

MATCHING GRANT AGREEMENT

Graton Green

This agreement ("Agreement") dated as of 3/20/2019 ("Effective Date") is entered into by and between the Sonoma County Agricultural Preservation and Open Space District, a special District formed pursuant to the California Public Resources Code (hereinafter "District") and Graton Green Group, a California non-profit corporation (hereinafter "Grantee").

RECITALS

A. The District has a Competitive Matching Grant Program ("Program") by which it provides funding to cities, other public agencies and non-profit organizations on a competitive basis for open space projects that are consistent with the Expenditure Plan approved by Sonoma County voters in November 2006 as part of the Sonoma County Open Space, Clean Water and Farmland Protection Measure, Measure F.

B. Grantee formed in 2010 to acquire and create a 0.5-acre park and open space area bordered by Edison Street to the east and Bowen Avenue to the west near the downtown area of the unincorporated community of Graton (the "Property").

C. The Property contains a tributary of Atascadero Creek on the southerly border. The Property is largely unimproved. The Property is more particularly described in Exhibit "A" attached hereto.

D. On April 28, 2016, the Sonoma County Planning Commission determined that the creation of a half-acre public open space parcel in the community of Graton was consistent with Sonoma County General Plan 2020 Policy OSRC-5b (Open Space and Resource Conservation Element) through the adoption of Planning Commission Resolution No. 16-004.

E. On May 17, 2016 the Sonoma County Board of Supervisors determined that there will be no significant environmental effect resulting from a development project which includes the subject park parcel, and adopted a Mitigated Negative Declaration as required under the California Environmental Quality Act (CEQA) through the adoption of Board of Supervisors Resolution No. 16-0201.

F. On March 25, 2016, the Grantee's Board of Directors authorized the submittal of a grant application to the District for the Matching Grant Program. District staff recommended

inclusion of the project into the 2016 Matching Grant Program because the project would create the first permanently protected public park in the unincorporated community of Graton, which recommendation was accepted by the District's Advisory Committee on August 25, 2016.

G. On October 25, 2016, the District's Board of Directors accepted the Graton Green into the 2016 Matching Grant Program in the amount of \$103,124 ("District Grant"). The District Grant, with the Grantee's matching funds, will fund, for the purposes of this Agreement, the acquisition of the Property and implementation of those park elements described in the Work Plan approved by the District pursuant to Section 3(a), below, which elements may include pathways, native plants, grassy areas, benches, and a community stage ("Project").

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

AGREEMENT

1. The foregoing recitals are true and correct.

2. GRANT REQUIREMENTS

a. *District Grant.* Subject to all terms and conditions herein, the District shall provide \$103,124 to be used exclusively for costs to acquire the Property. Grantee shall be expend the District's grant award no later than October 25, 2019. Any funds not expended by October 25, 2019 shall revert back to the District. As further described in Section 3(b)(ii), below, Grantee shall report eligible grant expenditures in the form specified by the District.

b. *Match.* As its matching contribution to the Project, Grantee will provide \$103,124 in funding toward acquisition and implementation of the Project described in the approved Work Plan identified in Section 3(a) below. No more than \$51,562 (50% of the grant amount) may be attributed to operations and maintenance costs, and no more than \$10,312 (10% of the total matching funds) may be spent on planning costs or costs that do not directly support implementation of the project, such as those costs associated with project planning, plan development, CEQA analysis and compliance, permitting and approvals, and staffing. Grantee shall expend matching funds associated with acquisition no later than October 25, 2019. Grantee shall expend matching funds associated with park development no later than

October 25, 2019. As further described in Section 3(b)(ii), below, Grantee shall report match expenditures until the match is met.

c. *Project Implementation.* Grantee shall complete all acquisition components of the Project shall be completed no later than October 25, 2019. Grantee shall complete all other components of the Project, as described in the approved Work Plan, no later than October 25, 2021.

d. *Conservation Easement.* Grantee shall execute that certain agreement entitled "Deed and Agreement by and between Graton Green Group and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement", by which Grantee will convey a conservation easement to the District protecting the Urban Open Space, Natural Resources, Recreational and Educational Resources, and Scenic Resources of the Property ("Conservation Easement").

e. *Recreation Conservation Covenant.* Grantee shall execute that certain agreement entitled "Recreation Conservation Covenant," by which Grantee accepts the affirmative obligation to use, operate, and maintain the Property for low-intensity public outdoor recreation in perpetuity ("Recreation Covenant").

