

Project Agreement

Los Angeles County Regional Park and Open Space District Grant Specified Project Grant Program

(From Los Angeles County Proposition A, Safe Neighborhood Parks, Gang Prevention, Tree-Planting, Senior and Youth Recreation, Beaches and Wildlife Protection ("the Proposition"), which voters approved on November 3, 1992)

Grant No. 58L1-94-0034

The Applicant listed below ("Applicant") and the Los Angeles County Regional Park and Open Space District ("the District") do hereby enter into this Project Agreement ("this Agreement"), and under the terms and conditions of this Agreement, Applicant agrees to complete the project as described in the Description of Project and the District, acting through the Director of the County of Los Angeles Department of Parks and Recreation and pursuant to the Proposition, agrees to fund the project up to the total grant amount indicated.

Applicant: City of Whittier

Project Name: Whittier Hills Park

Grant Amount: Nine million three hundred thousand dollars (\$9,300,000)

Awarded pursuant to Section(s) 8.b.2.QQ of the Proposition.

Description of Project:

Acquisition of approximately 4,000 acres contiguous to the Hellman Park and Murphy Ranch Park. Acreage includes land designated Significant Ecological Areas by Los Angeles County and will preserve portions of the last remaining chaparral, native oak woodlands and coastal sage scrub ecosystems within eastern Los Angeles County.

Project Performance Period: FROM November 3, 1992 TO December 31, 1995

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Special Provisions

- A. As the Project also involves the anticipated use of State grant monies, provided under a proposed 1994 State Bond Initiative, in the case that the requirements pursuant to the use of those funds conflict with the requirements set forth in this Agreement and the documents incorporated therein, Applicant shall perform the Project in such a manner as to comply with the stricter of the two standards.
- B. Applicant agrees to perform all aspects of the Project in accordance with the terms of this Agreement, and the documents incorporated herein, even if the monies granted under this Agreement are not used to fund a specific aspect of the Project.
- C. As the Project includes acquisition of wildlife habitat, the Applicant is exempted from the provisions contained in Section J, Paragraph 3 to the extent that complying with that section would interfere with the protection of the wildlife habitat.
- D. In addition to the items listed in Attachment C, the Applicant agrees to submit one complete copy of the escrow instructions to the District for prior review and approval prior to the Applicant requesting the District pay any monies into escrow.

General Provisions

- A. Definitions
 - 1. The term "Applicant" as used herein means the party described as Applicant on Page 1 of this Agreement.
 - 2. The term "Application" as used herein means the individual application, and its required attachments, for the grant identified on Page 1 of this Agreement.
 - 3. The term "Board of Supervisors" means the County of Los Angeles Board of Supervisors, acting in its capacity as the governing body of the District.
 - 4. The term "District" as used herein means the Los Angeles County Regional Park and Open Space District. Unless otherwise specified, the Director of the County of Los Angeles Department of Parks and Recreation shall administer this contract on behalf of the District.
 - 5. The term "Procedural Guide" as used herein means the Procedural Guide(s), and any subsequent amendments or changes thereto, issued by the District for grants awarded pursuant to the section(s) of the Proposition as described on Page 1 of this Agreement.
 - 6. The term "Project" as used herein means the Project that is described on Page 1 of this Agreement.
 - 7. The term "Proposition" as used herein means Los Angeles County Proposition A, Safe Neighborhood Parks, Gang Prevention, Tree-Planting, Senior and Youth

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Recreation, Beaches and Wildlife Protection, which voters approved on November 3, 1992.

B. Project Execution

1. Subject to the availability of grant monies from the Proposition, the District hereby grants to the Applicant a sum of money (grant monies) not to exceed the amount stated on Page 1 in consideration of, and on the condition that the sum be expended in carrying out, the purposes set forth in the Description of Project on Page 1 and under the terms and conditions set forth in this Agreement, the Proposition (see Attachment A) and the attached Application (see Attachment B).

Applicant agrees to furnish any additional funds that may be necessary to complete the Project. Applicant agrees to budget and appropriate annually, in each fiscal year until completion of the Project, an amount equal to the total estimated cost of the Project less the grant amount stated on Page 1 of this Agreement.

