 – November 15, 2018</u>        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <u>_____</u>                                            |
| <input type="checkbox"/>            | <input type="checkbox"/>            | <u>_____</u>                                            |

Prepared by: John Carroll

Date: June 25, 2021

Prepared by: John Carroll

Date: July 9, 2021

Prepared by: John Carroll

Date: \_\_\_\_\_

1 [Grant Contract - Retroactive - California Department of Parks and Recreation Habitat  
2 Conservation Fund Grant - Sharp Park Habitat Conservation Project - \$200,500]

3 **Resolution retroactively approving a California Department of Parks and Recreation**  
4 **Habitat Conservation Fund Grant Contract in the amount of \$200,500 that requires the**  
5 **Recreation and Park Department to maintain a certain portion of Sharp Park as habitat**  
6 **for the San Francisco Garter Snake for the duration of the contract performance period**  
7 **from July 1, 2019, through June 30, 2039, pursuant to Charter, Section 9.118(a); and**  
8 **authorizing the Recreation and Park Department General Manager to file a Deed**  
9 **Restriction against the property designated as San Mateo County Assessor’s Parcel**  
10 **Block No. 016-43-0020, providing the restrictions contained in the Grant Contract will**  
11 **apply until June 30, 2039.**

12  
13 WHEREAS, The City and County of San Francisco (“City”) owns San Mateo County  
14 Assessor’s Parcel Block No. 016-43-0020 located at Sharp Park in the City of Pacifica  
15 (hereafter, the “Property”); and

16 WHEREAS, The City, through its Recreation and Park Department (the “Department”),  
17 operates and maintains the Property; and

18 WHEREAS, On November 15, 2018, the Recreation and Park Commission adopted  
19 Resolution No. 1811-002 approving the Department’s submission of a Habitat Conservation  
20 Fund grant application to the California Department of Parks and Recreation to support the  
21 restoration of San Francisco Garter Snake habitat in Sharp Park and recommending that the  
22 Board of Supervisors approve the terms of the Grant Contract which is on file with the Clerk of  
23 the Board under File No. 210609 and which is hereby declared to be part of this Resolution as  
24 if set forth fully herein; and WHEREAS, The Department was awarded a Habitat Conservation  
25

1 Fund Grant (“Grant”) in the amount of \$200,500 to restore one acre of San Francisco Garter  
2 Snake habitat at the Property by June 30, 2024 (the “grant performance period”); and

3 WHEREAS, The Board of Supervisors appropriated the Grant funds for the Department  
4 as a budget line item in the Fiscal Year 2020-21, 2021-22 Annual Appropriation Ordinance, to  
5 allow the project to be initiated and be completed within the grant performance period; and

6 WHEREAS, The Grant Contract requires the City to agree to operate and maintain the  
7 project site for the duration of the contract performance period, which extends from  
8 July 1, 2019, through June 30, 2039; and

9 WHEREAS, As a condition of receiving the grant, DPR requires the City to record a  
10 deed restriction to ensure that the Property is used for a purpose consistent with the Grant for  
11 the duration of the contract performance period; and

12 WHEREAS, The Grant Contract and the deed restriction do not preclude the City from  
13 transferring the property to another eligible entity, provided the successor entity assumes the  
14 obligations imposed under the contract and with written approval of the state; and

15 WHEREAS, The Grant terms prohibit including indirect costs in the grant budget; and

16 WHEREAS, The Grant will not require an amendment to the Annual Salary Ordinance;  
17 now, therefore, be it

18 RESOLVED, That the Board of Supervisors approves the Grant Contract and  
19 authorizes the General Manager of the Recreation and Park Department to enter into any  
20 modifications and amendments to the Grant Contract, including to any of its exhibits, and  
21 authorizes the General Manager of the Recreation and Park Department to execute further  
22 agreements and instruments related to the Project, that the General Manager determines, in  
23 consultation with the City Attorney, are in the best interests of the City and do not materially  
24 increase the obligations or liabilities of the City, are necessary or advisable to effectuate the  
25

1 purposes of the Project or this Resolution, and are in compliance with all applicable laws,  
2 including the City's Charter; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of  
4 indirect costs as part of this Grant budget; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors authorizes the General  
6 Manager of the Recreation and Park Department, or his or her designee, to record a Deed  
7 Restriction against the property (designated as San Mateo County Assessor's Parcel Block  
8 No. 016-43-0020) providing the restrictions contained in the Grant Contract will apply until  
9 June 30, 2039.