f. *The Irrevocable Offers of Dedication.* Grantee shall execute and deposit into escrow for recording those certain agreements entitled "Irrevocable Offer of Dedication of Lease" and "Irrevocable Offer of Dedication of Fee" to secure its obligations under the Recreation Covenant. These instruments shall hereinafter be referred to jointly as the "Irrevocable Offers."

g. *Public Access.* By no later than October 25, 2019, Grantee shall have completed all planning procedures, met all necessary regulatory requirements and budgeting, and shall open the Property for public outdoor recreation as described in the approved Work Plan in a manner consistent with the purposes of this Agreement, the Conservation Easement, and the Recreation Covenant.

h. *Operations and Maintenance.* Grantee shall use, manage, operate, and maintain the Property in perpetuity solely for public outdoor recreation in a manner consistent with the Conservation Easement and the Recreation Covenant. Grantee assumes all responsibility for and costs of management, operation, and maintenance of the Property. The District shall not be liable for any costs of Property management, operation, or maintenance.

3. PROCEDURAL REQUIREMENTS

a. *Work Plan.* Prior to the disbursement of any grant funding and no later than ninety (90) days from the Effective Date of this Agreement, Grantee shall submit, for District review and approval, a Work Plan to implement the Project. The District's review of the Work Plan shall be limited to determining whether implementation of the Work Plan will result in implementation of the Project in a manner consistent with this Agreement, the Conservation Easement, the Recreation Covenant, and the District's purpose in accepting the Project into the Program. The District's approval shall not be construed as the issuance of any entitlements by the District for any of the programs or activities contemplated by Grantee. The District will provide written notice to Grantee of its approval or disapproval of the proposed Work Plan. The Work Plan shall include: 1) a detailed description of the Project, including conceptual and, if available, construction plans; 2) a timeline or schedule for Project implementation, including final Project implementation date; 3) a detailed budget, including expenditure of District Grant, as well as the matching funds identified to accomplish the Project and reflecting the required one-to-one (1:1) match. Grantee may amend the Work Plan from time to time with prior written approval from the District. Such approval shall not be unreasonably withheld.

b. *Disbursement of Grant Funds.*

- i. Pre-Conditions. The District shall not be obligated to disburse any funds unless and until the following conditions have been met:
- The District's Board of Directors has approved the execution of this Agreement.
 - The Conservation Easement has been executed and Grantee is in compliance with the terms of the Easement.
 - The Recreation Covenant has been executed and Grantee is in compliance with the terms of the Covenant.
 - District has approved Work Plan, pursuant to Section 3(a) of this Agreement,
 - Grantee has provided written evidence to the District that all permits and approvals necessary to the implementation of the Project under applicable local, state and federal laws and regulations have been obtained.

- Grantee has provided required insurance coverage as described in Section 4(b) of this Agreement.
- Grantee has provided a current negotiated rate letter approved by a cognizant federal agency, an Indirect Cost Rate (ICR) plan, or current billing rates for Grantee's staff.
- Grantee has provided proof of compliance with the California Environmental Quality Act (CEQA).

ii. Payment.

1. Reimbursement. The Grantee may submit requests for payment following District approval of the Work Plan and while work is in progress, subject to the following requirements. Grantee shall complete and submit no more frequently than monthly and no less frequently than quarterly, reimbursement claims in a form acceptable to the District containing at a minimum all the information in the sample form attached hereto as Exhibit "B." Each invoice should be accompanied by a Progress Report as described below. The District will pay the claims of Grantee within 30 days of receipt of such claims, provided that the District's General Manager is satisfied that the claims (i) are complete; (ii) include adequate supporting documentation; and (iii) are for eligible expenses as detailed in the approved Work Plan, and such expenses were reasonably incurred in connection with the Project.
2. Final Reimbursement. In submission of the final request for reimbursement, Grantee shall ensure that the reimbursement claim filed with the District is labeled as final and includes photos documenting 100% implementation of the work funded by the District's grant. The Final Performance Report prepared in accordance with Section 3(b)(iii)(2) shall accompany the final request for reimbursement.

iii. Reporting.