2. The term of this Agreement is from the date of execution by both parties through June 30, 2015.
3. Applicant agrees to complete the Project in accordance with the time of Project performance as set forth on Page 1, and under the terms and conditions of this Agreement and the Procedural Guide. The time of Project performance may be extended upon mutual agreement, in writing, of the Applicant and District.
4. Applicant shall comply as lead agency with the California Environmental Quality Act, Public Resources Code, Section 21000, et. seq. Prior to submitting requests for reimbursement of actual construction or acquisition costs, Applicant agrees to file with the District a copy of the Environmental Impact Report or Negative Declaration along with a response from the State Clearinghouse, if required; and a copy of the Notice of Determination filed with, and stamped by, the County Clerk, or a copy of the Notice of Exemption filed with, and stamped by, the County Clerk if the Project is categorically exempt.
5. Applicant agrees that, prior to incurring actual development and/or acquisition costs, it will submit all requested development and/or acquisition documents to the District for prior review and approval (see Attachment C).
6. Applicant shall use monies allocated in this Agreement, to the maximum extent practical, to employ youth from the community in which the Project is being carried out. Applicant is encouraged, and has authority to use said monies, to provide funding through agreements with community conservation corps, the California Conservation Corps and other community organizations, particularly when youth can be employed to work on restoration or rehabilitation projects being carried on in their own communities. Such agreements shall be entered into solely for the accomplishment of the Project described on Page 1 of this Agreement.

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Therefore, prior to requesting reimbursement for actual construction, development or acquisition costs, Applicant must submit a report to the District describing its efforts to employ youth in the community. The report shall contain, at a minimum, the number and approximate age of youth to be employed at each stage of the Project, a description of the work the youth will perform, the process by which the youth shall be employed, the amount the youth will be paid and, the name of any organizations or agencies that will supply youth to be employed on the Project, as well as a description of Applicant's efforts to employ youth in every stage of the Project (see Attachment D).

Applicant must comply fully with all State and Federal laws regarding the employment of youth on the Project. Youth is defined as persons between the ages of 14 and 21, inclusive.

Notwithstanding the above, the District reserves the right to establish goals for the employment of youth if, in the District's opinion, it is necessary to do so in order to accomplish the purposes of the Proposition.

7. Applicant agrees to file with the District copies of any contracts or agreements executed for work on the Project. Applicant further agrees that it will make a good faith effort to recruit and promote minority-owned and women-owned businesses to participate in the process for the award of any contracts or agreements executed for work on the Project.

Therefore, when filing with the District a copy of any contract or agreement for work on the Project, said copy will be accompanied, at a minimum, by a description of the process used for identifying minority and women contractors or vendors; a list of firms from which the Applicant solicited or received offers; and comparative statistics regarding the minority and women participation and percentage of minority and women ownership of each contractor and subcontractor working on the Project (see Attachment E). In addition, said copy will be accompanied by a statement affirming that, on final analysis and consideration of award, contractor or vendor was selected without regard to race, color, creed or gender, unless City, State or Federal laws and/or regulations or court decisions require otherwise, in which case the Applicant will state the applicable reason. Applicant further agrees to retain on file, and to make available to the District on request, statistical information regarding the minority and women participation and percentage of minority and women ownership in each firm participating in the bidding process.

8. Applicant agrees to secure completion of the development work in accordance with the approved development plans and specifications or force account schedule.
9. Applicant agrees to permit the District to make periodic site visits to determine if development work is in accordance with the approved plans and specifications, or force account schedule, including a final inspection upon Project completion.

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10. Any modification or alteration in the Project, as set forth in the Application on file with the District, must be submitted, in writing, to the District for prior approval. No modification shall be effective until and unless the modification is executed by both Applicant and the District.
11. If the Project includes acquisition of real property, Applicant agrees to comply with Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code and any applicable federal, state, or local laws or ordinances. Documentation of such compliance will be made available for review upon the District's request.
12. If the Project includes acquisition of real property, Applicant agrees to furnish the District preliminary title reports respecting such real property or such other evidence of title that the District determines to be sufficient. Applicant agrees in negotiated purchases to correct, prior to or at the close of escrow, any defects of title that in the opinion of the District might interfere with the operation of the Project. In condemnation actions, such title defects must be eliminated by the final judgment.