10 FURTHER RESOLVED, That within thirty (30) days of the Deed Restriction being  
11 recorded, the Recreation and Park Department shall provide the recorded Deed Restriction to  
12 the Clerk of the Board for inclusion into the official file.

13

14

15 Recommended:

16

17 /s/ \_\_\_\_\_

18 General Manager

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London N. Breed, Mayor  
Philip A. Ginsburg, General Manager

**TO: Board of Supervisors**

**FROM: Philip A. Ginsburg, General Manager  
Recreation and Park Department**

**DATE: July 7, 2021**

**SUBJECT: Retroactive - California Department of Parks and Recreation  
Habitat Conservation Fund – Sharp Park - \$200,500**

The San Francisco Recreation and Park Department (RPD) applied for and was awarded a Habitat Conservation Fund Grant in the amount of \$200,500 from the California State Department of Parks and Recreation (DPR) to restore habitat for the San Francisco Garter Snake (SFGS), an endangered and federally protected species in Sharp Park. Due to the sensitive nature of the SFGS, work associated with the four-year project is planned around the life cycle of the species and overseen by a biological monitor in order to avoid “take” of (harm to) any SFGS. Also, as with most habitat restoration projects, it takes years for the plants to establish and the project to become a fully-functioning habitat.

The grant was awarded on July 25, 2019. RPD prepared and circulated accept and expend legislation for the grant in January 2020 and the grant contract was executed by the State on February 24, 2020. Due to more urgent matters related to the Covid-19 Pandemic, the item was pulled from the legislative process and the grant was appropriated as part of the 20-21 AAO due to keep the project on schedule.

Retroactive actions that pertain to this grant are due, in part, to DPR’s policy to back date the grant contract start date to July 1, 2019.

In addition, RPD was required to appropriate the grant as part of the budget process due to the project scheduling described in paragraph one of this memo. As such, project costs have incurred since the grant was appropriated.

State of California - Natural Resources Agency  
**Department of Parks and Recreation**  
**GRANT CONTRACT**  
**Habitat Conservation Fund**  
**Wetlands**

GRANTEE City & County of San Francisco

GRANT PERFORMANCE PERIOD is from July 01, 2019 through June 30, 2024

CONTRACT PERFORMANCE PERIOD is from July 01, 2019 through June 30, 2039

PROJECT TITLE SHARP PARK GARTER SNAKE HABITAT RESTORATION PROJECT NUMBER HW-41-003

The GRANTEE agrees to the terms and conditions of this contract, hereinafter referred to as AGREEMENT, and the State of California, acting by and through the California Department of Parks and Recreation, agrees to fund the total grant amount indicated below. The GRANTEE agrees to complete the GRANT SCOPE as defined in the GRANT SCOPE / Cost Estimate Form of the APPLICATION submitted to the State of California.

**GRANT SCOPE:**

Restore 1 acre of habitat with invasive plant removal and native plantings at Sharp Park in the City of San Francisco.

Total State Grant not to exceed \$200,500.00 (or 50% of the total project, which ever is less)

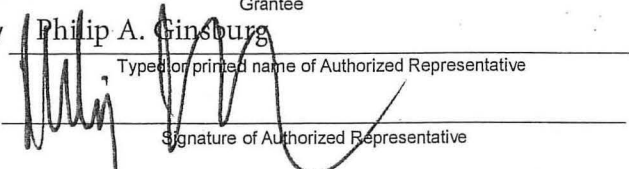
The General and Special Provisions attached are made a part of and incorporated into the Contract.

