

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
SAN MATEO COUNTY PARKS AND RECREATION FOUNDATION**

THIS AGREEMENT, entered into this ____ day of _____, 2003, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and San Mateo County Parks and Recreation Foundation, hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of performing the professional services hereinafter described for the Parks and Recreation Division; and

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Services to be Performed by Contractor

In consideration of the payments hereinafter set forth, Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A", attached hereto and incorporated by reference herein.

2. Contract Term

Subject to compliance with the terms and conditions set forth herein, the term of this Agreement shall be from July 1, 2003 through June 30, 2006 unless terminated earlier by the County.

3. Payments

In consideration of the services rendered in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A", County shall make payment to Contractor in the manner specified herein and in Exhibit "B." The County reserves the right to withhold payment if the County ~~is not satisfied with the quality of the work performed by Contractor.~~ In no event shall

the County's total fiscal obligation under this contract exceed THREE HUNDRED and NINETY SIX THOUSAND DOLLARS (\$396,000).

4. Relationship of the Parties

It is expressly understood that this is an agreement between two (2) independent contractors and that no agency, employee, partnership, joint venture or other relationship is established by this Agreement. The intent by both County and Contractor is to create an independent contractor relationship. Contractor expressly acknowledges and accepts his/her tax status and the tax consequences of an independent contractor. Further, as an independent contractor, Contractor expressly acknowledges and accepts that he/she has no rights, benefits, privileges and/or claims in any form whatsoever under, from, through and/or pursuant to the San Mateo County Civil Service Rules.

5. Indemnification

Contractor agrees to indemnify the County, its employees and agents from any and all loss in any way occasioned by or arising out of the negligence of the contractor in the performance of this agreement. In no event shall any indemnity under this Section 5 exceed the amount of the proceeds received by the Contractor from the insurance required by this Agreement.

6. Non-Assignability

Contractor shall not assign this Agreement or any portion thereof to a third party without the prior written consent of County, and any attempted assignment without such prior written consent in violation of this Section automatically shall terminate this Agreement.

7. Termination

The County may, at any time after ten days from execution of Agreement, terminate this Agreement by giving at least 30 days written notice specifying the effective date and scope of such termination. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials other than donor records (hereafter referred to as materials) prepared by Contractor under this Agreement, to the extent then owned by the Contractor, shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the

full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

8. Insurance

Contractor shall not commence work under this Agreement until all insurance required under this section has been obtained and such insurance has been approved by Risk Management. Contractor shall furnish the County with Certificates of Insurance evidencing the required coverage and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These Certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

A. Workers' Compensation and Employer Liability Insurance. Contractor shall have in effect during the entire life of this Agreement, Workers' Compensation and Employer Liability Insurance providing full statutory coverage. In signing this Agreement, County makes the following certification, required by Section 1861 of the California Labor Code: I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

B. Liability Insurance. Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by either of them. Such insurance shall be

combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below.

Such insurance shall include:

- 1) Comprehensive General Liability..... \$ 1,000,000
- 2) Motor Vehicle Liability Insurance..... \$ 1,000,000
- 3) Professional Liability..... \$ 1,000,000

If this Agreement remains in effect more than one (1) year from the date of its original execution, County may, at its sole discretion, require an increase in the amount of liability insurance to the level then customary in similar County agreements by giving sixty (60) days' notice to Contractor.

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to County, its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only. Said certificate(s) of insurance is (are) attached hereto and incorporated by reference herein as Attachment I.

9. Non-Discrimination

Contractor shall comply with the non-discrimination requirements described in Exhibit "C", which is attached hereto, and incorporated herein.

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject Contractor to penalties, to be determined by the County Manager, including, but not limited to: i. termination of this Agreement; ii. disqualification of Contractor from bidding on or being awarded a County contract for a period of up to three (3) years; iii. liquidated damages of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) per violation; iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to: i. examine Contractor's employment records with respect to compliance with this paragraph; ii. set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within thirty (30) days of such filing, provided that within such thirty (30) days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of its response to the complaint when filed.

With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

10. Amendment of Agreement

This Agreement is complete and contains all the terms and conditions agreed upon by the parties. No amendment shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement shall be binding on the parties hereto.

11. Records

A. Contractor agrees to provide to County, to any federal or state department having monitoring or reviewing authority, to County's authorized representatives and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine and audit all records and documents necessary to determine compliance with relevant federal, state, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

B. Contractor shall maintain and preserve all financial records relating to this Agreement for a period of four (4) years from the termination date of this Agreement, or until audit findings are resolved, whichever is greater.

C. Notwithstanding the foregoing, nothing herein shall require the Contractor to disclose any confidential donor records.

12. Compliance with Applicable Laws

All services to be performed by Contractor under this Agreement shall be performed in accordance with all applicable federal, state, county, and municipal laws, ordinances, regulations, including but not limited to appropriate licensure, certification regulations confidentiality requirements and applicable quality assurance regulations.