C. Project Costs

The grant money provided under this program may be disbursed as follows:

1. If the Project includes acquisition of real property, the District may disburse to Applicant the grant monies as follows, but not to exceed, in any event, the District grant amount set forth on Page 1 of this Agreement:
 - a. When acquisition is by negotiated purchase, the District may disburse the amount of the District-approved purchase price together with District-approved costs of acquisition. The District-approved purchase price shall not exceed the value contained in a valid appraisal report, unless the District agrees, in advance, to the higher price.
 - b. When acquisition is allowed pursuant to the Proposition through eminent domain proceedings, the District may disburse the amount of the total award, as provided for in the final order of condemnation, together with District-approved costs of acquisition. Applicant shall bear all costs and make all advances associated with obtaining an order of immediate possession in an eminent domain proceeding.
 - c. In the event Applicant abandons such eminent domain proceedings, Applicant agrees that it shall bear all costs in connection therewith and that no grant monies shall be disbursed for such costs.
2. If the Project includes development, after the completion of the Project or any phase or unit thereof, the District will disburse funds to Applicant only after the District has reviewed and approved all requested development documents and has received from Applicant a statement of incurred costs. The District may disburse funds in the

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amount of District-approved incurred costs shown on such statement, but not to exceed the District grant amount set forth on Page 1 of this Agreement, or any remaining portion of the grant amount.

The statements to be submitted by Applicant shall set forth in detail the incurred costs of work performed on development of the Project and whether performance was by construction contract or by force account. Statements shall not be submitted more frequently than once a month, unless the District requests otherwise.

The District must approve modifications of the development plans and specifications and/or force account schedule prior to any deviation from the District-approved plans and specifications, and/or force account schedule, unless previously authorized by the District.

3. The District may retain up to ten (10) percent of the grant amount pending project completion and verification that the Applicant has satisfied all terms and conditions of this Agreement. Within three (3) months of Project completion, Applicant must submit final project documents (see Attachment C). The District will not make final payment, including but not limited to the ten percent retention, until it has received all closing documents from the Applicant and has made a final Project inspection. At the District's discretion, the District also may perform an audit of Applicant's Project expenditures before final payment is made. Nothing in this section precludes the District from performing an audit of Project expenditures at a later date in accordance with Section I of this Agreement.

D. Project Administration

1. Applicant agrees to promptly submit any reports that the District may request. In any event, Applicant shall provide to the District a report showing total final Project expenditures.
2. Applicant agrees that property and facilities acquired or developed pursuant to this Agreement shall be available for inspection upon the District's request.
3. Applicant agrees to use any monies disbursed by the District under the terms of this Agreement solely for the Project herein described.
4. Applicant agrees that any gross income earned from non-recreational uses of a Project shall be used for recreation development, additional acquisition, operation or maintenance at the Project site, unless the District approves otherwise in writing.

Applicant also agrees that any gross income that accrues to a grant-assisted development Project during and/or as part of the construction, from sources other than the intended recreational uses, also shall be used for further development of that particular Project.

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5. Applicant agrees to submit for prior District review and approval any and all existing or proposed operating agreements, leases, concession agreements, management contracts or similar arrangements with non-governmental entities, and any existing or proposed amendments or modifications thereto, as they relate to the project or the project site for a period of twenty (20) years from the date of this Agreement. Applicant further agrees not to enter into any contract, agreement, lease or similar arrangement, or to agree to any amendment or modification to an existing contract, agreement, lease or similar arrangement, that, in the District's opinion, violates federal regulations restricting the use of funds from tax-exempt bonds.
6. Applicant agrees that, upon entering into any contract for the construction, maintenance, operation or similar activity related to the Project, Applicant will require said contractor to carry adequate insurance required by the District and naming the District as an additional insured. In addition, said insurance must require that Applicant and the District be given thirty (30) days advance written notice of any modification or cancellation of said insurance. Applicant agrees to submit proof of such insurance to the District for its prior approval.
7. Applicant and each County lobbyist or County lobbying firm, as defined in Los Angeles County Code Section 2.160.010, retained by Applicant, shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160. Failure on the part of Applicant or any County lobbyist or County lobbying firm to fully comply with the County Lobbyist Ordinance shall constitute a material breach of this Agreement, upon which the District may terminate or suspend this Agreement.
8. Applicant and District will conform to the requirements of Government Code Section 6250, et seq. in making all documents relating to this Agreement, the grant obtained and all other related matters available for public review during regular business hours. In the case that the Project involves acquisition of property, however, both the District and Applicant may withhold from public review any and all documents exempted under Section 6254, subsection (h), prior to completion of said acquisition.

In the event that the District is required to defend an action on a Public Records Act request for any of the contents of an Applicant's submission under the terms and conditions of the Agreement, Applicant agrees to defend and indemnify the District from all costs and expenses, including attorneys' fees, in any action or liability arising under the Public Records Act.