City & County of San Francisco

Grantee

By Philip A. Ginsburg

Typed or printed name of Authorized Representative



Signature of Authorized Representative

STATE OF CALIFORNIA  
 DEPARTMENT OF PARKS AND RECREATION


By 

Date 1-5-2020

Title General Manager, Recreation and Park Dept.

Date November 1, 2019

**CERTIFICATION OF FUNDING**

CONTRACT NO C9781023	AMENDMENT NO	FISCAL SUPPLIER I.D. 0000007690			PROJECT NO. HW-41-003
AMOUNT ENCUMBERED BY THIS DOCUMENT \$200,500.00		FUND. Habitat Conservation Fund			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT		ITEM 3790-601-0262	CHAPTER 9	STATUTE 1990	FISCAL YEAR 2019/20
TOTAL AMOUNT ENCUMBERED TO DATE \$ 200,500.00		INDEX. 1091	OBJ. EXPEND 702	ACTIVITY CODE 63866	PROJECT / WORK PHASE 3790 OTHER <sup>W</sup>
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. 2/24/2020	

**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 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 two hundred thousand five hundred Dollars ( \$200,500 ), 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 on page 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 on page 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, as incorporated by reference in Title 14, California Code of Regulations, Section 4870-4877.
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 on page 1 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.

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.

3. 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.
4. 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.).
5. 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.)

6. 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.
7. 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 advance and any unused 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 a written status report 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 by the date on the PROJECT COMPLETION Certification form, or by end of the GRANT PERFORMANCE PERIOD, whichever is earlier, 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 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, per state and federal requirements.

#### **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 acquired or developed with grant monies (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**

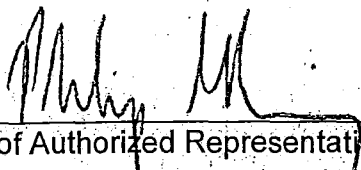
The headings and captions of the various sections of this agreement have been inserted only for the purpose of convenience and are not a part of this agreement and shall not be deemed in any manner to modify, explain, or restrict any of the provisions of this agreement.

**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 & County of San Francisco

Grantee

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

Title: General Manager  
General Manager

Date: November 1, 2019



RECORDING REQUESTED BY:  
California Department of Parks and Recreation  
Office of Grants and Local Services

WHEN RECORDED MAIL TO:  
Office of Grants and Local Services  
PO Box 942896  
Sacramento, CA 94296-0001  
Attention: Anne Davigeadono

County: San Mateo, APN: 016-4300-20

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SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**DEED RESTRICTION**

I. WHEREAS, the City & County of San Francisco (hereinafter referred to as "Owner(s)") is/are recorded owner(s) of the real property described in Exhibit A, attached and incorporated herein by reference (hereinafter referred to as the "Property"); and

II. WHEREAS, the California Department of Parks and Recreation (hereinafter referred to as "DPR") is a public agency created and existing under the authority of section 5001 of the California Public Resources Code (hereinafter referred to as the "PRC"). And

III. WHEREAS, Owner(s) (or Grantee) applied to DPR for grant funds available pursuant to the Habitat Conservation Fund, Wetlands Program to restore 1 acre of habitat with invasive plant removal and native plantings at Sharp Park; and

IV. WHEREAS, on July 1, 2019, DPR's Office of Grants and Local Services conditionally approved Grant HW-41-003, (hereinafter referred to as "Grant") to restore 1 acre of habitat with invasive plant removal and native plantings on the Property, subject to, among other conditions, recordation of this Deed Restriction on the Property; and

V. WHEREAS, but for the imposition of the Deed Restriction condition of the Grant, the Grant would not be consistent with the public purposes of the Habitat Conservation Fund, Wetlands Program and the funds that are the subject of the Grant could therefore not have been granted; and

VI. WHEREAS, Owner(s) has/ve elected to comply with the Deed Restriction of the Grant, so as to enable Owner(s), to receive the Grant funds and perform the work described in the Grant;

NOW, THEREFORE, in consideration of the issuance of the Grant funds by DPR, the undersigned Owner(s) for himself/herself/themselves and for his/her/their heirs, assigns, and successors-in-interest, hereby irrevocably covenant(s) with DPR that the condition of the grant (set forth at paragraph(s) 1 through 5 and in Exhibit B hereto) shall at all times on and after the date on which this Deed Restriction is recorded constitute for all purposes covenants, conditions and restrictions on the use and enjoyment of the Property that are hereby attached to the deed to the Property as fully effective components thereof.

