

**CITY OF SAN JOSE
GRANT AGREEMENT**

SUMMARY PAGE

This GRANT AGREEMENT is entered into this _27th day of March, 2024, by the **CITY OF SAN JOSE**, a municipal corporation ("CITY"), and **HISTORY SAN JOSÉ**, a California public benefit nonprofit corporation ("GRANTEE").

Dept. Contract No.:

WebGrants ID:

Project: FY2023-2024 Special Grant Agreement

Description:

GRANTEE will use grant funds for designated capital improvement projects at History Park, a city-owned facility. See **EXHIBIT A: Scope of Services**.

Funding Source:

APPN 425V

Amount Not to Exceed:

\$350,000

Payment Terms:

See Exhibit D

Agreement Term:

Start Date: Upon Execution End Date: 6/30/25

| PARTIES TO AGREEMENT: | | GRANTEE | CITY |
|---|--|---|------|
| Name: | HISTORY SAN JOSÉ | CITY OF SAN JOSÉ | |
| Address for Legal Notice: | History San Jose 1650 Senter Road San Jose, CA 95112 | Office of Public Works 200 E. Santa Clara Street, 5 th Floor San José, CA 95113 | |
| Attention: | Bill Schroh President & CEO | Walter Lin Deputy Director | |
| Email Address: | bschroh@historysanjose.org | walter.lin@sanjoseca.gov | |
| Telephone No.: | 408-918-1041 | 408-535-1298 | |
| Federal Taxpayer ID: | 23-7179176 | | |
| City Business License/ Tax No.: | 4594690210 | | |
| Type of Entity: | 501(c)3 | | |
| State of Incorporation or Residency: | CA | | |

HISTORY SAN JOSÉ

Grant not to exceed \$350,000

**CITY OF SAN JOSE
GRANT AGREEMENT**

CONTACT INFORMATION

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| GRANTEE CONTACT PERSON: | Bill Schroh |
| Title: | President and CEO |
| Telephone Number: | 408-918-1041 |
| Email: | bschroh@historysanjose.org |

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| CITY CONTACT PERSON: | Christy Shaw |
| Title: | Program Manager - Public Works |
| Telephone Number: | 408-535-8300 |
| Email: | christy.shaw@sanjoseca.gov |

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| CITY CONTACT PERSON: | Ron Muriera |
| Title: | Director - Arts Industry Support Office of Cultural Affairs |
| Telephone Number: | 408-793-4334 |
| Email: | ron.muriera@sanjoseca.gov |

EXHIBIT LIST

| YES | N/A | |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit A: Scope of Services |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit B: Monitoring, Evaluation, and Reporting Requirements |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit C: Budget Summary |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit D: Payments to GRANTEE and Reporting Schedule |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit E: General GRANT Provisions |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit F: Employee/Volunteer Clearance Verification and Compliance with the Child Abuse and Neglect Reporting Act * |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit G: Insurance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Exhibit H: Priority Capital Improvement Projects |

* Applicable if GRANTEE employees or volunteers perform services in a position i) having supervisory or disciplinary authority over minors; or ii) requiring contact with children, or as a food concessionaire or other similar licensed concessionaire.

CITY OF SAN JOSE
GRANT AGREEMENT

SIGNATURE PAGE

The Exhibits and Certifications marked above are attached hereto and incorporated herein. I certify that I have read and hereby agree to comply with all the terms and provisions contained in this AGREEMENT, including without limitation, all Exhibits and Certifications.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove written.

“CITY”



Approved as to Form:

Attorney
Leanne Bolano
Deputy City Attorney II U
leanne.bolano@sanjoseca.gov

Email: leanne.bolano@sanjoseca.gov
Date: 03/26/2024 PDT

CITY OF SAN JOSE, a municipal corporation

Sarah Zarate

Email: sarah.zarate@sanjoseca.gov
Date: 03/27/2024 PDT

By _____
SARAH ZARATE
Director

HISTORY SAN JOSE
“GRANTEE”

Bill Schroh, Jr.

Email: bschroh@historysanjose.org
Date: 03/26/2024 PDT

By _____
BILL SCHROH
President and CEO

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| <p style="text-align: center;">CITY OF SAN JOSE GRANT AGREEMENT</p> |
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This AGREEMENT is made by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and the person or entity identified as GRANTEE on the SUMMARY PAGE at the beginning of this AGREEMENT (hereinafter "GRANTEE").

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1: RECITALS

- A. CITY'S Public Works Department (PW) agrees to provide funding through Capital Improvement Project (CIP) funds in the form of a grant to GRANTEE for necessary capital improvement projects at the city-owned HISTORY PARK where GRANTEE is designated operator of the facility.
- B. GRANTEE will provide PW staff with a list of priority capital improvement projects that this grant will cover.
- C. PW staff will work with GRANTEE to ensure that capital improvement projects performed at the facility meet all guidelines as established by PW.
- D. GRANTEE will communicate in a timely manner to PW before beginning any unanticipated capital improvement projects not covered in EXHIBIT A which this grant will cover.
- E. GRANTEE has the necessary professional expertise and skill and is qualified to perform such services.
- F. The purpose of this AGREEMENT is to retain GRANTEE to perform those services specified in EXHIBIT A of this AGREEMENT.
- G. CITY's Public Works Deputy Director ("DIRECTOR"), including the DIRECTOR's authorized designees, is charged with the administration of this AGREEMENT.
- H. These Recitals are incorporated and made a part of this AGREEMENT.

SECTION 2: PROGRAM COORDINATION

- A. **CITY:** CITY's DIRECTOR, or his or her designee, shall be the CITY official responsible for the Program and shall render overall supervision of the progress and performance of this AGREEMENT by CITY. All services agreed to be performed by CITY shall be under the overall direction of the DIRECTOR.
- B. **GRANTEE:** GRANTEE shall identify a single project director who shall have overall responsibility for the progress and execution of this AGREEMENT. Such person is identified on the SUMMARY PAGE as GRANTEE CONTACT PERSON. Additionally, GRANTEE shall immediately notify CITY in writing should circumstances or conditions subsequent to the execution of this AGREEMENT require a substitute GRANTEE

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CONTACT PERSON. GRANTEE's CONTACT PERSON and GRANTEE staff will fully cooperate with the DIRECTOR relating to the work or services provided hereunder.

SECTION 3: SCOPE OF SERVICES

GRANTEE shall perform those services as specified in **EXHIBIT A** entitled "Scope of Services," ("SERVICES"), which is attached hereto and incorporated herein.

