

MOTION BY SUPERVISOR JANICE HAHN

October 1, 2019

Amelia Mayberry Skate Park Project

Amelia Mayberry Park (Park) is located at 13210 Meyer Road in unincorporated South Whittier. In 2016, the Los Angeles Neighborhood Land Trust (LANLT), a California non-profit corporation, proposed to design and construct the Amelia Mayberry Park Skate Park Project (Project). The Project includes the construction of approximately 8,000 to 10,000 square foot in-ground skate park and upgrades to an existing bathroom at the Park. The Regional Park and Open Space District awarded \$2,000,000 in Safe Neighborhood Parks Proposition of 1996 Excess Funds (Prop A) to the LANLT, to manage the design and construction of the Project. On December 8, 2016, the County of Los Angeles (County) filed a Notice of Exemption for the Project.

Due to an unforeseen escalation of construction costs, including increased costs associated with regulatory compliance discovered after the bidding phase, the Project is underfunded by approximately \$153,000. The County Department of Parks and Recreation (DPR) reviewed the need for the \$153,000 in additional funds and based on

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known and available information, recommends allocating additional construction funding to LANLT in order to complete the Project. Sufficient funding and appropriation are available in DPR's Park In-Lieu Fees Accumulated Capital Outlay Fund for the additional cost. Pursuant to the California Government Code section 66477 (Quimby Act) and the Los Angeles County Code Section 21.28.140 (Quimby Ordinance), the Project is an appropriate use of the In-Lieu Fee funds.

I, THEREFORE MOVE that the Board of Supervisors:

1. Find that the recommended actions are within the scope of the previously filed Notice of Exemption, for the reasons stated herein and in the record of the Project;
2. Authorize the Director of Parks and Recreation, or his designee, to execute and, if necessary, amend a Funding Agreement with the Los Angeles Neighborhood Land Trust, in form substantially similar to the attached and upon approval by County Counsel, to partially fund and complete the Amelia Mayberry Park Skate Park Project in the amount of \$153,000 using funds from the Department of Parks and Recreation's Park In-Lieu Fees Accumulated Capital Outlay Fund (J06) for Park Planning Area 2.

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JH:mb

**FUNDING AGREEMENT
AMELIA MAYBERRY SKATE PARK PROJECT**

THIS FUNDING AGREEMENT (this "Agreement") is made and entered into this ____ day of _____, 2019 ("Effective Date"),

BY COUNTY OF LOS ANGELES,
a body corporate and politic "County,"

AND LOS ANGELES NEIGHBORHOOD LAND TRUST, a
California nonprofit corporation "LANLT".

WITNESSETH:

1. The Los Angeles County Board of Supervisors ("Board") adopted a Board Motion (attached as Exhibit A and incorporated herein) on September 17, 2019 authorizing the County Department of Parks and Recreation ("Parks") Director to allocate \$153,000 in Park In-Lieu Fees (the "Funds") to LANLT to fund, in part, the construction and development of certain improvements for the Amelia Mayberry Skate Park Project (described below).

2. County has agreed to provide the Funds to LANLT to partially fund such Project costs for the purpose of meeting the recreation needs of residents in the unincorporated community of South Whittier-East La Mirada, which is an area of Moderate park need as determined by the 2016 Countywide Parks Needs Assessment.

3. The Funds are being provided to LANLT pursuant to and in accordance with California Government Code Section 66477 (Quimby Act) and the Los Angeles County Code Section 21.28.140 (Quimby Ordinance), which require that the Funds be used for the purposes of acquiring local park land or developing new or rehabilitating existing recreational facilities.

4. The Amelia Mayberry Skate Park Project involves the construction of a 10,000-square foot skate park and upgrades to an existing restroom located ("the Project") at 13201 East Meyer Road in the unincorporated community of South Whittier (the "Park") and the Funds will be used towards the Project as detailed in the Scope of Work attached hereto as Exhibit B and incorporated herein.

5. As of the date hereof, the total cost of the Project is estimated to be \$2,153,000 in accordance with the Project Scope (as defined below) and the permitted plans for the Project.

6. In addition to the Funds, LANLT has received \$2,000,000 in Proposition A funding from the Los Angeles Regional Park and Open Space District (RPOSD). These funds will fund the entire cost of the construction of the Project.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions set forth herein, the parties hereto agree as follows:

A. Approved Funding and Costs

1. County hereby grants and agrees to provide to LANLT the Funds (in the amount of \$153,000) to fund, in part, LANLT's construction of the Project.
2. \$137,700 of the Funds will be paid to LANLT within ten (10) business days of the Effective Date of this Agreement. The remaining \$15,300 of the Funds will be paid to LANLT within thirty (30) days upon Project Completion (as defined in Section B below).
3. LANLT agrees that it will use the Funds solely to pay for construction costs incurred in connection with the Project pursuant to and in accordance with this Agreement, including, without limitation, the SOW provided in Exhibit B and the costs of hiring a general contractor and/or construction management consultants to manage and oversee completion of the Project. In the event LANLT does not utilize all the Funds, the County shall be entitled to a refund of the unexpended Funds, and LANLT shall provide the County said refund within thirty (30) days of Project Completion (as defined in Section B. below). In the event County determines in its reasonable discretion that any of the Funds paid to LANLT hereunder have been used for purposes other than those authorized by this Agreement, LANLT will be required to promptly refund to County any such improperly used Funds within ten (10) business days after County's written request therefor.