1. DURATION. (a) This Deed Restriction shall remain in full force and effect and shall bind Owner(s) and all his/her/their assigns or successors-in-interest for the period running from July 1, 2019 through June 30, 2039.

2. TAXES AND ASSESSMENTS. It is intended that this Deed Restriction is irrevocable and shall constitute an enforceable restriction within the meaning of a) Article XIII, section 8, of the California Constitution; and b) section 402.1 of the California Revenue and Taxation Code or successor statute. Furthermore, this Deed Restriction shall be deemed to constitute a servitude upon and burden to the Property within the meaning of section 3712(d) of the California Revenue and Taxation Code, or successor statute, which survives a sale of tax-deeded property.

3. RIGHT OF ENTRY. DPR or its agent or employees may enter onto the Property at times reasonably acceptable to Owner(s) to ascertain whether the use restrictions set forth above are being observed.

4. REMEDIES. Any act, conveyance, contract, or authorization by Owner(s) whether written or oral which uses or would cause to be used or would permit use of the Property contrary to the

terms of this Deed Restriction will be deemed a violation and a breach hereof. DPR may pursue any and all available legal and/or equitable remedies to enforce the terms and conditions of this Deed Restriction. In the event of a breach, any forbearance on the part of DPR to enforce the terms and provisions hereof shall not be deemed a waiver of enforcement rights regarding any subsequent breach.

5. SEVERABILITY. If any provision of these restrictions is held to be invalid, or for any reason becomes unenforceable, no other provision shall be affected or impaired.

Dated: \_\_\_\_\_, 20 \_\_\_\_

Business Name (if property is owned by a business): \_\_\_\_\_

Owner(s) Name(s): City and County of San Francisco

\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

Philip A. Ginsburg, General Manager  
PRINT/TYPE NAME & TITLE OF ABOVE  
(GRANTEE'S AUTHORIZED REPRESENTATIVE)

Signed: \_\_\_\_\_

\_\_\_\_\_  
PRINT/TYPE NAME & TITLE OF ABOVE  
(ADDITIONAL SIGNATURE, AS REQUIRED)

**\*\*NOTARY ACKNOWLEDGEMENT ON THE NEXT PAGE\*\***



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, a Notary Public,  
personally appeared \_\_\_\_\_, who proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and  
acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that  
by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