1. Quarterly. After District approves the Work Plan, Grantee shall complete and submit no less frequently than quarterly, a Performance Report ("PR") demonstrating Grantee's progress under its approved Work Plan. The first PR shall be submitted no later than ninety (90) days after the date the Work Plan is approved by the District. The PR shall be in a form acceptable to the District's General Manger and shall include (i) a summary of the current status of the Project; (ii) a description of any challenges and opportunities encountered within the reporting period, and how the Grantee will address them; (iii) percent of the Project implemented; (iv) amount(s) and source(s) of funding expended on approved tasks; and (v) percent of the District Grant and match expended.
2. Final. Within 45 days of completion of implementation of the Project, Grantee shall file with District a final PR demonstrating 100% implementation of the Project, including demonstration that the District Grant and the Grantee's match have been expended consistent with the terms of this Agreement, and that restoration monitoring and maintenance is underway. The final PR should include photos documenting (i) Project Implementation and (ii) installation of signs as required by Section 4.f below.

4. IMPLEMENTATION REQUIREMENTS

a. *Procurement.* In expenditure of District's grant for goods and services, Grantee shall comply with District's competitive procurement procedures, including those required by laws applicable to a special district created by Public Resources Code section 5500 *et seq.* Alternatively, subject to District consent, Grantee may use its own competitive procurement procedures, provided that such procedures provide financial protection equal to or greater than those provided by the District's competitive procurement procedures. Should Grantee desire to use its own competitive procurement procedures in lieu of District's, Grantee shall submit its procedures to District for review and approval. If District, in its sole discretion, determines that Grantee's procurement procedures are not sufficiently rigorous, District may deny the request

and Grantee shall thereafter use District's procurement procedures for all transactions undertaken in connection with the District's grant. In any event, District reserves the right to reimburse Grantee only for such costs as it deems commensurate with the fair market value of the goods and services supplied.

b. *Insurance.* Grantee shall maintain the insurance specified in Exhibit "C," attached hereto and incorporated herein by this reference.

c. *Prevailing Wage.* With respect to any portion of the Project that constitutes the performance of a "public work" within the meaning of Labor Code section 1720, Grantee shall comply with all applicable wage and hour laws, including without limitation Labor Code Sections 1775, 1776, 1777.5 1813 and 1815 and California Code of Regulations, Title 8, Section 16000, *et seq.*

d. *ADA Requirements.* Grantee shall ensure that the Project complies with all applicable requirements of the Americans with Disabilities Act (ADA) including, without limitation, providing fully accessible public access to the Property and all facilities and programs provided thereon.

e. *Non-Discrimination.* Grantee shall comply with all applicable federal, state and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation, or other prohibited basis including, without limitation, the District's Non-Discrimination Policy. All nondiscrimination rules and regulations required by law to be included in this Agreement are incorporated herein by this reference.

f. *Signs.* Grantee shall erect at least one permanent sign, or shall incorporate a statement on an existing sign on the Property acknowledging the District's financial participation in the Project. Such signs shall: 1) be made of materials that are weather resistant; 2) be located where they are easily read by the public; 3) include, at a minimum, the District's logo (provided by District) and if possible the following language, "This Project was funded in part through the Sonoma County Agricultural Preservation and Open Space District's Matching Grant Program;" and 4) be consistent with the signage language in the Conservation Easement. Grantee shall submit the number, design, wording, and placement of signs to the District's General Manager for review and approval.

5. PROJECT REVISIONS AND EXTENSIONS

a. *Changes to Project.* To maintain the integrity of the competitive Program, Grantee may not make substantive changes or alterations to the Project without written consent of the District. As a condition District's approval of any changes to the Project, Grantee shall amend the Work Plan as deemed reasonably necessary by the District.

b. *Project Implementation Extension.* The District, at its sole discretion, may grant a single extension of time, of no more than two years, for implementation of the Project. The District's granting of an extension is dependent upon Grantee's ability to demonstrate that reasonable progress on the Project is and has been made, that the Project has been compliant with all provisions of this Agreement, the Conservation Easement, and the Recreation Covenant, and that Grantee has demonstrated that the extension will result in successful implementation of the Project within the extended timeframe.

