

FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement (the "Amendment") is made and entered into this 12th day of June, 2022 (the "Effective Date") by and among the COUNTY OF SANTA BARBARA, a political subdivision of the State of California (the "COUNTY") and ISLA VISTA RECREATION AND PARK DISTRICT, a municipal corporation (the "DISTRICT") (collectively, the "Parties").

RECITALS

- A.** District owns Children's Park in the County of Santa Barbara (the "Park").
- B.** The County and District entered into that certain Agreement dated April 3, 1978 ("Agreement"), pursuant to which, among other things, the County agreed to grant an Encroachment Permit to District so that a portion of Picasso Road adjacent to the Park ("County Right-of-Way") could be used for park purposes.
- C.** District has obtained a grant to construct additional improvements at the Park (the "Grant").
- D.** The Parties desire to amend the Agreement as set forth hereinbelow. Capitalized terms not otherwise defined in this Amendment shall have the meaning set forth in the Agreement.

AGREEMENT

NOW THEREFORE, the Parties for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

1. ENCROACHMENT PERMIT.

The County agrees to grant a new encroachment permit to District for construction and maintenance of the new improvements to the Park within the County Right-of-Way, as contemplated by the Grant (the "New Encroachment Permit"). District shall comply with the requirements of the New Encroachment Permit.

2. CONSTRUCTION.

District shall construct the project as contemplated by the Grant. District is authorized to delegate construction obligations to other qualified entities.

3. OPERATION AND USE OF PROJECT.

District, or its delegee(s), shall be solely responsible for the operation and use of the project site for park purposes, including for purposes of scheduling recreational programs. If District delegates such operational roles pursuant to this paragraph, District shall remain bound by the terms and provisions of the Agreement.

4. MAINTENANCE.

District agrees to maintain the project site for the duration of the Agreement, and is authorized to delegate such maintenance obligations to other entities as District deems necessary or convenient; provided, however, that in the event of such delegation, District shall remain liable for the maintenance of the project site for the duration of the Agreement. The County Public Works Department agrees to provide maintenance and repair for the area on the south side of the right-of-way centerline adjacent to the New Encroachment Permit Area.

5. INDEMNIFICATION.

To the extent permitted by law, District, for itself and its delegees and subcontractors, agrees to indemnify and hold harmless County and its officers, officials, employees, agents, and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of the construction, maintenance, operation and/or use of the new improvements to the Park contemplated by this Amendment. The duty to indemnify and hold harmless includes the duty to defend.

6. INSURANCE.

District agrees to procure and maintain for the duration of this Agreement Commercial General Liability Insurance with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate and name the County as an additional insured on its policy. These limits shall be reviewed every five years by the County and upon review, the County may, at its sole discretion, require reasonable increases in the insurance limits.

7. SUBCONTRACTORS.

District shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and District shall ensure the County is an additional insured on insurance required from subcontractors.

8. TERM AND TERMINATION OF AGREEMENT.

This First Amendment to the Agreement shall become effective upon mutual execution by the Parties and shall expire, unless terminated earlier as provided herein, thirty (30) years from the date of appropriation of the Grant funds ("Initial Term"). Prior to the expiration of the Initial Term, the District may request to extend the expiration date upon written notice to the County for a mutually agreeable extension period, and such term extension shall not be unreasonably withheld.

Either Party may terminate this Agreement for cause upon written notice to the other Party of a material breach if such breach remains uncured at the expiration of thirty (30) days from the date of the breaching Party's receipt of such written notice.

9. REQUIREMENTS OF LAW.

District, at its sole cost and expense, shall comply with all present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, of all governmental authorities now existing or hereafter created, and of any and all of their departments and bureaus, and of any applicable fire rating bureau, or other body exercising similar functions, affecting the District's operation and use of the County Right-of-Way.

10. NOTICES.

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given to any party (i) upon delivery to the address of such party specified below if delivered in person or by courier, or if sent by certified or registered mail (return receipt requested), postage prepaid, (ii) upon dispatch if transmitted by telecopy or other means of facsimile, in any case to the parties at the following address(es) or telecopy number(s), as the case may be:

If to District:

Isla Vista Recreation & Park District
961 Embarcadero Del Mar
Isla Vista, CA 93117
Attn: General Manager

If to County:

Public Works, County of Santa Barbara
123 E Anapamu Street
Santa Barbara, CA 93101
Public Works Director and Deputy Director of Transportation

11. COUNTERPARTS.

This Amendment may be signed in multiple counterparts which, when signed by all parties, will constitute a binding agreement.

All other terms and conditions of the Agreement shall remain unchanged and fully enforceable.

IN WITNESS WHEREOF, this Amendment has been executed by the Parties as of the date first written above.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

Joan Hartmann, Chair
Board of Supervisors

By: Shirley Diabona
Deputy Clerk

By: Joan Hartmann

RECOMMENDED FOR APPROVAL:

Scott D. McGolpin, Director
Santa Barbara County Public Works

By: Scott McGolpin

APPROVED AS TO FORM:

Rachel Van Mullem
County Counsel

By: Brian Pettit
Brian Pettit
Deputy County Counsel

APPROVED AS TO FORM:

Gregory Milligan, ARM
Risk Manager

By: Gregory Milligan
Risk Management

ISLA VISTA RECREATION AND PARK DISTRICT

By: _____

Name: Kimberly Kiefer

Title: General Manager