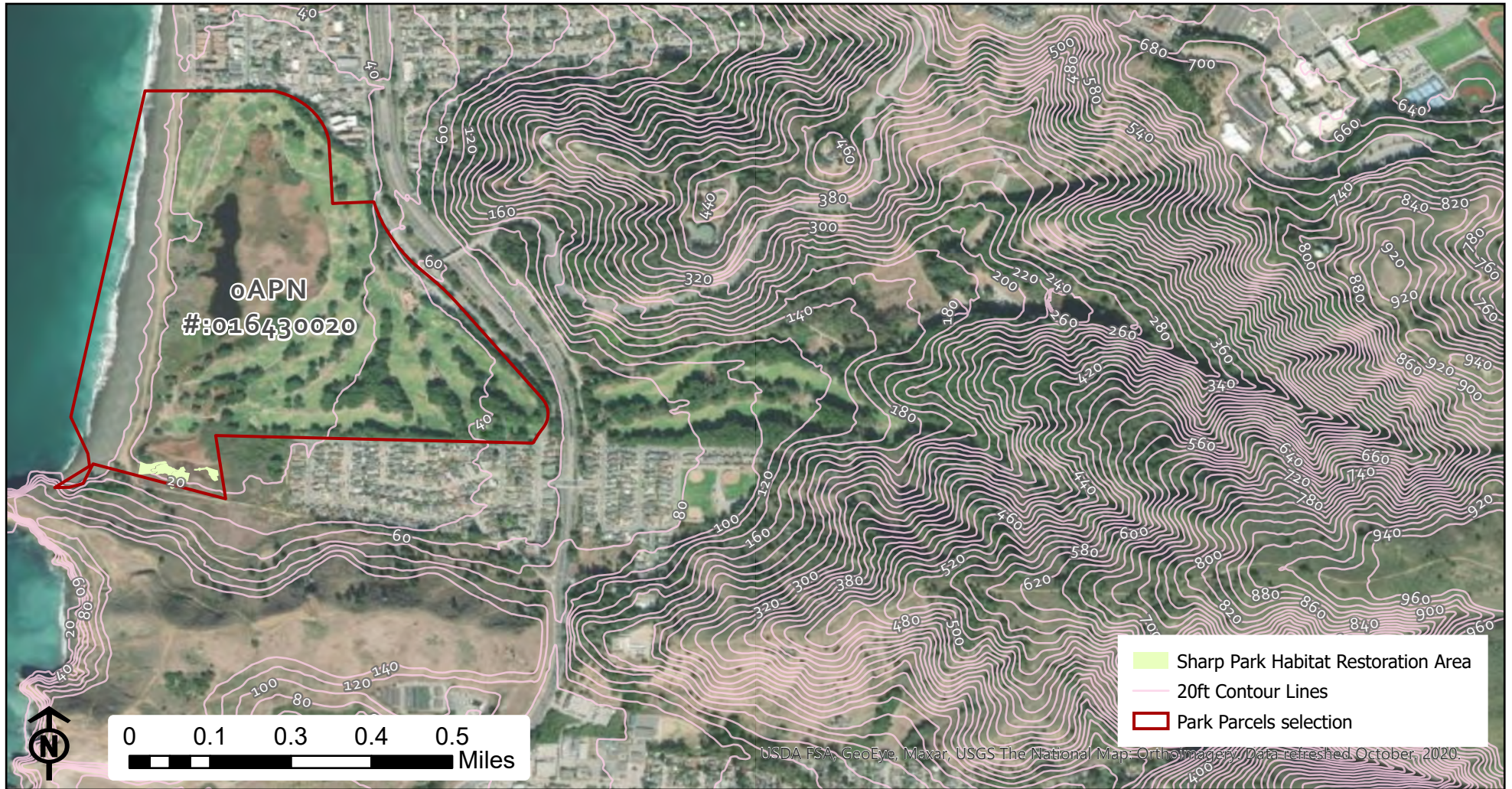
I certify under PENALTY OF PERJURY under the laws of the State of California that the  
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