13. Interpretation and Enforcement

A. Any notice, request, demand or other communication required or permitted hereunder shall be deemed to be properly given when deposited in the United States mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed:

- 1) In the case of County, to:
San Mateo County
County Manager's Office
400 County Center
San Mateo, CA 94063

or to such person or address as County may, from time to time furnish to Contractor.

- 2) In the case of Contractor, to:
San Mateo County Parks and Recreation Foundation
215 Bay Road
Menlo Park, CA 94025

B. Controlling Law. The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation and performance of this Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____

President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____

Clerk of Said Board

Date: _____

San Mateo County Parks and Recreation Foundation

Jillia Burt

Contractor's Signature

Date: *July 29, 2003*

Exhibit "A"

In consideration of payments set forth in Exhibit "B", Contractor shall provide the following services subject to the approval of the County Parks and Recreation Division:

A. Apply for grant funding on behalf of the County Parks and Recreation Division for projects. By way of example only, such projects may include the following:

- Memorial Park campground upgrades
- Memorial Park water supply alternatives
- Sequoia Flat Crossing modifications
- Mirada Surf coastal trail construction
- Various Proposition 40 grant applications

B. Provide in-kind donations and project management for activities. By way of example only, such activities may include the following:

- Edgewood Interpretive Center design development and construction documents
- Fitzgerald Interpretive Center concept plan
- San Bruno Mountain Interpretive Center concept plan
- Environmental education teachers guide and kits
- Foundation office improvements
- Amphitheater needs assessment

C. Seek donations for projects. By way of example only, such projects may include the following:

- Sawyer Camp Trail water supply
- Volunteer programs support
- Training and conferences
- Trail machine
- Mirada Surf coastal trail
- Edgewood butterfly recovery plan
- Edgewood Interpretive Center construction
- Sawyer Camp trail resurfacing
- Amphitheater upgrades

D. Supply an itemized list of all gifts made to the County by the Contractor during the fiscal year ending June 30 and no later than July 31 of the succeeding fiscal year. Notwithstanding the foregoing, nothing herein shall require the Contractor to disclose any confidential donor records.

E. Contractor shall, from time to time and at the request of the County, contribute funds to the County of San Mateo for the benefit of Parks and Recreation System in accordance with the Parks and Recreation System plans and capital improvement program, subject to any restrictions that may have been placed by the donor on any specific gift or gifts made to the Contractor and subject to the Contractor's funds availability. The timing of contribution of non-liquid assets shall be based on the County's need for such assets balanced against the advantage or disadvantage of converting the assets to cash at a particular point in time.

F. Contractor agrees to provide the County with the following financial information:

- An annual budget detailing projected income and expenses no later than three (3) months prior to the start of each fiscal year. Budget updates shall be provided during the course of the fiscal year whenever significant changes are made to the budget.
- An annual report of income and expenses with an accompanying balance sheet listing fund balances within three (3) months after the end of each fiscal year.
- Provide an unaudited quarterly report to the County Parks and Recreation Commission.

G. Approved projects and activities may change based on unforeseen circumstances in which case the Contractor and the County Manager or designee will discuss and agree on alternative projects if any, provided there is no change in the amount payable under this contract. Annually the Contractor shall provide the County a work plan and a report of the previous year's activities.

Exhibit "B"

In consideration of services provided by Contractor in Exhibit "A", County shall provide the following:

- A. County will furnish to Contractor, for its exclusive use, office space of sufficient size to support the needs of the Contractor on a space available basis at a location to be determined by the County in consultation with the Contractor.
- B. Fees for Contractor related events in the County Parks are waived.

In consideration of the services provided by Contractor in Exhibit "A", County shall pay Contractor based on the following fee schedule:

Fiscal Year 1 (7/1/03 – 6/30/04)

County shall pay to contractor the sum of \$132,000, to be paid in four (4) equal installments on the first business day falling on or after 7/1/03, 10/1/03, 1/1/04, 4/1/04.

Fiscal Year 2 (7/1/04 – 6/30/05)

County shall pay to contractor the sum of \$132,000, to be paid in four (4) equal installments on the first business day falling on or after 7/1/04, 10/1/04, 1/1/05, 4/1/05.

Fiscal Year 3 (7/1/05 – 6/30/06)

County shall pay to contractor the sum of \$132,000, to be paid in four (4) equal installments on the first business day falling on or after 7/1/05, 10/1/05, 1/1/06, 4/1/06.

COUNTY OF SAN MATEO

Equal Benefits Compliance Declaration Form

I Vendor Identification

Name of Contractor: San Mateo County Parks and Recreation Foundation
Contact Person: Julia Bott
Address: 215 Bay Road
Menlo Park, CA 94025
Phone Number: 650/321-5812
Fax Number: 650/321-5813

II Employees

Does the Contractor have any employees? Yes No

Does the Contractor provide benefits to spouses of employees? Yes No

If the answer to one or both of the above is no, please skip to Section IV.

III Equal Benefits Compliance (Check one)

- Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.
- Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on _____ (date) and expires on _____ (date).

