

HISTORICAL PROJECT AGREEMENT
for the Alviso Adobe Renovation
with
The City of Milpitas
Fiscal Year 2008 HISTORIC HERITAGE GRANT FUNDS, \$85,000

This Agreement is made and entered into between the COUNTY OF SANTA CLARA, a political subdivision of the State of California (hereinafter referred to as the "County"), and the City of Milpitas, a public agency (hereinafter referred to as "Project Applicant").

RECITALS

WHEREAS, the Project Applicant submitted an application to the County Historical Heritage Commission for funding for the Alviso Adobe Renovation, (hereinafter referred to as "Project") the work outlined in Attachment A, Itemized Scope of Work in this Project Agreement; and

WHEREAS, the County Historical Heritage Commission on May 15, 2008 reviewed the merits of the proposal and conveyed its recommendation that the Board of Supervisors approve the allocation of \$85,000 from the Fiscal Year 2008 Historical Heritage portion of the Park Charter Fund to assist the Project Applicant in the completion of the Project; and

WHEREAS, the Board of Supervisors on June 24, 2008 reviewed the recommendations of the Historical Heritage Commission and approved the conditions of this Agreement and the allocation of \$85,000 (County Contribution) from the Fiscal Year 2008 Historical Heritage portion of the Park Charter Fund to assist the Alviso Adobe Renovation, which will acknowledge, preserve and commemorate the historical and cultural heritage of the Santa Clara Valley; and

WHEREAS, the Board of Supervisors reviewed the facts in support of the Project and finds; the Project is located in a park in Santa Clara County, that it will be open to the public on an equal basis, that it will benefit all citizens of Santa Clara County, and that the Project serves County Park Purposes as defined in Section 604 (b) of the County Charter, (hereinafter referred to as "Park Purposes");

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein, the County and Project Applicant agree as follows:

SECTION I. PROJECT APPLICANT RESPONSIBILITIES

1. Responsibility of the Project Applicant

Project Applicant, at Project Applicant's sole cost and expense, will perform or cause to be performed the work outlined in Attachment A, Itemized Scope of Work (referred to as "Project" in this Agreement), and the Project Applicant shall act promptly and without delay with respect to such matters in relation to the Project. In performing the Project, the Project Applicant will:

- a) Ensure that consultants selected for professional services have previous experience with historical projects similar to the Project and are subject to the County and Historical

Heritage Commission's reasonable approval. The Project Applicant must solicit at least three bids for any construction work to be performed as part of the Project, whether or not directly funded by the Grant. At a minimum, construction contractors must have the required license for the work and have been in business at least three years.

- b) Comply with the appropriate requirements set forth in the Santa Clara County Insurance Manual as noted in Section IV of this Project Agreement.
- c) Prepare plans and specifications for the Project and implement construction of the Project including the hiring, contracting for, or otherwise retaining the professional services of architects, engineers, and other professional experts as required for completion of the Project, obtaining construction bids, awarding the construction contract, supervising, and administering the Project.
- d) Prepare all environmental documents required for completion of the Project pursuant to the California Environmental Quality Act, National Environmental Policy Act, and any rules and/or regulations promulgated thereunder.
- e) Secure all approvals by government agencies required for completion of the Project.
- f) Secure separate performance and payment bonds, each in the full amount of the construction contract, or other acceptable guarantees to assure satisfactory completion of the Project, and the payment of laborers and suppliers of material.
- g) Recognize the financial contribution of the County of Santa Clara Historical Heritage Commission and the Parks and Recreation Department by providing **permanent** signage to that effect on the Project or Project site.
- h) Submit a Project progress report to the Santa Clara County Department of Parks and Recreation November 1 and May 1 of each year until the Project is completed and reimbursement received.
- i) Provide requested documentation about the Project to the Historical Heritage Commission for review before construction work begins in order to ensure that the proposed Project is consistent with the Secretary of the Interior Standards.
- j) Comply with the following conditions for the grant funding as approved by the Board of Supervisors.
 - 1. The Historical Heritage Commission must review and approve the proposed rehabilitation work following execution of the Project Agreement if the Alviso Adobe has not been designated as a City Landmark and a historic preservation permit has not been issued by the City of Milpitas.
- k) Record covenants, if the Project is on private land, to ensure that the Property is open for public use for a term of twenty (20) years as required by the condition of the grant.
- l) Make a presentation at a regularly scheduled Historical Heritage Commission meeting discussing their completed project within three (3) months of project completion. The Project Applicant shall print and distribute the same photos submitted with the final reimbursement request to the Commission members at the presentation.