9. In order to maintain the exclusion from gross income for federal income tax purposes of the interest on any bonds, notes or other evidences of indebtedness issued for the purpose of providing the grant monies made available in this Agreement, Applicant covenants to comply with each applicable requirement of Section 103 and Sections 141 through 150, inclusive, of the Internal Revenue Code of 1986, as amended. In furtherance of the foregoing covenant, Applicant hereby agrees that it will not,

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without the prior written consent of the District, (a) permit the use of any portion of the Project by any private person or entity, other than on such terms as may apply to the public generally; or (b) enter into any contract for the management or operation of the Project or any portion thereof, except with a governmental agency or a nonprofit corporation that is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

10. If Applicant sells or otherwise disposes of property acquired or developed with grant monies provided under this Agreement, Applicant shall reimburse the District in an amount equal to the greater of 1) the amount of grant monies provided under this Agreement; 2) the fair market value of the real property; or 3) the proceeds from the portion of the property acquired, developed, improved, rehabilitated or restored with grant monies.

If the property sold or otherwise disposed of is less than the entire interest in the property originally acquired, developed, improved, rehabilitated or restored with the grant monies, then Applicant shall reimburse the District an amount equal to the greater of: 1) an amount equal to the proceeds; or 2) the fair market value.

E. Project Termination

1. Applicant may unilaterally rescind this Agreement at any time prior to the commencement of the Project. After Project commencement, this Agreement may be rescinded, modified or amended by mutual agreement in writing.
2. Failure by the Applicant to comply with the terms of this Agreement, or any other agreement established pursuant to the Proposition, may be cause for suspension of all obligations of the District hereunder.
3. Failure of the Applicant to comply with the terms of this Agreement shall not be cause for the suspension of all obligations of the District hereunder if, in the judgment of the District, such failure was beyond the reasonable control of the Applicant. In such case, any amount required to settle, at minimum cost, any irrevocable obligations properly incurred shall be eligible for reimbursement under this Agreement.
4. The Applicant's full compliance with the terms of this Agreement will have significant benefits to the District, and to the property and quality of life therein, through the preservation and protection of beach, wildlife, park, recreation and natural lands of the District, provision of safer recreation areas for all residents, prevention of gangs, development and improvement of recreation facilities for senior citizens, the planting of trees, construction of trails, and/or restoration of rivers and streams. Because such benefits exceed, to an immeasurable and un-ascertainable extent, the amount of grant monies that the District furnishes under the provisions of this Agreement, the Applicant agrees that payment by the Applicant to the District of an amount equal to the amount of the grant monies disbursed under this Agreement by

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the District would be inadequate compensation to the District for any breach by the Applicant of this Agreement. The Applicant further agrees, therefore, that the appropriate remedy in the event of a breach by the Applicant of this Agreement shall be the specific performance of this Agreement, unless otherwise agreed to by the District. Nothing in this Section shall limit in any way the District's legal or equitable remedies under this Agreement.

5. Applicant and the District agree that, if the Project includes development, final payment may not be made until the Project conforms substantially with this Agreement and is a usable public facility.

F. Payment of Funds

1. Applicant may request reimbursement from the District for eligible expenses, which the Applicant has properly incurred and paid, no more frequently than every thirty (30) days. Applicant shall submit reimbursement requests on District-provided Payment Request Forms, including the applicable attachments.

All Payment Request Forms should be sent to:

The Regional Park and Open Space District
c/o The Department of Parks and Recreation
433 South Vermont Avenue, Fourth Floor
Los Angeles, California 90020

2. Applicant should submit its payment request prior to the fifteenth day of the month to receive reimbursement within four to six weeks. The District may hold Payment Request Forms received after the fifteenth of the month until the next month, which may result in reimbursements being delayed.
3. The District may withhold a portion of the amount of reimbursement if, in the opinion of the District, an expenditure is not eligible under the terms and conditions of this Agreement, the Proposition, the Application or the Procedural Guide. In such cases the District shall notify the Applicant of the amount of expenditures declared ineligible and the reason(s) for the ineligibility. Applicant, within thirty (30) days of notification, may dispute the District's decision, in writing, to the District and provide records and/or documentation to support its claim. The District shall review the information and/or documentation provided and will notify Applicant of its final determination. If Applicant fails to dispute the findings, in writing, within the thirty day period, then the Applicant shall have waived its right to dispute the findings.

G. Hold Harmless and Indemnification

1. Applicant shall indemnify, defend and hold the District harmless from and against any and all liability to any third party for or from loss, damage or injury to persons or property in any manner arising out of, or incident to, the performance of this

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Agreement or the planning, arranging, implementing, sponsoring or conducting of the Project or any other operation, maintenance or activity by the Applicant.

