

**Department of Parks and Recreation  
GRANT CONTRACT  
2002 Resources Bond Act  
Outdoor Environmental Education Facilities**

**RECEIVED**

AUG 17 2018

OFFICE OF GRANTS  
& LOCAL SERVICES

GRANTEE City & County of San Francisco

PROJECT PERFORMANCE PERIOD is from July 01, 2017 through June 30, 2025

CONTRACT PERFORMANCE PERIOD is from July 01, 2017 through June 30, 2047

PROJECT TITLE MCLAREN PARK TRAILS

PROJECT NUMBER OE-38-001

The GRANTEE agrees to the terms and conditions of this contract, hereinafter referred to as AGREEMENT, and the State of California, acting through its Director of Parks and Recreation, pursuant to the State of California, agrees to fund the total State grant amount indicated below according to the terms of this Agreement. The GRANTEE agrees to complete the GRANT SCOPE as defined in the GRANT SCOPE/Cost Estimate Form of the APPLICATION filed with the State of California referenced by the application number indicated above.

Total State Grant amount not to exceed \$250,000.00

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

City & County of San Francisco

Grantee

STATE OF CALIFORNIA  
DEPARTMENT OF PARKS AND RECREATION

By Philip A. Ginsburg

Typed or printed name of Authorized Representative

By *Richard Pardo*

By *[Signature]*

Signature of Authorized Representative

Title General Manager

Date July 23, 2018

Date *22 August 2018*

**CERTIFICATION OF FUNDING**

CONTRACT NO C0232053	AMENDMENT NO	CALSTARS VENDOR NO. 4000003038-02			PROJECT NO. OE-38-001
AMOUNT ENCUMBERED BY THIS DOCUMENT \$250,000.00		FUND. Clean Water, Cln Air, Cstl Protc Fd, CA			
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT		ITEM 3790-101-6029	CHAPTER 14/17	STATUTE 17	FISCAL YEAR 2018/19
TOTAL AMOUNT ENCUMBERED TO DATE \$ 250,000.00		INDEX 1091	OBJ. EXPEND 702	ACTIVITY CODE 66068	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 <u><i>Candy</i></u>			DATE. <u><i>10/9/18</i></u>	

## I. RECITALS

1. This AGREEMENT is entered into between the California Department of Parks and Recreation (hereinafter referred to as "GRANTOR," or "STATE") and City & County of San Francisco (hereinafter referred to as "GRANTEE").
2. The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 authorizes STATE to award grants to eligible entities for the purpose of Sections 5096.600 through 5096.683 43 of the Public Resources Code.
3. Pursuant to the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002, STATE is authorized to oversee and manage grants to eligible entities for the purposes stated within its provisions. Funding for this grant program was made available through the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.
4. The STATE hereby grants to GRANTEE a sum (hereinafter referred to as "GRANT MONIES") not to exceed Two Hundred Fifty Thousand Dollars (\$250,000), subject to the terms and conditions of this AGREEMENT, the 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. 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 these grant programs.
2. The term "APPLICATION" means the individual project application packet for a grant pursuant to the enabling legislation and/or grant program process guide requirements.
3. The term "CONTRACT PERFORMANCE PERIOD" means the period of time described in Section 1 of this AGREEMENT.
4. The term "COMPETITIVE GRANT PROGRAM" means the Outdoor Environmental Education Facilities Grant.
5. The term "DEVELOPMENT" means capital improvements to real property by means of construction of permanent or fixed features of the property.
6. The term "GRANT PERFORMANCE PERIOD" means the period of time described in the contract face sheet during which eligible costs can be charged to the grant and which begins on the date of appropriation and ends on the fund liquidation date.

7. The term "GRANT SCOPE" means the items listed in the GRANT SCOPE/Cost Estimate Form found in the APPLICATION.
8. The term "GUIDES" means the documents identified as the "Application Guide for the Outdoor Environmental Education Facilities Grant Program" and the "Grant Administration Guide for the Outdoor Environmental Education Facilities Program." The GUIDES provide the procedures and policies controlling the administration of the grant.
9. The term "PROPERTY" refers to every parcel of property to which grant funds will be used for the development and/or acquisition thereof
10. The term "PROJECT TERMINATION" refers to the non-completion of a GRANT SCOPE.

#### **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 only 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 STATE has approved the APPLICATION, all changes and alterations to the GRANT SCOPE must be first 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 the project.  

To maintain the integrity of the COMPETITIVE GRANT PROGRAM, the GRANTEE agrees that any project changes or alterations which deviate from the intent of the project selection criteria provided by the GRANTEE 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 in the contract face sheet, and under the terms and conditions of this contract.
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 and DEVELOPMENT 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, as they may be updated by the State from time to time.
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, STATE agrees to notify GRANTEE within a reasonable time of such update.