# Exhibit A Legal Description of Property (page 1 of 2)

## Project No. HW-41-003 Sharp Park Garter Snake Habitat Restoration

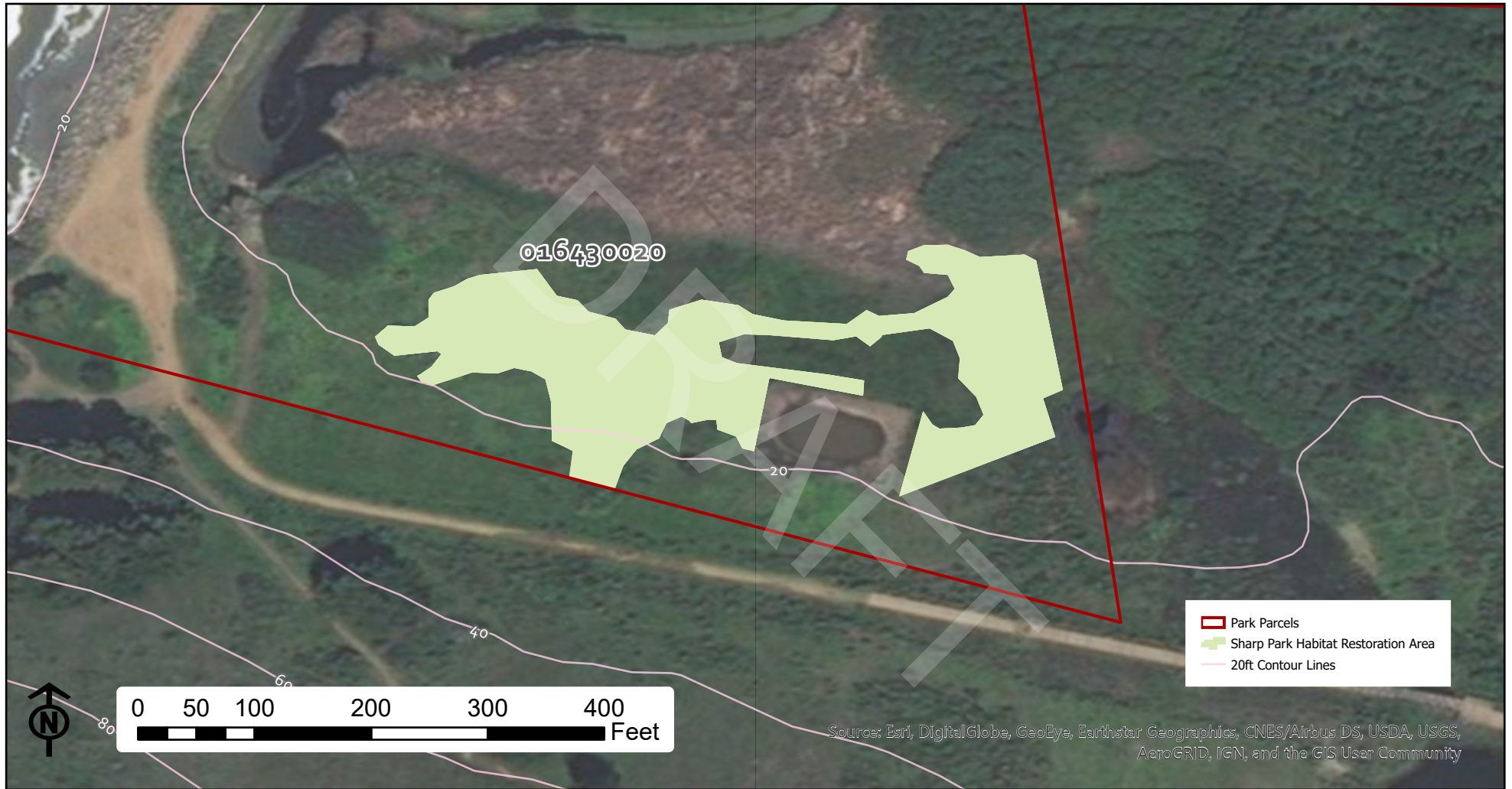


Authorized Representative: \_\_\_\_\_ Date: \_\_\_\_\_



# Exhibit A Legal Description of Property (page 2 of 2)

## Project No. HW-41-003 Sharp Park Garter Snake Habitat Restoration - Inset Map



Authorized Representative: \_\_\_\_\_ Date: \_\_\_\_\_



**RECREATION AND PARK COMMISSION**  
**City and County of San Francisco**  
**Resolution No. 1811-002**

**APPROVING THE APPLICATION FOR HABITAT CONSERVATION FUNDS FOR  
SHARP PARK SAN FRANCISCO GARTER SNAKE  
HABITAT RESTORATION PROJECT**

**WHEREAS**, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire, enhance, restore or develop facilities for public recreation and fish and wildlife habitat protection purposes; and

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the HCF Program, setting up necessary procedures governing project application under the HCF Program; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

**WHEREAS**, the applicant will enter into a contract with the State of California to complete the Sharp Park San Francisco Garter Snake Habitat Restoration project; now, therefore, be it

**RESOLVED** that the Recreation and Park Commission hereby:

1. Approves the filing of an application for the Habitat Conservation Fund Program for the Sharp Park San Francisco Garter Snake Habitat Restoration Project; and
2. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the required match and sufficient funds to complete the project; and
3. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and
4. Certifies that the applicant has reviewed, understands, and agrees to the provisions contained in the contract shown in the grant administration guide; and
5. Delegates the authority to General Manager or his/her designee(s) 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.