6. RECORDS KEEPING

a. *Records.* Grantee shall maintain all financial, procurement, accounting, licenses, insurance, and project and programmatic records related to the Project for no less than five (5) years after the completion of implementation of the Project.

b. *Records Access.* Upon not less than 24-hours advance notice, Grantee shall provide District with access during normal business hours to all financial, procurement, accounting, licenses, insurance, and project and programmatic records related to the District's grant for no less than five (5) years after the completion of Project implementation.

c. *Annual Audit.* Grantee shall make available annual audited financial statements related to the District Grant funds and Grantee Match Funds to the District within 6 months of the Grantee's previous fiscal year end. If a Grantee does not have an audit conducted, a biennial accountant review will be accepted in lieu of an annual audit with respect to that Grantee.

d. *Accounting Requirements:* Grantee shall maintain an accounting system that is in accordance with generally accepted accounting procedures and standards, and as such:

- i. Accurately reflects responsible fiscal transactions, with the necessary controls and safeguards.

- ii. Provides a solid audit trail, including original source documents such as contracts, purchase orders, receipts, progress payments, invoices, timecards, and evidence of payment.
- iii. Provides accounting data so the total cost of the project and each individual component can be readily determined.

e. *Fiscal and Project Monitoring.* The Project will be subject to compliance monitoring by the District. Such monitoring may include examination of books, papers, accounts, documents or other records of Grantee as they relate to the expenditure of District grant funds and the Grantee's match.

7. GENERAL PROVISIONS

a. *Statutory Compliance.* All activities and uses in connection with the Project shall be subject to and undertaken in accordance with all applicable federal, state, and local statutes, ordinances, rules, and regulations.

b. *Access to Project Site.* The District shall have the right to enter and inspect the Property upon 24-hours advance notice to the Grantee for the purposes of ensuring compliance with this Agreement and progress toward Project Implementation.

c. *Failure to Perform.* Failure by Grantee to comply with the terms of this Agreement may result in any or all of the following actions at the District's sole discretion:

- i. If District reasonably determines that the Project will not be implemented or that the purposes of the Project will not be met within the timeframes provided herein, the District may cease all further funding and may commence and pursue all available legal remedies to recoup any and all grant funds disbursed to Grantee pursuant to this Agreement.
- ii. District may seek specific performance of this Agreement in a court of competent jurisdiction. Grantee hereby agrees that the public benefits sought by this Agreement exceed the dollar amount of the grant and are impracticable or extremely difficult to measure. Grantee further agrees that, in the event of a breach of this Agreement by Grantee, reimbursement of the grant funds, alone,

would be inadequate compensation and that, in addition to damages, the District shall be entitled to injunctive relief, including specific performance, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Specific performance, however, shall not be compelled if changes in circumstances have rendered such performance impossible or financially infeasible.

d. *Indemnification.* Grantee agrees to accept all responsibility for loss or damage to any person or entity, including but not limited to District, its officers, agents, and employees and to defend, indemnify, hold harmless, reimburse and release District, its officers, agents, and employees, from and against any and all actions, claims, damages, disabilities, liabilities and expense, including but not limited to attorneys' fees and the cost of litigation, whether arising from personal injury, property damage or economic loss of any type, that may be asserted by any person or entity, including Grantee, arising out of or in connection with this Agreement and/or the Project, whether or not there is concurrent negligence on the part of District, but, to the extent required by law, excluding liability due to the sole or active negligence or due to the willful misconduct of District. If there is a possible obligation to indemnify, Grantee duty to defend exists regardless of whether it is ultimately determined that there is not a duty to indemnify. District shall have the right to select its own legal counsel at the expense of Grantee, subject to Grantee approval, which approval shall not be unreasonably withheld.

e. *Method and Place of Giving Notice, Making Submissions and Payments.* Except as otherwise expressly provided herein, any notice, invoice, report, demand, request, approval, disapproval, or other communication that either party desires or is required to give under this Agreement shall be in writing and either served personally or sent by first class mail, private courier or delivery service, or telecopy addressed as follows:

TO DISTRICT:

General Manager
Sonoma County Agricultural Preservation
and Open Space District
747 Mendocino Avenue
Santa Rosa, CA 95401
Telephone: (707) 565-7360
Fax: (707) 565-7359

TO GRANTEE:

President
Graton Green Group
PO Box 858
Graton, CA 95444

f. *Assignment and Delegation.* Grantee shall not assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the District, and no such transfer shall be of any force or effect whatsoever unless and until such consent is received.

g. *Amendment.* No changes in this Agreement shall be valid unless made in writing and signed by the parties to this Agreement. No oral understanding or agreement not incorporated in this Agreement shall be binding on any of the parties.

h. *No Third Party Beneficiaries.* Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

i. *Merger.* This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

j. *Time of Essence.* Time is and shall be of the essence of this Agreement and every provision hereof.