SECTION 4: TERM OF AGREEMENT

The term of this AGREEMENT shall commence on the Start Date and shall expire on the End Date as set forth in the SUMMARY PAGE, unless extended or sooner terminated in accordance with Section 10 of this AGREEMENT, entitled "TERMINATION". Regardless of the date of execution of this AGREEMENT, it is effective as of the Start Date. GRANTEE shall not receive payment for work performed prior to the Start Date.

SECTION 5: COMPENSATION

- A. CITY agrees to pay GRANTEE for SERVICES an amount not to exceed the amount set forth on the SUMMARY PAGE ("COMPENSATION AMOUNT"), subject to the terms and conditions set forth in **EXHIBITS C** and **D** entitled "Budget Summary" and "Payments to GRANTEE and Reporting Schedule," which are attached hereto and incorporated herein.
- B. CITY will not pay for unauthorized services rendered by GRANTEE or for claimed services which GRANTEE has not provided as required by this AGREEMENT.
- C. Pursuant to Section 12 below, neither CITY nor GRANTEE shall make any payments in violation of any law existing during the term of this Agreement including, but not limited to, any maximum amount of administrative fee(s). In the event any such payments are made by the CITY, GRANTEE will refund to CITY any such payments which were made in violation of law.
- D. GRANTEE shall comply with all of the terms and conditions of this AGREEMENT, including the SUMMARY PAGE and all Exhibits and Certifications attached hereto. If GRANTEE fails to comply with any of the terms and conditions of this AGREEMENT, including the SUMMARY PAGE and all Exhibits and Certifications attached hereto, GRANTEE shall reimburse CITY from sources other than those received from CITY.
- E. CITY shall pay GRANTEE for expenditures claimed to be allowable within forty-five (45) days after timely receipt of GRANTEE's properly completed and documented invoice, or as soon thereafter as is reasonable, provided GRANTEE complies with all terms and conditions of this AGREEMENT. No such payment shall mean or imply that CITY has made a final determination that an expenditure(s) by GRANTEE is allowable; nor shall any such payment waive or otherwise limit the rights of federal, state or CITY representatives to review GRANTEE's records and recover from GRANTEE payments which are not allowable.

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- F. DIRECTOR may, without prior notice to GRANTEE, at any time in his or her absolute discretion, elect to suspend or terminate payment to GRANTEE, in whole or in part, terminate work or expenditures by GRANTEE, under this AGREEMENT, or not make any particular payment under this AGREEMENT or take any other action available in the event of any of the following occurrences:
1. If GRANTEE (with or without knowledge) has made any material misrepresentation of any nature with respect to any information or statements furnished to CITY in connection with this AGREEMENT.
 2. If there is pending litigation with respect to the performance by GRANTEE of any of its duties or obligations under this AGREEMENT which may materially jeopardize or adversely affect the undertaking of or the carrying out of SERVICES.
 3. If GRANTEE, without having obtained CITY approval, has taken any action pertaining to SERVICES which requires CITY approval.
 4. If GRANTEE makes improper use of the COMPENSATION AMOUNT.
 5. If GRANTEE fails to comply with any of the terms and conditions of this AGREEMENT including without limitation, GRANTEE's failure to carry out the SERVICES or other obligations as described in any Exhibit to this AGREEMENT.
 6. If GRANTEE submits to CITY any report which is incorrect or incomplete in any material respect or is untimely.

SECTION 6: INDEPENDENT CONTRACTOR

It is understood and agreed that GRANTEE in the performance of this AGREEMENT, shall not act nor is it at any time authorized to act, as the agent or representative of CITY in any matter. GRANTEE further agrees that it will not in any manner hold itself out as the agent or representative of CITY or act in such a fashion as would give the impression to a reasonable person that GRANTEE is acting in such a capacity.

It is understood and agreed that GRANTEE and GRANTEE's employees, in the performance of this AGREEMENT, shall act as and be an independent GRANTEE and not an agent or employee of CITY, and as an independent CONTRACTOR, GRANTEE shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and GRANTEE and GRANTEE's employees hereby expressly waive any claim it/they may have to any such rights.

SECTION 7: SUBCONTRACTING/ASSIGNABILITY

The parties agree that the expertise and experience of GRANTEE are material considerations for this AGREEMENT. GRANTEE shall not assign or transfer any interest in this AGREEMENT nor the performance of any of GRANTEE's obligations hereunder, without the prior written consent of CITY. In the event CITY determines that any of the rights, duties or obligations under

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this AGREEMENT have been subcontracted or assigned to another vendor or GRANTEE by GRANTEE, without the written consent of CITY, then CITY may exercise its right to take any appropriate remedy identified in Section 10, entitled "TERMINATION", including without limitation, termination of the entire AGREEMENT.

GRANTEE'S subcontracts that involve the exchange of funds shall detail the correlation between the services to be provided and the contract goals to be met.

SECTION 8: INDEMNIFICATION AND HOLD HARMLESS

GRANTEE shall defend, indemnify and hold harmless CITY, its officers, employees and agents against any claim, loss, or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by GRANTEE's officers, employees or agents. The acceptance of said services and duties by CITY shall not operate as a waiver of such right of indemnification. GRANTEE's obligations under this indemnification provision shall survive the expiration or termination of this AGREEMENT.

SECTION 9: INSURANCE

GRANTEE agrees to have the policies set forth in the attached **EXHIBIT G**, entitled "INSURANCE REQUIREMENTS" not later than the date of execution of this AGREEMENT and to maintain such policies throughout the term of this AGREEMENT. All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk Manager of the City of San José as to form and content. These requirements may not be amended or waived unless approved in writing by the Risk Manager. GRANTEE agrees to provide CITY with a copy of said policies, certificates and/or endorsements upon execution of this AGREEMENT.

SECTION 10: TERMINATION

This AGREEMENT may be terminated in whole or in part under any of the following circumstances:

- A. Termination for Convenience. CITY may, through DIRECTOR, terminate this AGREEMENT without cause by giving GRANTEE thirty (30) calendar days written notice.
- B. Termination for Cause. Each of GRANTEE's obligations under this AGREEMENT shall be deemed material. If GRANTEE fails to perform any of its obligations under this AGREEMENT, or any other agreement with CITY, CITY may terminate this AGREEMENT upon ten (10) days advance notice ("Notice Period") to GRANTEE, specifying GRANTEE's breach and providing GRANTEE with the opportunity to cure the specified breach within the Notice Period or in those instances where the specified breach cannot reasonably be cured within the Notice Period, the opportunity to commence to cure the specified breach. In the event GRANTEE fails to cure or to commence to cure the specified breach within the Notice Period, this AGREEMENT shall be terminated. Without limiting the generality of the foregoing, the occurrence of

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any one of the following events shall constitute a default of this AGREEMENT for which CITY may exercise its right of termination:

1. GRANTEE's breach of any of the representations or warranties contained in this AGREEMENT.
 2. The occurrence of any of the events set forth in SECTION 5 for suspension or termination of CITY's payment of the COMPENSATION AMOUNT.
- C. Termination for Unavailability of Funds. In the event of reduction, suspension, discontinuance or other unavailability of funds, CITY unilaterally may take appropriate action(s) including, but not limited to, immediately canceling or reducing existing service authorization, stopping or reducing further referrals of individuals, and/or reducing the maximum dollar amount of this AGREEMENT. CITY shall give GRANTEE no less than sixty (60) business days' advance written notice of the action(s) CITY intends to take as a result of the unavailability of funds. CITY shall not be liable for start-up costs, or lost profits in the event of early termination.
- D. In the event of termination under this section, GRANTEE shall have the following obligations:
1. No later than thirty (30) days following the date of termination, GRANTEE shall refund to CITY any unused portion of the COMPENSATION AMOUNT, including interest accrued, except that GRANTEE shall have no obligation to refund to CITY any portion of the COMPENSATION AMOUNT spent as of the date of termination in accordance with the terms of the AGREEMENT. GRANTEE shall also provide CITY with a written report detailing the expenditures, if any, from the COMPENSATION AMOUNT, including an accounting of its administrative expenses to the date of termination.

Nothing in this AGREEMENT shall be deemed to be a waiver of CITY's right to recover from GRANTEE any portion of the COMPENSATION AMOUNT that has not been spent in accordance with this AGREEMENT. Upon receipt, GRANTEE will be paid for services performed and reimbursable expenses incurred in compliance with the terms of this AGREEMENT to date of termination.
 2. Upon termination, GRANTEE shall immediately deliver to CITY any and all copies of materials used or developed including, but not limited to, all data collection forms, reports, studies and other work performed, whether or not completed by GRANTEE or GRANTEE's subcontractor, if any, under this AGREEMENT.
- E. CITY's DIRECTOR is authorized to terminate this AGREEMENT on CITY's behalf.
- F. If the term of this AGREEMENT is more than one year, the funding in any year after the first year may be contingent upon past and pending performance as well as future appropriation by the City Council of the City of San José, in its sole discretion.
- G. CITY may, at its sole option, pursue a course correction process with GRANTEE to address issues with GRANTEE's performance under this AGREEMENT. However, CITY

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is under no obligation to pursue a course correction prior to exercising its rights to suspend payment to GRANTEE or to terminate this AGREEMENT. Nothing in this AGREEMENT shall be construed so as to deprive CITY of its rights and remedies at law or in equity against GRANTEE.

SECTION 11: GOVERNING LAW / VENUE

The parties agree that this AGREEMENT shall be governed and construed in accordance with the laws of the State of California. In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 12: COMPLIANCE WITH LAWS; CONFLICT OF TERMS

GRANTEE shall comply with the applicable requirements of the American Rescue Plan Act (ARPA), and with applicable regulations, policies, guidelines, Office of Management and Budget (OMB) circulars, and field memoranda promulgated by United States Department of Labor (DOL), the State of California and CITY, and/or any legislation which may replace the ARPA, and all other applicable federal, state and local rules, regulations and laws. Moreover, neither CITY nor GRANTEE shall make any payments that would be in violation of any law existing during the term of this Agreement, including but not limited to any maximum amount of administrative fee(s). Without limiting the generality of the preceding sentence, GRANTEE shall comply with the provisions of CITY's Business Tax Ordinance in Chapter 4.76 of the San José Municipal Code.

SECTION 13: ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY

GRANTEE agrees that, in the performance of this AGREEMENT, GRANTEE shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the policy can be found on the CITY's website at the following link: <https://www.sanjoseca.gov/your-government/environment/business-school-resources/for-schools/environmentally-preferable-procurement> .

Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

1. Use of recycled and/or recyclable products in daily operations.(i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.);
2. Use of Energy Star Compliant equipment;
3. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.);
4. Internal waste reduction and reuse protocol(s); and
5. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

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SECTION 14: INTENTIONALLY OMITTED

SECTION 15: RECORDS

GRANTEE shall be solely responsible to implement internal controls and record keeping procedures that comply with this AGREEMENT and all applicable laws. GRANTEE's administrative, programmatic and financial records pertaining to the Program, or the AGREEMENT collectively, must sufficiently support the determination that expenditures are allowable. GRANTEE shall retain all records pertinent to this AGREEMENT for a period of five (5) years from the date of final payment for each fiscal year. GRANTEE shall retain such records beyond five (5) years so long as any litigation, audit, dispute or claim is pending.

SECTION 16: MONITORING/AUDITS

GRANTEE agrees that the CITY's Manager, Auditor, Attorney or the Director, or any of their duly authorized representatives, shall have access to and the right to examine all facilities and activities of GRANTEE related to GRANTEE's performance of this AGREEMENT, including the right to audit, conduct further financial review, examine and make excerpts or transcripts of all contracts, subcontracts, invoices, payroll records, personnel records, and all other data or financial records relating to matters covered by this AGREEMENT at any time during the term of this AGREEMENT. GRANTEE shall cooperate with the CITY in such audit, examination, further review and shall provide CITY with access to GRANTEE's staff and to all relevant records, documents, and data, including but not limited to, management letters, board minutes, and payroll.

GRANTEE shall comply with any audits by appropriate monitoring agencies at GRANTEE's sole expense. The CITY shall monitor the GRANTEE a minimum of once per year, which shall include a desk review and an annual site visit. GRANTEE shall submit an audit report within thirty (30) days in the event the AGREEMENT is terminated, voluntarily or involuntarily, before the end of the term. GRANTEE shall pay to CITY, from neither CITY nor federal funds, the full amount of liability resulting from disallowances or other audit or monitoring exceptions which are attributed to GRANTEE's error, omission, or violation of any provision of this AGREEMENT.

EXHIBIT B, "MONITORING, EVALUATION AND REPORTING REQUIREMENTS" sets forth additional standards regarding the CITY's right to audit, and GRANTEE's obligation to deliver to the CITY reports which may include audited financial reports. GRANTEE further agrees that GRANTEE shall preserve all records related to the performance of this AGREEMENT and that CITY's right to examine or audit the GRANTEE's records, facilities or activities shall continue as specified in **EXHIBIT B**.

SECTION 17: WAIVER

GRANTEE agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or

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condition. The acceptance by CITY of the performance of any work or services by GRANTEE shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 18: CONFLICT OF INTEREST

GRANTEE shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. GRANTEE shall comply with the applicable provisions of the Political Reform Act of 1974, as amended, relating to conflicts of interest (codified in California Government Code Section 87000, et seq.), with the conflict-of-interest provisions of Government Code Section, 1090 et seq. and with the CITY's Code of Ethics, set forth in City Council Policy 0-15. GRANTEE shall promptly advise CITY of the facts and circumstances concerning any disclosure made to it or any information obtained by it relating to conflicts of interest.