2. Capital Contributions by Parties to Agreement.
 - a) Project Applicant will expend the County Contribution exclusively for third party expenses arising from labor, materials and equipment required for the work specified in Attachment A, Itemized Project Scope of Work, and consistent with Attachment B, Itemized Project Budget for completion of the Project.
 - b) Project Applicant shall be responsible for obtaining any funds needed above the County Contribution for the completion of the Project. These additional funds shall be identified in Attachment B, Itemized Project Budget.
 - c) No contribution made by the County shall be used for Project Applicant's internal salary or administrative expenses, including office overhead or expenses.
3. Prevailing Wages

The Project is a public work within the meaning of Labor Code Section 1720, to which the provisions of 1771, et. seq. apply. The Project Applicant will pay, or cause to be paid, prevailing wages when applicable. The Project Applicant will include prevailing wage requirements in all agreements with third parties for work or services needed to complete the Project.

SECTION II. OPERATION AND MAINTENANCE

It is mutually understood that the Project will be constructed, operated, and maintained for a period of 20 years by the Project Applicant for the benefit of the public. On-going maintenance is solely the responsibility of the Project Applicant.

SECTION III. COMPENSATION / REIMBURSEMENT

The County will reimburse the Project Applicant the maximum amount of \$85,000 (County Contribution) for labor, materials and equipment required to perform the work included on Attachment A, Itemized Project Scope of Work, contingent on Project Applicant's compliance with the conditions for funding enumerated in the Project Agreement in Section I, item 1.j.

Project Applicant shall provide County a detailed, itemized invoice requesting reimbursement of Project costs containing information noted below. No advances will be made. If a reimbursement request is not complete or unsatisfactory, the County will require additional information. The County, in its sole discretion, may pay that part of the reimbursement request that is satisfactory, or decline payment.

All reimbursement requests shall contain the following information:

- a) A letter itemizing expenditures being claimed for reimbursement. Itemizations **must** clearly show what the expenditures were for in relation to items in Attachment A, Itemized Scope of Work.
- b) Clear copies of invoices that are for the approved Project and are addressed to the Project Applicant.
- c) Evidence that all invoices have been paid. For example, a clear copy of the front side of the check or warrant issued to pay them, or a receipt of payment. Account statements will not be accepted.
- d) Copy of up to date Certificate of Insurance to comply with Section IV of this Historical Project Agreement, showing insurance policy is currently effective.
- e) A report on the status of the Project. Include construction inspection reports and copies

- of lien releases or payment bonds to protect subcontractors.
- f) Project Applicants may submit requests for reimbursement any time that they have claimable expenditures exceeding a minimum of \$1,000. However, Project Applicants must send the County reimbursement requests on a quarterly basis when they have claimable expenditures during that quarter that exceed \$1,000. The quarterly submittal dates are January 1, April 1, July 1, and October 1.
 - g) Requests for final payment of grants must include: 1) at least six (6) different photos of the Project, 2) an additional photo of the recognition noted in Section I, item 1 (g) above will be provided, and 3) a statement of how each one of the conditions noted in Section I, item 1 (j) have been met.

If the reimbursement request is satisfactory, the County shall provide payment to the Project Applicant within 60 days.

County's Contribution will be expended only as indicated in Section I of this Project Agreement. The Santa Clara County Parks and Recreation Department must have received Project Applicant's request for reimbursement **within the Term of this Agreement set forth in Section 5, or any written extension thereof. Upon expiration of the Term of this Agreement, County's Contribution will revert to the County for reprogramming. It is the Project Applicant's responsibility to keep track of the expiration of the Term of this Agreement and to ensure that the Project is completed and reimbursements submitted in advance of that date.**

Records of the Project shall be maintained for audit purposes for three (3) years after completion of the Project or until all claims are settled, whichever occurs last. All records and data shall be available to County upon reasonable notice within five (5) working days of a request by the County. The Project Applicant shall repay County with interest at the rate earned on County's investments for any unauthorized activities disclosed by audit or inspection, including the cost of the audit, within thirty (30) days of demand by County. Before disposal of any such records, Project Applicant shall notify County and County shall have the opportunity to place records in storage unless written the Director of the Parks and Recreation Department grants written release.

Audits may be conducted at the discretion of the Santa Clara County Parks and Recreation Department. The audits may take two forms; a walk through inspection of the Project and informal review of the Project records by Parks and Recreation Department staff, and/or a formal financial audit conducted by either Santa Clara County staff or a consultant. Project Applicant should be prepared for either or both types of audits. A walk through inspection may occur at the beginning of a Project, before approval of the final reimbursement request, or at periodic intervals throughout the Project. A formal financial audit may occur as deemed necessary by the Santa Clara County Parks and Recreation Department.