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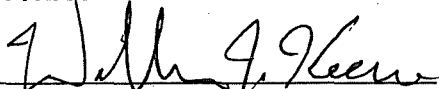
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.


APPROVED:
SONOMA COUNTY AGRICULTURAL
PRESERVATION AND OPEN SPACE
DISTRICT



William J. Keene, General Manager

Date: 3/20/19

APPROVED:
GRANTEE



Hollynn D' Lil, President
(The signatory hereby warrants and represents he/she is authorized to execute this document on behalf of Grantee)

Date: 1/14/2019

Exhibits

- A: Legal Description
- B: Form of Reimbursement Claim
- C: Insurance Requirements

EXHIBIT "A"
LEGAL DESCRIPTION

All that real property situate in the unincorporated area of the County of Sonoma, State of California, and lying within the Molinos Rancho, described as follows:

All that property delineated as Lot 11 as shown on Sheet 3 of 4 of that certain map of GREEN VALLEY VILLAGE SUBDIVISION, TRACT 1078 filed for record in the office of the County Recorder of the County of Sonoma, State of California

dated Nov. 1, 2018 in Book 800 of Maps, Pages 12-15

Portion of APN 130-151-005, 130-151-006, and 130-151-007.

Prepared by,



Bradley A. Thomas, PLS 5520
My License Expires: 9/30/2018
File No. 2015-011
30 September 2018



Exhibit B Reimbursement Form

Exhibit C Insurance Requirements

Section I – Insurance to be Maintained by Graton Green Group

Graton Green Group shall maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The insurance shall be maintained for no less than 5 years after all funds have been disbursed.

District reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. District's failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or District's failure to identify any insurance deficiency shall not relieve Graton Green Group from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

1. Workers Compensation and Employers Liability Insurance

- a. Required if Graton Green Group has employees as defined by the Labor Code of the State of California.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. Required Evidence of Insurance: Certificate of Insurance.

If Graton Green Group currently has no employees as defined by the Labor Code of the State of California, Graton Green Group agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and either Commercial Excess or Commercial Umbrella Liability Insurance. If Graton Green Group maintains higher limits than the specified minimum limits, District requires and shall be entitled to coverage for the higher limits maintained by Graton Green Group.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by District. Graton Green Group is responsible for any deductible or self-insured retention and shall fund it upon District's written request, regardless of whether Graton Green Group has a claim against the insurance or is named as a party in any action involving the District.
- d. Sonoma County Agricultural Preservation and Open Space District, its officers, agents, and

employees shall be endorsed as additional insureds for liability arising out of Graton Green Group's ongoing operations. (ISO endorsement CG 20 26 or equivalent).

- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy definition of "insured contract" shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the "P" definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between District and Graton Green Group and include a "separation of insureds" or "severability" clause which treats each insured separately.
- h. Required Evidence of Insurance:
 - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
 - ii. Certificate of Insurance.

3. Automobile Liability Insurance

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limit may be satisfied by a combination of Automobile Liability Insurance and either Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned vehicles if Graton Green Group owns vehicles.
- c. Insurance shall cover hired and non-owned vehicles.
- d. Required Evidence of Insurance: Certificate of Insurance.

4. Professional Liability/Errors and Omissions Insurance (*Only required of recipients whose normal operations include professional services.*)

- a. Minimum Limit: \$1,000,000 per claim or per occurrence.
- b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by District.
- c. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- d. Required Evidence of Insurance: Certificate of Insurance.

5. Standards for Insurance Companies

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

6. Documentation

- a. The Certificate of Insurance must include the following reference: Graton Community Park.
- b. Graton Green Group shall submit required Evidence of Insurance prior to the execution of this Agreement. Graton Green Group agrees to maintain current Evidence of Insurance on file with District for the required period of insurance.
- c. The name and address for Additional Insured endorsements and Certificates of Insurance is: Sonoma County Agricultural Preservation and Open Space District, its officers, agents, and

employees, 747 Mendocino Avenue, Santa Rosa, CA 95401.

- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Graton Green Group shall provide immediate written notice if: (1) any of the required insurance policies are terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
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- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

7. Policy Obligations

Graton Green Group's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

Section II – Insurance to be Maintained by Graton Green Group's contractors and/or consultants)

(Contact Risk Management)