IV Declaration

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Julia Bott
Signature
Executive Director
Title

Julia Bott
Name (Please Print)
June 17, 2003
Date

**SAN MATEO COUNTY
MEMORANDUM**

DATE: 6/19/03

TO: Priscilla Harris Morse FAX: 363-4864 PONY: EPS 163

FROM: Pam Deal
FAX: 1916 PONY: CMO 105

SUBJECT: Contract Insurance Approval

The following is to be completed by the department before submission to Risk Management:

CONTRACTOR NAME: San Mateo County Parks and Recreation Foundation

DOES THE CONTRACTOR TRAVEL AS A PART OF THE CONTRACT SERVICES?:

NUMBER OF EMPLOYEES WORKING FOR CONTRACTOR:

DUTIES TO BE PERFORMED BY CONTRACTOR FOR COUNTY: Non-profit fund raising organization for Parks

The following will be completed by Risk Management:

INSURANCE COVERAGE:	Amount	Approve	Waive	Modify
Comprehensive General Liability	D&O	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Motor Vehicle Liability		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Professional Liability		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Workers' Compensation	statutory	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS/COMMENTS:

Priscilla Morse 6/19/03
Risk Management Signature Date

2002 PREMIUM INCREASE ENDORSEMENT -
CALIFORNIA

STATE
COMPENSATION
INSURANCE
FUND

HOME OFFICE
SAN FRANCISCO

1537613-02
RENEWAL
NA

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ENDORSEMENT AGREEMENT
EFFECTIVE DECEMBER 22, 2002 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

SAN MATEO CO PARKS & RECREATION
FOUNDATION
215 BAY RD
MENLO PARK, CA 94025

ANY CONTRADICTION BETWEEN THE POLICY AND THIS ENDORSEMENT
WILL BE CONTROLLED BY THIS ENDORSEMENT.

IT IS AGREED THAT THE PREMIUM RATES OF THIS POLICY ARE
SUBJECT TO AN INCREASE OF 5.1% EFFECTIVE JANUARY 1, 2003.

THIS REPRESENTS A COMBINED PURE PREMIUM INCREASE OF 0.2%
EFFECTIVE AS OF THE INCEPTION DATE OF THIS POLICY AND AN
ADDITIONAL 4.9% EFFECTIVE AS OF 12:01 A.M.,
JANUARY 1, 2003. THE INCREASES WERE APPROVED BY THE
STATE OF CALIFORNIA INSURANCE COMMISSIONER IN THE
DEPARTMENT OF INSURANCE FILE NO. RH 02022520, TO REFLECT
THE INCREASED COST OF PROVIDING BENEFITS UNDER THE WORKERS'
COMPENSATION LAWS OF CALIFORNIA IN ACCORDANCE WITH AB 749
(CHAPTERED FEBRUARY 19, 2002, CHAPTER 6, STATUTES OF 2002).

NOTHING IN THIS ENDORSEMENT CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE
OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS
POLICY OTHER THAN AS STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS OF THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO:

JANUARY 14, 2003

2024

Thomas Hansen

Shirone C. Oki

NON PROFIT PROFESSIONAL LIABILITY POLICY
THIS IS A CLAIMS MADE POLICY. PLEASE READ THIS POLICY CAREFULLY.

NEW

Renewal of Number

**UNITED STATES LIABILITY
INSURANCE COMPANY**
WAYNE, PENNSYLVANIA

Original COPY

No. **NDO1037287**

POLICY DECLARATIONS

ITEM I. PARENT ORGANIZATION AND PRINCIPAL ADDRESS
San Mateo County Parks & Recreation Foundation
215 Bay Road
Menlo Park, CA 94025

ITEM II. POLICY PERIOD: (MM/DD/YYYY)
FROM **11/19/2002** TO **11/19/2003**

12:01 AM STANDARD TIME AT YOUR
MAILING ADDRESS SHOWN ABOVE

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH LIMITS OF LIABILITY ARE INDICATED.

Coverage Part A. Non Profit Directors and Officers Liability

ITEM III. LIMITS OF LIABILITY: **\$1,000,000** EACH CLAIM
Not Covered FIDUCIARY LIABILITY LIMIT
\$1,000,000 IN THE AGGREGATE

ITEM IV. RETENTION: **\$0** EACH CLAIM

ITEM V. PREMIUM: **\$1,233**

Coverage Part B. Employment Practices Liability

ITEM III. LIMITS OF LIABILITY: EACH CLAIM
IN THE AGGREGATE

ITEM IV. RETENTION: EACH CLAIM

ITEM V. PREMIUM: **Not Covered**

NOTICE: DEFENSE COSTS SHALL BE APPLIED AGAINST THE RETENTION.

ITEM VI. Coverage Form(s)/Part(s) and Endorsement(s) made a part of this policy at time of issue:

DO-100 (04-00) Coverage Part A
DO-207 (01-94) Failure to Maintain Insurance Excl. Endt
DO-CA (02-01) California State Amendatory Endt
NDO-APP Application
USL-DOJ (04-00) Policy Jacket

Date Issued: **10/21/2002**

Agent: **CHARITY FIRST INSURANCE SERVICES (CA) [932556]**

Countersigned: By _____

By _____

Authorized Representative