SECTION IV. LIABILITY AND INSURANCE

The Project Applicant, at their sole cost and expense, shall provide insurance, or require its consultants and contractors to provide insurance appropriate for the Project as required in the Santa Clara County Insurance Manual for professional services and construction contracts. Insurance requirements vary by dollar value, type of contract, and whether Santa Clara County owns the property. **The Project Applicant shall obtain a summary of all insurance requirements that are deemed appropriate for the Project from the Santa Clara County Parks and Recreation Department before completing the required Attachment C, Certificate of Insurance.**

Project Applicant shall defend, indemnify and hold harmless County, its officers, employees, and agents from any loss, injury, or damage arising out of or in connection with any acts or omissions related to the Project, including the completion of the Project by the Project Applicant, and the ongoing operation and maintenance of the Project.

Throughout the Term of this Historical Project Agreement, the Project Applicant, at its sole cost and expense, shall name the County as an additional insured on insurance policies required by the County for completion of the Project. The ~~exact~~ following language must be included in the policy listing noting the County as additional insured:

"The County Board of Supervisors of Santa Clara, its officers, agents, and employees of the County of Santa Clara are named individually and collectively as Additional Insureds / Alviso Adobe Renovation Project. Insurance is primary."

Project Applicant shall provide, or have the consultant or construction contractor provide, a currently effective Certificate of Insurance to be included in this Historical Project Agreement as Attachment C.

Premiums for insurance policies are considered an administrative expense and are **not** reimbursable by these grant funds. **A currently effective Certificate of Insurance shall be provided by the Project Applicant before approval of all requests for reimbursement. Annual insurance renewal certificates will be sent to the Department during the Term of the agreement.**

SECTION V. TERM OF AGREEMENT / EXTENSIONS

1. This Historical Project Agreement shall become effective upon its full execution by the parties and shall remain effective until June 24, 2011 or until completion of the Project and reimbursement by the County, whichever occurs first (Term).

2. One Project Agreement extension, for a term of no longer than three (3) years, may be granted by written amendment to this Agreement **only under special circumstances**. To request an extension, Project Applicants must prepare a written letter to the Historical Heritage Commission explaining the need for an Agreement extension and appear at a regularly scheduled meeting before the Commission to discuss their need for additional time to complete the project. Upon the Historical Heritage Commission's recommendation, the County's Director of Parks and Recreation, in her sole and absolute discretion, may extend the term of this Agreement up to three (3) years.

SECTION VI. AUTHORIZED SIGNATURES

The City of Milpitas has authorized Thomas Williams to execute this Historical Project Agreement. Any additional signatories noted in the Project conditions noted in Section I, item 1 (j).

SECTION VII. NOTICES

Any notices provided herein shall be mailed to the respective parties addressed as follows:

COUNTY OF SANTA CLARA

Director
Parks and Recreation Department
298 Garden Hill Drive
Los Gatos, CA 95030
Phone: (408) 358-3741

CITY OF MILPITAS

Thomas Williams, City Manager
455 E. Calaveras Blvd.
Milpitas, CA 95035
Phone: (408) 586-3050
twilliams@ci.milpitas.ca.gov

SECTION VIII. SIGNATORY

The County hereby grants History San Jose the County Contribution for the Project in accordance with the terms and conditions stated herein. This Project Agreement, including attachments, constitutes the complete agreement between the parties. No modifications or amendments of this agreement will be binding on either party unless acknowledged in writing by both parties.

IN WITNESS WHEREOF, the duly authorized representative for each party hereto has executed this Project Agreement on the date shown.

COUNTY OF SANTA CLARA

CITY OF MILPITAS

Lisa Killough
Director, Parks and Recreation Dept.

Thomas Williams
City Manager

Dated: _____

Dated: _____

Approved as to form and legality:

KATHERINE HARASZ
Deputy County Counsel

Dated: _____

ATTACHMENT A

ITEMIZED PROJECT SCOPE OF WORK

(This is to be provided by the Project Applicant when returning the completed, signed Agreement. The list must specify those items are being funded by these grant funds. If the items are part of larger scope of work for the Project PLEASE CLEARLY CALL OUT ONLY THOSE ITEMS THIS GRANT WILL FUND.)

ATTACHMENT B

ITEMIZED PROJECT BUDGET CORRESPONDING WITH ATTACHMENT A

(This is to be provided by the Project Applicant when returning the completed, signed Agreement.

The budget must specify the costs for those items noted in Attachment A. If the items are part of larger budget for the Project PLEASE CLEARLY CALL OUT ONLY THOSE ITEMS THIS GRANT WILL FUND. The budget must also list the source and amount of any matching funds for the grant.)