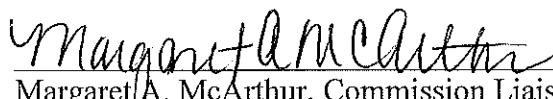


6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Adopted by the following vote:

Ayes	6
Noes	0
Absent	1

I hereby certify that the foregoing resolution was adopted at the Recreation and Park Commission meeting held on November 15, 2018.

  
Margaret A. McArthur, Commission Liaison

**RECREATION AND PARK COMMISSION**  
**City and County of San Francisco**  
**Resolution No. 1811-003**

**APPROVING THE APPLICATION FOR HABITAT CONSERVATION FUNDS FOR  
THE VISITACION AVENUE CORRIDOR TRAIL PROJECT**

**WHEREAS**, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire, enhance, restore or develop facilities for public recreation and fish and wildlife habitat protection purposes; and

**WHEREAS**, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the HCF Program, setting up necessary procedures governing project application under the HCF Program; and

**WHEREAS**, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

**WHEREAS**, the applicant will enter into a contract with the State of California to complete the Visitacion Avenue Corridor Trail project; now, therefore, be it

**RESOLVED** that the Recreation and Park Commission hereby:

1. Approves the filing of an application for the Habitat Conservation Fund Program for the Visitacion Avenue Corridor Trail Project; and
2. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the required match and sufficient funds to complete the project; and
3. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and
4. Certifies that the applicant has reviewed, understands, and agrees to the provisions contained in the contract shown in the grant administration guide; and
5. Delegates the authority to General Manager or his/her designee(s) 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.
6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Adopted by the following vote:

Ayes	6
Noes	0
Absent	1

I hereby certify that the foregoing resolution was adopted at the Recreation and Park Commission meeting held on November 15, 2018.



Margaret A. McArthur, Commission Liaison



London N. Breed, Mayor  
Philip A. Ginsburg, General Manager

**TO: Board of Supervisors**

**FROM: Philip A. Ginsburg, General Manager  
Recreation and Park Department**

**DATE: May 7, 2021**

**SUBJECT: Retroactive - California Department of Parks and Recreation  
Habitat Conservation Fund – Sharp Park - \$200,500**

The San Francisco Recreation and Park Department (RPD) has applied for and was awarded a Habitat Conservation Fund Grant in the amount of \$200,500 from the California State Parks and Recreation Department (DPR) to restore San Francisco Garter Snake Habitat (SFGS), a Federally Protected and Endangered Species in Sharp Park. Due to the sensitive nature of the SFGS, work associated with the four-year project can only be completed during certain months of the year to avoid the taking of any species during their breeding and foraging cycles. Also, as with most habitat restoration projects, it takes years for the plants to establish and the project to become a fully-functioning habitat.

The grant was awarded on July 25, 2019. RPD prepared and circulated Accept and Expend legislation for the grant in January 2020 and the grant contract was executed by the State on February 24, 2020. Due to more urgent matters related to the Covid-19 Pandemic, the item was pulled from the legislative process and the grant was appropriated as part of the 20-21 AAO due to the urgency of meeting the project schedules.

Retroactive actions that pertain to this grant are due, in part, to DPR's policy to back date their grant performance period start date July 1, 2019 and to back date the grant contract period July 1, 2019.

In addition, RPD was required to appropriate the grant as part of the budget process due to the project scheduling described in paragraph one of this memo. As such, project costs have incurred since the grant was appropriated.