SECTION 19: GIFTS

- A. GRANTEE is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code.
- B. GRANTEE agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by GRANTEE. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in Section 10 of this AGREEMENT.

SECTION 20: DISQUALIFICATION OF FORMER EMPLOYEES

GRANTEE is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters that are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San José Municipal Code ("Revolving Door Ordinance"). GRANTEE shall not utilize either directly or indirectly any officer, employee, or agent of GRANTEE to perform services under this AGREEMENT if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 21: NOTICES

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, to the respective parties addressed as referenced on the SUMMARY PAGE of this AGREEMENT.

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

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SECTION 22: CITY ACKNOWLEDGMENT

GRANTEE shall acknowledge the support of the City of San José, where appropriate, and include on all informational materials, including, but not limited to, press releases, brochures, flyers, catalogues, programs, posters, advertisements, Public Service Announcements, Web sites and film, video, radio, and other media materials. In the event that GRANTEE acknowledges the support of other funders by the display of funders' logos, it shall include the display of the City's logo as well in accordance with the City's guidelines for the display of the logo.

GRANTEE is exempt from this requirement in those instances where the information materials pertain to activities or expenditures for which the use of this Grant Award is specifically proscribed by the provisions of the Operating Grants Program or this Agreement.

SECTION 23. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS

This AGREEMENT, including the SUMMARY PAGE and all Exhibits and Certifications attached hereto, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in the SUMMARY PAGE or any of the Exhibits and Certifications attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the authorized representative of the respective parties to this AGREEMENT.

SECTION 24. NO THIRD PARTY RIGHTS

This AGREEMENT does not constitute a binding commitment to any client or agency except CITY and GRANTEE. No third-party rights are created for clients or other individuals.

SECTION 25: SEVERABILITY OF PROVISIONS

If any part of this AGREEMENT is for any reason found to be unenforceable by a court of competent jurisdiction, all other parts nevertheless remain enforceable. CITY and GRANTEE agree that to the extent that the exclusion of any unenforceable provisions from this AGREEMENT affects the purpose of this AGREEMENT, then the parties shall negotiate an adjustment to this AGREEMENT in order to give full effect to the purpose of this AGREEMENT or either party may terminate this AGREEMENT. In the event of termination, the provisions of SECTION 10 as related to repayment of the COMPENSATION AMOUNT shall apply.

SECTION 26: CORPORATE AUTHORITY/AUTHORIZED REPRESENTATIVES

GRANTEE represents and warrants that it has the authority to enter into this AGREEMENT. GRANTEE further represents and warrants that its signatory to this AGREEMENT is authorized to execute this AGREEMENT on GRANTEE's behalf.

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SECTION 27: EMPLOYEES/VOLUNTEERS

- A. Any and all personnel employed, or volunteers retained by GRANTEE in conducting the operations of GRANTEE's Program shall be qualified to perform the duties assigned to them by GRANTEE.
- B. GRANTEE shall not hire employees or volunteers who will have supervisory or disciplinary authority over minors who have been convicted of any offense identified in California Public Resources Code Sections 5164. GRANTEE shall fully indemnify, defend, and hold harmless CITY for any such hiring. GRANTEE shall notify CITY in writing of any violation of this provision as soon as is reasonably practicable.
- C. GRANTEE shall also not employ any person who is permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the tuberculosis testing requirements set forth in Section 5163 of the California Public Resources Code.
- D. Regardless of whether services have been provided prior to full execution of this AGREEMENT, GRANTEE certifies to the CITY that all services were provided in full compliance with the terms and provisions of this AGREEMENT.
- E. To give effect to California Public Resources Code Sections 5163 and 5164, GRANTEE shall follow the procedures contained in **EXHIBIT F** attached hereto. In the event GRANTEE chooses a different national criminal database for complying with the FBI requirement for background checks, then such alternative database shall be subject to the CITY's prior written approval.

SECTION 28: GRANTEE'S FINANCIALS.

- A. City Council requires that each non-profit organization receiving \$350,000 or more in funds from the CITY (in the aggregate) during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and make available for public view on the internet, annual audited financial statements. The audited financial statements must be made available for viewing within six months of the end of the organization's fiscal year (which period may be extended by the City Manager based upon a showing of hardship or other good cause) and must be submitted to the Office of Cultural Affairs and posted on the organization's website at an easy access location. All audits must be performed by a certified public accountant currently licensed to practice in the State of California, must conform to generally accepted auditing standards, and otherwise be in a form acceptable to the CITY.
- B. Non-profits shall be required to comply with this requirement at the time that the non-profit has entered into one or more grant agreements or subsidy agreements with the CITY which provide for the payment of an aggregate amount that equals or exceeds \$350,000 in grant and/or subsidy funds in any one fiscal year. Non-profits covered by

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this requirement must exert due diligence in determining when they have reached the aggregate funding threshold of \$350,000. The provisions of the financial posting requirements shall be interpreted broadly to effectuate the purpose of making available to the public information on recipients of substantial CITY funds. These provisions shall apply not only to grant agreements or operating agreements but shall also apply, without limitation, if any amendments to such agreements bring the total annual funding to equal or exceed \$350,000, and also to any other agreements with the CITY that are equivalent in purpose to a grant agreement or an operating subsidy agreement, regardless of the title of the agreement.

- C. This posting requirement shall remain in effect until an entire fiscal year passes in which the non-profit does not have contracts with the CITY that provide for grants and/or subsidies from the CITY in an aggregate amount equaling or exceeding \$350,000. Without limitation of any other remedy, GRANTEE's failure to comply with this requirement may be taken into consideration when evaluating GRANTEE's request for future grant funds or subsidies.
- D. Organizations receiving an aggregate amount \$25,000 or more in funds from the CITY during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and submit via The CITY's WebGrants grant management system, ("WebGrants"), a completed Financial Dashboard. CITY's project director will provide a Financial Dashboard template upon request. The Financial Dashboard must be submitted via WebGrants within six (6) months from the end of GRANTEE's Fiscal Year.

SECTION 29: USE OF ELECTRONIC SIGNATURES

Unless otherwise prohibited by law or CITY policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to writing as set forth in Evidence Code Section 1550. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the CITY

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EXHIBIT A

SCOPE OF SERVICES

GRANTEE will provide the services as described in this EXHIBIT.

A. Period of Service

The Grant will commence upon the date of execution and continue through June 30, 2025.