**ATTACHMENT C
CURRENT CERTIFICATE OF INSURANCE**

(This is to be provided by Project Applicant on the attached Santa Clara County form when returning the completed sign Agreement. The Project Applicant shall document that they have complied all insurance requirements that are deemed appropriate for the Project from their consultation the Santa Clara County Parks and Recreation Department.)

ADDENDUM

SANTA CLARA COUNTY OPEN SPACE AUTHORITY
20% FUNDING PROGRAM AGREEMENT
CITY OF MILPITAS

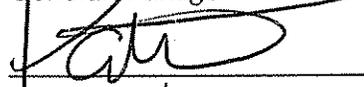
Alviso Adobe Renovation Project

This Addendum forms a part of, and is incorporated into, the 20% Funding Program Agreement for the Alviso Adobe Renovation Project (Agreement) and modifies it as follows:

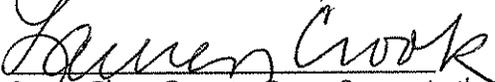
The time to expend all funds pursuant to Sections IV.1 and VI.2 are hereby extended to and including December 31, 2009. All other terms of the Agreement are unchanged and remain in full force and effect.

SANTA CLARA COUNTY
OPEN SPACE AUTHORITY
a Special District

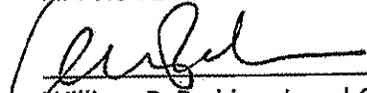
PATRICK CONGDON,
General Manager


Date: 12/12/08

ATTEST: Lauren Crook, Clerk


Santa Clara County Open Space Authority

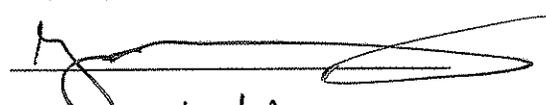
APPROVED AS TO FORM


William P. Parkin - Legal Counsel

Date: 12/12/08

CITY OF MILPITAS
a Municipal Corporation

GREG ARMENDARIZ,
City Engineer


Date: 12/17/08

APPROVED AS TO FORM:

City Attorney
[Print] _____
Date: _____

RESOLUTION 08-31

**A RESOLUTION OF THE GOVERNING BOARD OF
THE SANTA CLARA COUNTY OPEN SPACE AUTHORITY APPROVING EXTENSION OF
20% FUNDING AGREEMENT WITH THE CITY OF MILPITAS FOR
THE ALVISO ADOBE RENOVATION PROJECT**

WHEREAS, on September 8, 2005 the Governing Board approved a 20% Funding Agreement with the City of Milpitas for the Alviso Adobe Renovation Project; and

WHEREAS, the 20% Funding Agreement with the City of Milpitas expires if the funds are not expended by the City of Milpitas by December 31, 2008; and

WHEREAS, the City of Milpitas has requested an extension of time to expend the funds allocated pursuant to the 20% Funding Agreement to and including December 31, 2009.

NOW, THEREFORE, BE IT RESOLVED, the Board of the Authority authorizes the General Manager to enter into an Addendum to the 20% Funding Program Agreement with the City of Milpitas for the Alviso Adobe Renovation Project to extend the time to expend funds pursuant to the Agreement to and including December 31, 2009.

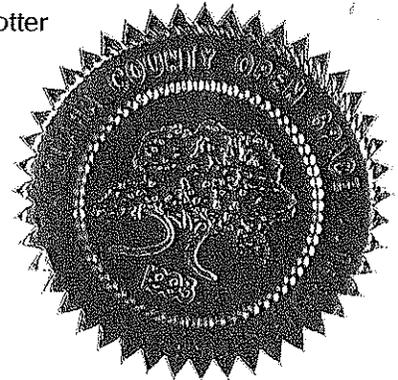
BE IT FURTHER RESOLVED, that the Board further directs that the General Manager is hereby authorized and directed, on behalf of the Authority and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

PASSED, APPROVED AND ADOPTED this 11th day of December, 2008 by the following vote:

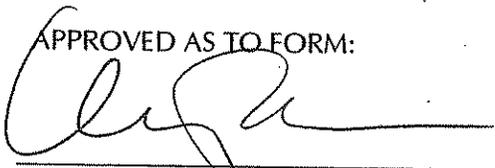
AYES: J. Foran, A. Kennett, S. Hall, G. Annable, V. Holtz, K. Gill, M. Potter
NOES: None
ABSENT: None



Jim Foran, Chairperson
Santa Clara County Open Space Authority

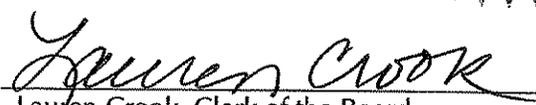


APPROVED AS TO FORM:



William Parkin, Legal Counsel

ATTEST:



Lauren Crook, Clerk of the Board