#### **D. Project Administration**

1. If GRANT MONIES are advanced, 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 in writing. 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 end of the GRANT PERFORMANCE PERIOD whichever is earlier.
2. The GRANTEE shall submit written project status reports within 30 calendar days after the STATE has made a request for a project status report. The GRANTEE shall also 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 in the contract face sheet.
3. The STATE shall have the right to inspect all property or facilities acquired and/or developed pursuant to this contract and the GRANTEE shall make said property available for inspection upon 24 hours' notice from the STATE
4. The GRANTEE and the STATE agree that if the GRANT SCOPE includes DEVELOPMENT, final payment to Grantee may not be made until the work described in the GRANT SCOPE is complete.
5. Any grant funds that have not been expended by the GRANTEE under the terms of this contract 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 to the Grantee. Any grant funds that have not been expended by the GRANTEE shall revert or be returned to the STATE.
2. Unless the provisions of this AGREEMENT provide otherwise, after encumbrance, this contract 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.
3. Failure by the GRANTEE to comply with any of the terms of this AGREEMENT as well as any other grant contracts, specified or general, that GRANTEE has entered into with

STATE, may be cause for suspension of all obligations of the STATE 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 shall mitigate its losses to the best of its ability.

4. Because the benefit to be derived by the STATE, from the full compliance by the GRANTEE with the terms of this contract, is the preservation, protection and net increase in the quantity and quality of parks, public recreation facilities, opportunities and/or historical resources available to the people of the State of California and because such benefit exceeds to an immeasurable and unascertainable extent, the amount of money furnished by the STATE by way of GRANT MONIES under the provisions of this contract, the GRANTEE agrees that payment by the GRANTEE to the STATE of an amount equal to the amount of the GRANT MONIES disbursed under this AGREEMENT by the STATE would be inadequate compensation to the STATE for any breach by the GRANTEE of this AGREEMENT. The GRANTEE further agrees therefore, that in addition to compensatory damages, the appropriate remedy in the event of a breach of this AGREEMENT by the GRANTEE shall be the specific performance of this contract, unless otherwise agreed to by the STATE.

#### **F. Budget Contingency Clause**

For purposes of this program, if funding for any fiscal year is reduced or deleted by the State Budget Act, executive order, the legislature, or by any other provision of statute, the STATE shall have the option to either cancel this contract with no liability occurring to the STATE, or offer a contract amendment to GRANTEE to reflect a reduced grant amount. This Paragraph shall not require the mutual agreement of the parties.

#### **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 contract except 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 and liability costs arising out of the DEVELOPMENT, construction, operation or maintenance of the property described as the project or GRANT SCOPE 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. Neither party shall request a jury apportionment.
5. The GRANTEE shall indemnify, hold harmless and defend the STATE, its officers, agents and employees against any and all claims, demands, costs, expenses and 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 GRANT SCOPE and to make them available to the STATE for auditing at reasonable times. The GRANTEE also agrees to retain such financial accounts, documents and records for five years following project and GRANT SCOPE 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 STATE funding assistance, (b) the total cost of the project and GRANT SCOPE in connection with such assistance that is given or used, (c) the amount and nature of that portion of the GRANT SCOPE and project cost supplied by other sources, and (d) any other such records that will facilitate an effective audit.
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 contract or matters related thereto during GRANTEE'S 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 contract. Such accounts, documents, and records shall be retained by the GRANTEE for 5 years following final payment.
4. The GRANTEE shall use a generally accepted accounting system.

#### **I. Use of Facilities**

1. The GRANTEE agrees to operate and maintain any property developed with the GRANT MONIES for the duration of the CONTRACT PERFORMANCE PERIOD.
2. The GRANTEE agrees that during the CONTRACT PERFORMANCE PERIOD, any income earned by the GRANTEE from a STATE approved non-recreational use of the project shall be used for recreational purposes at the project, or, if approved by the STATE, for recreational purposes within the GRANTEE'S jurisdiction.
3. 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.

4. The GRANTEE agrees that for the duration of the CONTRACT PERFORMANCE PERIOD, any property 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.
5. The GRANTEE agrees to use any property 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 STATE.
6. The property developed 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.
7. 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 of California, acting through the DPR, or its successor, provided that such approval shall not be unreasonably withheld as long as the purposes for which the Grant was awarded are maintained. Any such permission that is granted does not make DPR a guarantor or a surety for any debt or mitigation, nor does it waive DPR's rights to enforce performance under the Grant Contract.
8. If eminent domain proceedings are initiated against GRANTEE, GRANTEE shall notify STATE within 10 days of receiving the complaint or other notice of the initiation of such proceedings.

#### **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 a specific facility included in the GRANT SCOPE.
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. Any attempts by Grantee to make such an assignment are void.

**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 the 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

Date: July 23, 2018