B. Location of Services

San Jose, CA

C. Services

GRANTEE shall perform contractual repairs, replacements, and maintenance in compliance with federal, state, and local laws and within the terms and conditions of the current Operator & Use Agreement between the City of San Jose and History San Jose regarding Capital Improvements. For all future capital improvement projects not listed in Exhibit H, GRANTEE shall submit a description of the work with their cost estimates to the Public Works Facilities Management Division Manager for approval prior to commencing work. Records of compliance shall be provided upon request by the City.

D. Program Performance Outcomes

Execute work per **Exhibit H**

E. CITY's Project Coordinator

Christy Shaw, Program Manager – Public Works

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| <p style="text-align: center;">CITY OF SAN JOSE GRANT AGREEMENT</p> |
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EXHIBIT B

MONITORING, EVALUATION AND REPORTING REQUIREMENTS

A. Fiscal Responsibilities of GRANTEE. GRANTEE shall:

1. Appoint and submit to CITY the name of a fiscal contact who shall be responsible for the financial and accounting activities of the GRANTEE, including the receipt and disbursement of GRANTEE funds.
2. Document all costs by maintaining complete and accurate records of all financial transactions, including but not limited to, contracts, invoices, cash receipts, vouchers, bank statements and/or other official documentation, evidencing in proper detail the nature and propriety of all charges.
3. Submit to City at such times and in such forms as City may require, such statements, records, reports, data, and information pertaining to matters covered by this Agreement.

B. Reporting.

1. GRANTEE will maintain records, including but not limited to books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to reflect properly all matters covered by this Agreement.
2. GRANTEE shall submit a final report to CITY Program Coordinator within 90 days after the end of the event that will include:
 - o An accounting of actual expenses and income from all sources for the services described in Exhibit A: Scope of Services.
 - o Exhibit A activities implemented, and actual public participation or attendance.
 - o Samples of promotional materials related to the event, clearly indicating the required acknowledgment of City support as indicated in Exhibit E, entitled "General Service Requirements."
3. GRANTEE shall assist CITY in meeting any reporting requirements to the State and other agencies as needed to meet the granting agency reporting guidelines.
4. GRANTEE shall also promptly advise the CITY of any notice of any violation of local, State, or Federal law or regulation, including but not limited to: 1) the issuance of any legal complaint by an enforcement agency, or any enforcement proceedings by any Federal, State or local agency for alleged violations of Federal, State or local rules, regulations or laws; and/or 2) the issuance of citations, court findings or administrative findings for violations of applicable Federal, State or local rules, regulations or laws.

C. Evaluation of GRANTEE.

Authorized Federal, State, and CITY representatives shall have the right to monitor, assess, or evaluate GRANTEE's performance pursuant to this AGREEMENT by any means including, but not limited to, inspections of premises, records, reports, audits and interviews with GRANTEE staff and participants.

CITY performance evaluation and monitoring may, at CITY's discretion, take place virtually by means of CITY monitor(s) reviewing submitted monthly update reports. CITY may at its sole discretion, request backup documentation for any GRANTS.

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D. Records and Audits of GRANTEE.

1. Establishment and Maintenance of Records. GRANTEE shall maintain records, including but not limited to, books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to reflect properly:
 - a. All direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this AGREEMENT; and
 - b. All other matters covered by this AGREEMENT. Such records shall be maintained in accordance with requirements now or hereafter prescribed by the CITY.
2. Preservation of Records. GRANTEE shall preserve and make available its records:
 - a. for the period of five (5) years from the expiration date of this Agreement; or
 - b. for such longer period, if any, as may be required by applicable law; or
 - c. if this Agreement is completely or partially terminated, for a period of five (5) years from the date of any resulting final settlement.
 - d. Examination of Records and Facilities. At any time during normal business hours, upon advance written notice and as often as may be deemed necessary, GRANTEE agrees that City, and/or any of its respective authorized representatives shall have access to and the right to examine any of its plants, offices and/or facilities engaged in performance of this Agreement and all its records with respect to all matters covered by this Agreement. GRANTEE also agrees that the City, or any of its authorized representatives, shall have the right to audit, examine, and make excerpts or transcripts of and from such records, and to make audits of all contracts and subcontracts, invoices, payrolls, records of personnel, conditions of employment, materials, and all other data relating to matters covered by this Agreement. City may examine records or facilities pursuant to this Section throughout the term of this Agreement and
 - e. for a period of five (5) years after final payment under this Agreement; or,
 - f. for such longer period as may be required by applicable law; or
 - g. if this Agreement is completely or partially terminated, for a period of five (5) years from the date of any resulting settlement.
3. Audits.
 - a. GRANTEE agrees to satisfy the audit requirements for sub-recipients of federal financial assistance in accordance with applicable OMB Circular(s) and Federal Register publications.
 - b. GRANTEE shall submit an audit report within one (1) month in the event the AGREEMENT is terminated, voluntarily or involuntarily, before the end of the term.

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- c. GRANTEE, at its own expense, shall accept responsibility for receiving, responding to and complying with any audit exceptions by appropriate monitoring agencies. GRANTEE shall also fully cooperate as requested by CITY in any audit or monitoring related process including, but not limited to, the provision of adequate staff for organizing GRANTEE records and testimony at any related administrative or court proceedings.
- d. GRANTEE shall pay to CITY, from neither CITY nor Program funds, the full amount of liability resulting from disallowance or other audit or monitoring exceptions which are attributed to GRANTEE's error, omission, or violation of any provision of this Agreement.
- e. GRANTEE shall, at CITY's option and at GRANTEE's sole cost, defend, indemnify, hold harmless against any claim or liability for such costs, and shall cooperate fully with CITY by providing all witnesses, documents and other information requested by the CITY in any civil court proceeding or any formal or informal administrative proceeding conducted in connection with such costs.

4. Independent Audit Reports.

- a. If GRANTEE expends \$750,000 or more in a year in Federal funds, GRANTEE shall submit an audit report that conforms to the requirements of OMB Circular A-133 for Non-Profit Institutions. Funds may be set aside in GRANTEE's budget in an amount equal to the City's fair share of the GRANTEE's cost of an A-133 independent audit if required.
 - a. The audit report shall ascertain and determine that no services provided by the GRANTEE under this AGREEMENT are duplicative of services provided to another agency from which GRANTEE receives funding and are not being reimbursed from funding received from another agency.
 - b. GRANTEE shall enter into an agreement with an outside auditor no later than sixty (60) days before the end of each Fiscal Year calling for the financial and compliance audit of GRANTEE's Fiscal Years that are covered by this Agreement. The written agreement may be in the form of an engagement letter prepared by the auditor and approved by GRANTEE.
 - c. An audit report must be completed and posted in PDF format on WebGrants within six months of the end of each of the GRANTEE's Fiscal Years covered by this AGREEMENT. If this AGREEMENT expires or is terminated on a date that occurs after the period covered by the foregoing audit, GRANTEE shall deliver an audit report within two hundred and fifty (250) days after the expiration or termination of this AGREEMENT auditing the period not covered by the prior audit.
 - d. Should GRANTEE not enter into an agreement with an outside auditor or should an audit not be done on a timely basis, the City, at its discretion, may enter into an agreement with an independent auditor to do the audit at GRANTEE's expense.
 - e. The GRANTEE shall submit to the City copies of management letters the auditor prepares for the GRANTEE as part of the audit engagement.