2. The District shall have no liability for any debts, liabilities, deficits or cost overruns of the Applicant.
3. Applicant and District agree that the liability of the District hereunder shall be limited to the payment of the grant monies pursuant to the terms and conditions of this Agreement and the Procedural Guide. Any contracts entered into, or other obligations or liabilities incurred by, the Applicant in connection with the Project or otherwise relating to this Agreement shall be the sole responsibility of the Applicant, and the District shall have no obligation or liability whatsoever thereunder or with respect thereto.

H Independent Grantee

This Agreement is by and between the Los Angeles County Regional Park and Open Space District and Applicant and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture or association between the District and Applicant.

I. Financial Records

1. Applicant agrees to maintain satisfactory financial accounts, documents and records for the Project and to make them available to the District for auditing at reasonable times. Applicant also agrees to retain such financial accounts, documents and records for five (5) years following Project termination or completion.

Applicant and the District agree that during regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records or reports of the other party pertaining to this Agreement or matters related thereto. Applicant agrees to maintain, and make available for District inspection, accurate records of all its costs, disbursements and receipts with respect to its activities under this Agreement.

2. Applicant agrees to use an accounting system that complies with generally accepted accounting principles.
3. At any time during the term of this Agreement or at any time within five years after the expiration or prior termination of this Agreement, authorized representatives of the District may conduct an audit of Applicant for the purpose of verifying appropriateness and validity of expenditures that Applicant has submitted to the District for reimbursement under the terms of this Agreement. If said audit reveals expenditures that cannot be verified or that were paid in violation of the terms of this Agreement, the Proposition or the Procedural Guide, the District may, at its discretion, reduce the grant amount by an amount equal to these expenditures.

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Applicant, within thirty (30) days of notification that an audit has resulted in the exception of expenditures, may dispute the audit findings in writing to the District and provide the District with records and/or documentation to support the expenditure claims. The District shall review this documentation and make a final determination as to the validity of the expenditures.

If Applicant has received all grant monies prior to the audit, or if remaining grant monies are insufficient, and if said audit reveals expenditures that cannot be verified or that were paid in violation of the terms of this Agreement, the Proposition or the Procedural Guide, Applicant shall pay the District an amount equal to these expenditures within sixty (60) days after receiving written notification of the expenditures disallowed and the reason for the disallowance.

Notwithstanding Government Code Section 907, in the event that Applicant fails to repay the District in full for the amount of excepted expenditures, the District may offset an amount equal to the excepted expenditures from any monies that may be due to Applicant under the terms and conditions of the Proposition. Through the execution of this Agreement, Applicant waives its rights under Government Code Section 907.

J. Use of Facilities

1. Applicant agrees to use the property acquired or developed with grant monies under this Agreement only for the purpose for which it requested District grant monies and will not permit any other use of the area, except as allowed by specific act of the Board of Supervisors as governing body of the District and under the terms and conditions of the Proposition.
2. Applicant agrees to maintain and operate in perpetuity the property acquired, developed, rehabilitated or restored with grant monies, subject to the provisions of the Proposition. With the District's approval, the Applicant, or its successors in interest in the property, may transfer the responsibility to maintain and operate the property in accordance with the Proposition.
3. Applicant agrees to provide for reasonable public access to lands acquired in fee with grant monies, including the provision of parking and public restrooms, except as noted in the Special Conditions of this Agreement.

K. Nondiscrimination

1. The Applicant shall not discriminate against any person on the basis of race, color, sex, sexual orientation, age, religious belief, national origin, marital status, physical or mental handicap, medical condition, or place of residence in the use of any property or facility acquired or developed pursuant to this Agreement.
2. All facilities shall be open to members of the public generally, except as noted under the special provisions of the Project Agreement.

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representatives as of the latter day, month and year written below.

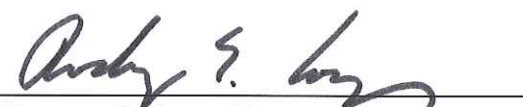
APPLICANT:

By: 
Signature of Authorized Representative

Title: Mayor

Date: 11/5/93

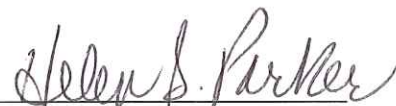
LOS ANGELES COUNTY REGIONAL
PARK & OPEN SPACE DISTRICT:

By: 
Director, Parks and Recreation

Date: 11/9/93

Approved as to Form:

DEWITT W. CLINTON
County Counsel

By: 
Principal Deputy

Grant No. 58L1-94-0034