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- f. All audits must be performed by Certified Public Accountants currently certified and licensed to practice in the State of California. GRANTEE must have Auditor's proof of current licensing on file in GRANTEE's office. GRANTEE must submit to the CITY, a copy of Auditor's certification to practice in California with the audit.
- 5. City Audits. The CITY may perform an independent audit. Such audits may cover programmatic as well as fiscal matters. GRANTEE will be afforded an opportunity to respond to any audit findings, and have the responses included in the final audit report. Costs of such audits will be borne by the CITY.
- 6. Disallowed Costs. GRANTEE is liable for repayment of disallowed costs as determined by CITY. GRANTEE shall make best effort to recover disallowed costs due to unallowable use of GRANT by GRANTEE. Disallowed costs may be identified through audits, monitoring or other sources. GRANTEE shall be afforded the opportunity to respond to any adverse findings that may lead to disallowed costs. CITY shall make the final determination of disallowed costs.

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| CITY OF SAN JOSE GRANT AGREEMENT |
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EXHIBIT C

BUDGET SUMMARY

| PROJECT SOURCE OF FUNDS | | | |
|---|--|--|----------------------------------|
| | | | |
| List ALL funding sources for project | | | |
| Funding Source: Public Works | | Use of Funds: See Exhibits A & H | Amount (\$): \$350,000 |
| | | | |
| Source of Funds: Appropriation 425V | | Viscode: 001-59-209345-4064 | |
| | | | |
| TOTAL SOURCE OF FUNDS | | | \$350,000 |

**CITY OF SAN JOSE
GRANT AGREEMENT**

EXHIBIT D

PAYMENTS TO GRANTEE AND REPORTING SCHEDULE

Payment shall be made as stated in the following schedule, subject to GRANTEE's satisfactory performance of this AGREEMENT as approved by CITY.

A. Maximum Amount of Compensation

The total grant amount ("Grant Award") awarded to GRANTEE shall not exceed **\$350,000**. The Grant Award shall be used and expended by GRANTEE for the purposes specified in this AGREEMENT and for no other purposes. The Grant Award shall be disbursed to GRANTEE as follows:

- a) CITY shall pay GRANTEE, following the execution of this Agreement and the beginning of the term of this Agreement, **30% percent** of the Grant Award, rounded to the nearest dollar.

CITY shall not make any payment of the Grant Award unless GRANTEE has:

- (1) paid all of its outstanding debts due to City or City's subcontractors, or both, in consideration of GRANTEE's use of City's property and/or facilities and services.
- (2) fulfilled all provisions of any grant agreements of the fiscal year 2022-23 (if applicable), including compiled, reviewed, or audited financial reports for FY2021-22 or CY2022.

B. Reporting

GRANTEE agrees to cooperate with CITY on the implementation, monitoring and evaluation of this Program and to comply with any and all reporting, data collection, and evaluation requirements established by CITY, including but not limited to, submission of reports as outlined in this AGREEMENT.

1. If requested by CITY, GRANTEE agrees to complete and submit to the Public Works, no later than February 1, 2024, or the last day of the seventh month of the term of this Agreement, whichever is later, a **Progress Report**, utilizing forms and instructions provided by the Public Works, reporting operations for the first six (6) months of this Agreement and setting forth, without being limited to, the following:
 - a. An accounting of actual expenses and income to date from all sources, as they relate to the Grant Plan; and
 - b. Grant Plan activities implemented, and actual public participation or attendance, including its demographic character.
 - c. Copies of press releases and/or other promotional materials, especially as they relate to the Grant Plan.

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2. GRANTEE shall complete and submit to Public Works a **Final Report**, utilizing forms and instructions provided by Public Works. **GRANTEE shall furnish Public Works one (1) copy of the Final Report no later than the last day of this Agreement's term** setting forth, without being limited to, the following:
- a. An accounting of actual expenses and income from all sources for the first twelve months of this Agreement; and
 - b. Grant Plan activities implemented, and actual public participation or attendance.
 - c. Samples of promotional materials related to the Grant Plan, clearly indicating the required acknowledgment of City support as indicated in **Exhibit E**, entitled "GENERAL GRANT PROVISIONS."

Certification Required for Fiscal Reports or Invoices. Pursuant to 2 C.F.R. §200.415, annual and final fiscal reports or vouchers requesting payment under this AGREEMENT must include a certification, signed by an official who is authorized to legally bind GRANTEE, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812)."

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EXHIBIT E

GENERAL GRANT PROVISIONS

A. Non-Discrimination.

GRANTEE is prohibited from discriminating on the ground of race, color, creed, religion, sex, sexual orientation, actual or perceived gender identity, marital status, family status (minor children or no minor children), national origin, ancestry, age, disability, political affiliation or belief, and for participants only, citizenship or participation in programs or activities funded under this AGREEMENT, in admission or access to, opportunity or treatment in, or employment in the administration of, or in connection with, any program or activity funded under this AGREEMENT.

As a condition to the award of financial payment under this Program, GRANTEE assures, with respect to the operation of this funded Program or activity and all agreements or arrangements to carry out this Program or activity, that it will comply fully with all nondiscrimination and equal opportunity statutes and regulations including, but not limited to, the following: Title VI and VII of the Civil Rights Act of 1964, as amended; Americans with Disabilities Act of 1990, as amended; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; Age Discrimination Act of 1975; California Fair Employment and Housing Act, Government Code Sections 12900 et seq.; California Labor Code Sections 1101, 1102, and 1102.5; Executive Orders 11246 and 11375 supplemented in Department of Labor Regulation 41 C.F.R. Part 60; 29 C.F.R. Part 37, and with all applicable requirements imposed by or pursuant to regulations implementing those laws. Federal, state, and local governments shall have the right to seek judicial enforcement of this nondiscrimination assurance.

B. Accessibility.

GRANTEE shall comply with all applicable laws and regulations including, without limitation, the Americans with Disabilities Act (ADA), as it applies to GRANTEE, and those laws that govern health and safety and prevention of unhealthy conditions.

C. Prohibited Activities; Debarment and Suspension; Lobbying Restrictions.

GRANTEE shall comply with the applicable federal regulations prohibiting activities relating to political lobbying, sectarian, and pro- or anti- unionization activities. GRANTEE shall also comply with reporting requirements related to fraud, abuse, or criminal activities and certifications regarding lobbying (CERTIFICATION 1.2); and debarment, suspension and other related matters (CERTIFICATION 1.1), to the extent these are applicable and in accordance with Executive Orders 12549 and 12689.

D. Drug-Free Workplace.

GRANTEE assures and certifies under penalty of perjury that it will comply with the requirements of the government-wide requirements for a drug-free workplace codified in DOL Regulations, including but not limited to, 29 C.F.R. Part 94 and the State of California's Drug-Free Workplace Act of 1990 (Government Code §§ 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

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| <p style="text-align: center;">CITY OF SAN JOSE GRANT AGREEMENT</p> |
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1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code § 8355(a)(1).
2. Establish a Drug-Free Awareness Program as required by Government Code § 8355(a)(2) to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace.
 - b. GRANTEE's policy of maintaining a drug-free workplace.
 - c. Any available counseling, rehabilitation, and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide, as required by Government Code § 8355(a)(3), that every employee who works on this Agreement:
 - a. Will receive a copy of GRANTEE's drug-free policy statement; and
 - b. Will agree to abide by the terms of GRANTEE's statement as a condition of employment.
4. Failure to comply with these requirements may result in suspension of payments under this Agreement or termination of this Agreement or both, and GRANTEE may be ineligible for award of future agreements if CITY determines that any of the following has occurred:
 - a. False certification; or
 - b. Violation of the certification by failing to carry out the requirements as noted above.

E. Environmental Compliance.

GRANTEE shall comply with all applicable standards, orders, and requirements relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871), Section 306 of the Clean Air Act (42 U.S.C. § 7606), Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 C.F.R. Part 31).

F. Federal Ownership of Materials/Copyrights.

The federal government reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal government purposes: (1) the copyright in any work developed under this AGREEMENT; and (2) any rights of copyright to which GRANTEE purchases ownership with ARPA grant funds received under this AGREEMENT. Further, the federal, State, and CITY governments shall have access to any report, preliminary findings or data assembled by GRANTEE under this AGREEMENT and the federal government shall retain ownership and patent rights to any discovery or invention under this AGREEMENT, as provided in 29 C.F.R. Section 95.48, Appendix A-5, 29 C.F.R. Section 97.34, and 29 C.F.R. Section 97.36(i)(8)-(9).

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| CITY OF SAN JOSE GRANT AGREEMENT |
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G. Buy American.

GRANTEE agrees that in expending the COMPENSATION AMOUNT it will comply with the Buy American Act (41 U.S.C. §§ 8301 et seq.).

H. Salary and Bonus Limitations.

In compliance with Public Law 109-234, none of the funds appropriated in Public Law 109-149 or prior Acts under the heading "Employment and Training" that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109-149. This limitation shall not apply to GRANTEES providing goods and services as defined in OMB Circular A-133. Where states are recipients of such funds, states may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from sub recipients of such funds, taking into account factors including the relative cost-of-living in the states and the compensation levels for programs involved including Employment and Training Administration programs. See Training and Employment Guidance Letter number 5-06 for further clarification.

The incurrence of costs and receiving reimbursement for these costs under this award certifies that your organization has read the above special condition and is in compliance.

I. Financial Provisions.

1. Allowable Expenses.

CITY shall not be obligated under this AGREEMENT to reimburse GRANTEE for any expense that is not allowable. Allowable shall mean that the expense is: a) actually incurred by GRANTEE; b) reasonable and necessary for the purpose of providing services; d) permitted in the budget; and e) authorized and permitted under federal, State and local laws and regulations.

2. Financial System.

GRANTEE shall establish and maintain a system of financial record keeping that complies with applicable laws, rules, and regulations, and with generally accepted accounting principles relevant to entities receiving federal funds.

GRANTEE shall maintain financial records adequate to show that funds paid under the AGREEMENT were used for purposes consistent with the terms of the AGREEMENT.

3. Interest Income.

Interest earned by GRANTEE on funds received under this AGREEMENT shall be Program Income ("Program Income"). No part of the funds received shall be commingled with other funds or used to support other programs.

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| CITY OF SAN JOSE GRANT AGREEMENT |
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4. Program Income.

GRANTEE shall use all Program Income to support services and shall separately account for it in compliance with the 29 C.F.R. Section 95.24 (Nongovernmental Grantees) and 29 C.F.R. Section 97.25 (Governmental Grantees). 20 C.F.R. Section 667.200(a)(5) requires the addition method to be used for Program Income earned under federal grants. Any Program Income not used and accounted for shall be returned to the CITY upon termination of this AGREEMENT.

5. Adequate Financial Resources.

GRANTEE shall have available non-federal resources, and resources other than those received from the CITY, readily convertible to cash in an amount to repay CITY all disallowed costs incurred in connection with this AGREEMENT, which resources shall be accessible to CITY during the entire retention period, and for one (1) year thereafter.

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| <p>CITY OF SAN JOSE GRANT AGREEMENT</p> |
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**Attachment 1
Certification Regarding Lobbying**

**CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE
AGREEMENTS**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**CITY OF SAN JOSE
GRANT AGREEMENT**

The Contractor, HISTORY SAN JOSE, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Bill Schroh, Jr.

Email: bschroh@historysanjose.org
Date: 03/26/2024 PDT

Signature of Contractor's Authorized Official

Bill Schroh, President & CEO

Name and Title of Contractor's Authorized Official

Date

**CITY OF SAN JOSE
GRANT AGREEMENT**

EXHIBIT F

**EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION AND COMPLIANCE WITH THE CHILD
ABUSE AND NEGLECT REPORTING ACT**

If GRANTEE provides services involving minors, and as a CITY-approved method of complying with the provisions contained in this AGREEMENT, GRANTEE shall conduct a criminal background check through the database of the California Department of Justice and an FBI criminal database or equivalent national database as approved in writing by GRANTEE's liability insurance provider, on each of its employees and volunteers who have supervisory or disciplinary authority over minors.

GRANTEE shall also comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code Section 11164 *et. seq.* Additionally, GRANTEE certifies the following:

1. Any and all personnel employed or retained by GRANTEE in conducting the operations of GRANTEE's program shall be qualified to perform the duties assigned to them by GRANTEE. GRANTEE agrees that GRANTEE shall not at any time allow its employees or volunteers to be in any position with supervisory or disciplinary authority over minors, if they have been convicted of any offense identified in California Public Resources Code Section 5164. (Copy attached.)

CITY and GRANTEE understand that results of background checks on minors may be confidential under state law. Therefore, all employees or volunteers must be at least 18 years of age if they are to be in a position having supervisory or disciplinary authority over any minor.

If GRANTEE intends to have employees or volunteers under the age of 18 providing services under this AGREEMENT, GRANTEE shall maintain and make available to CITY, if requested, guidelines, procedures or policies, that safeguard and ensure that no employees or volunteers under the age of 18 will be providing services under this AGREEMENT unsupervised and further GRANTEE shall ensure that none of its employees or volunteers under 18 years of age have any supervisory or disciplinary authority over any minor, as such term is used in California Public Resources Code Section 5164.

2. GRANTEE shall be responsible for ensuring that no person who has supervisory or disciplinary authority over minors, who is paid or unpaid by GRANTEE, shall be permitted to provide services unless appropriate background checks, including fingerprints, have been performed prior to the beginning of services under this AGREEMENT, and the person meets the standards set forth above. If requested by CITY, and to the extent allowed by law, GRANTEE shall promptly provide documentation listing each person that has provided or is providing services hereunder involving supervision or disciplinary authority over minors, and certifying that the GRANTEE has conducted the proper background check on such person or persons, and each of the named persons is legally permitted to perform the services described in this AGREEMENT. Regardless of whether such documentation is requested or delivered by GRANTEE, GRANTEE shall be solely responsible for compliance with the provisions of this Section.
3. That no person paid or unpaid by GRANTEE shall be permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the TB testing requirements set forth in Section 5163 of the California Public Resources Code (copy attached), verifying that the person or persons has provided evidence/verification of a negative TB skin test reading less than two (2) years old (if newly hired) or within four (4) years (if current employee) of the date of execution of this AGREEMENT and every four (4) years thereafter, if the term of this AGREEMENT exceeds four (4) years.

For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to services being provided as specified above. GRANTEE shall keep on file each "Certificate" of clearance for the persons described above, and shall also make available a copy of each Certificate to CITY, if requested and allowed by law. "Certificate" means a document signed by a licensed examining physician and surgeon or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

4. GRANTEE understands that if services are rendered on a school site, there may be additional requirements that may apply including without limitation, requirements under the California Education Code. GRANTEE, acknowledges that it is GRANTEE's sole responsibility to comply with all applicable laws, regulations and licensing requirements in GRANTEE's provision of services hereunder.

I, the GRANTEE by signing below verify that I have read and agree to the above:

Bill Schroh, Jr.

Email: bschroh@historysanjose.org
Date: 03/26/2024 PDT

Signature/Title

Date

**CITY OF SAN JOSE
GRANT AGREEMENT**

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164

§ 5164. Persons convicted of certain offenses not to be hired for employment or as volunteer in positions with supervisory authority over minors; Criminal background screening; Fees

(a) (1) A county, city, city and county, or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of an offense specified in paragraph (2).

(2) (A) A violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or a sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) A felony or misdemeanor conviction specified in subparagraph (C) within 10 years of the date of the employer's request.

(C) A felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of an offense specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, an offense specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or an offense specified in subdivision (c) of Section 667.5 of the Penal Code, provided that a record of a misdemeanor conviction shall not be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor convictions, or a combined total of three or more misdemeanor and felony convictions, for violations listed in this section within the 10-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding 10 years.

(b) (1) To give effect to this section, a county, city, city and county, or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of an offense specified in subdivision (a). The county, city, city and county, or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over a minor, for that person's criminal background.

(2) A local agency request for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. A fee shall not be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

(3) A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5163

§ 5163. Certificate showing freedom from communicable tuberculosis as a condition of employment.

(a) No person shall initially be employed in connection with a park, playground, recreational center, or beach used for recreational purposes by a city or county in a position requiring contact with children, or as a food concessionaire or other licensed concessionaire in that area, unless the person produces or has on file with the city or county a certificate showing that within the last two years, the person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter, those employees who are skin test negative shall be required to undergo the foregoing examination at least once each four years for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required, and a referral shall be made within 30 days of the examination to the local health officer to determine the need for follow-up care.

"Certificate" means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

§ 5163.1. Tuberculosis examination

The examination shall consist of an approved intradermal tuberculosis test, which, if positive, shall be followed by an X-ray of the lungs. Nothing in Sections 5163 to 5163.2, inclusive, shall prevent the governing body of any city or county, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by Section 5163 and this section.

§ 5163.2. Technician taking X-ray film; Interpretation of X-ray

The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a licensed physician and surgeon.

§ 5163.3. Files kept of certificates

The city or county shall maintain a file containing an up-to-date certificate for each person covered by Section 5163.

§ 5163.4. Requiring more extensive or more frequent examinations

Nothing in Sections 5163 to 5163.3, inclusive, shall prevent the city or county from requiring more extensive or more frequent

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EXHIBIT G

INSURANCE REQUIREMENTS

GRANTEE, at GRANTEE's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by GRANTEE, its agents, representatives, employees, or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and

There shall be no endorsement reducing the scope of coverage required above unless approved by the CITY's Risk Manager.

B. Minimum Limits of Insurance

GRANTEE shall maintain limits no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and

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C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager.

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

a. The City of San Jose, its officers, employees, and agents are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, GRANTEE; products and completed operations of GRANTEE; premises owned, leased or used by GRANTEE; and automobiles owned, leased, hired or borrowed by GRANTEE. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees.

b. GRANTEE's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents, and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, or agents shall be excess of GRANTEE's insurance and shall not contribute with it.

c. Any failure to comply with reporting provisions of the policies by GRANTEE shall not affect coverage provided CITY, its officers, employees, or agents.

d. Coverage shall state that GRANTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, and agents.

2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, and agents.

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| CITY OF SAN JOSE GRANT AGREEMENT |
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3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage

GRANTEE shall furnish CITY with certificates of insurance and endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be emailed in pdf format to: Riskmgmt@sanjoseca.gov:

Certificate Holder
City of San Jose—Finance
Risk Management & Insurance
200 East Santa Clara Street, 14th Floor Tower
San Jose, CA 95113-1905

G. Subcontractors

GRANTEE shall include all subcontractors or subconsultants as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

**CITY OF SAN JOSE
GRANT AGREEMENT**

EXHIBIT H

PRIORITY CAPITAL IMPROVEMENT PROJECTS

| Description of Capital Improvement Project | Estimated Cost |
|---|-----------------------|
| | |
| New HVAC for Fruit Barn | \$9,780.00 |
| Gas Station Roof | \$2,250.00 |
| Hill House Roof | \$23,149.75 |
| Markham House Roof | \$13,123.00 |
| Fire House Roof | \$28,888.00 |
| Gate House Roof (K2 side of History Park) | \$12,533.00 |
| TOTAL COSTS | \$89,723.75 |