B. Agreement Term

This Agreement will remain in force until the completion of the Project, which shall be deemed complete upon the written acceptance of the Project by a Parks Deputy Director ("Project Completion"), subject to Sections C through G below, or as otherwise provided herein.

C. The Project

1. The current scope of the Project includes, without limitation, the construction of a 10,000 square foot skate park, and refurbishment to an existing restroom building (collectively, the "Project Scope"). From and after the date hereof, LANLT may change the Project Scope subject to County's prior approval, which approval shall not be unreasonably withheld, delayed or conditioned.
2. The current design of the Project is shown in Exhibit C and Exhibit C-1 attached and incorporated herein.
3. To comply with the California Environmental Quality Act (CEQA), a Notice of Exemption ("NOE") has been filed for the Project.
4. It is the mutual goal of LANLT and County to construct and develop the Project, and such parties shall endeavor to agree upon mutually approved plan of improvements to meet this goal pursuant to and in accordance with the Project Scope. Notwithstanding the foregoing, prior to commencement of construction, LANLT shall obtain approval of its final plans for the Project from County Parks, provided that such approval shall not be unreasonably withheld, delayed or conditioned.
5. LANLT shall complete the Project no later than December 31, 2019 and failure to do so will constitute a material breach of this Agreement.

D. Termination

1. This Agreement may be terminated by either party as a result of a material breach by the other party of its obligations under this Agreement.
2. Notice of termination shall be given, in writing, at least ten (10) business days in advance and shall be deemed complete when delivered to either party as provided in Section H below.
3. In the event of termination, LANLT will provide a detailed report of expenditures and the balance of the unexpended amount will be refunded to the County within thirty (30) days of the termination.

E. Indemnity

LANLT shall indemnify, defend and hold harmless County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with LANLT's acts and/or omissions arising from and/or relating to this Agreement. The terms of this paragraph survive the expiration or termination of this Agreement.

F. Publicity and Recognition

1. The parties to this Agreement shall acknowledge one another as co-contributors to the construction and development of the Skate Park in any written material(s), news releases, and related marketing or publicity materials, including, but not limited to, an initial press conference and/or dedication ceremonies for the Skate Park.
2. The parties to this Agreement agree to assist and cooperate in a mutually acceptable grand-opening and/or dedication event of the Skate Park.

G. Financial Records

1. LANLT agrees to maintain reasonably satisfactory financial accounts, documents, and records of its expenditure of the Funds and to make such records available to County for auditing at reasonable times upon reasonable advance written request therefor. LANLT agrees to retain such financial accounts, documents, and records for no less than five (5) years following the Project Completion.
2. LANLT agrees to use generally accepted accounting principles in the United States in the keeping and maintenance of its financial records. LANLT also agrees to maintain, and make available for County inspection upon reasonable prior notice, accurate records of all of its costs, disbursements, and receipts solely with respect to LANLT's use of the Funds in furtherance of the construction of the Project and the performance of its obligations under this Agreement.
3. At any time during the term of this Agreement or at any time within five (5) years of the expiration or prior termination of this Agreement, authorized

representatives of County may conduct an audit of LANLT records upon reasonable prior notice to LANLT for the purpose of verifying appropriateness and validity of the expenditure of the Funds under the terms of this Agreement.

4. Within thirty (30) days of a notification by County to LANLT of the findings of an audit conducted pursuant to Section F.3 above, LANLT may dispute the audit findings in writing to County and provide County with records and/or documentation to support LANLT's dispute of certain audit claims. County shall review LANLT's dispute documentation and make a final determination as to the validity of the expenditures of the Funds.
5. Within one hundred twenty (120) days after the end of the fiscal year in which the Project is completed (consistent with Section B. above), LANLT will provide County a report itemizing actual expenditures funded with the Funds provided pursuant to this Agreement.

H. Notices and Approvals

All notices and approvals shall be directed to and made in writing by the following representatives of the parties:

To County: Parks and Recreation
 Attn: Carl Cooper, Deputy Director
 South Agency
 360 El Segundo Boulevard
 Los Angeles, CA 90061

With a copy to: Parks and Recreation
 Attn: Alina Bokde, Deputy Director
 Planning & Development Agency
 1000 S. Fremont Ave, Unit #40
 Alhambra, CA 91803

To LANLT: Matthew Steinberg, Secretary
 Los Angeles Neighborhood Land Trust
 315 West 9th Street, Suite 950
 Los Angeles, CA 90015

I. Amendments

The signatories to this Agreement, or each's designee, may amend this Agreement upon the mutual written consent of the parties.

J. Nondiscrimination

LANLT shall not discriminate against any person on the basis of race, color, sex, sexual orientation, age, religious belief, national origin, marital status, physical or mental handicap, medical condition, or place of residence in the use of the Funds paid to LANLT pursuant to this Agreement.

K. Severability

If any provision of this Agreement, or the application thereof, is held to be invalid, that invalidity shall not affect other provisions or applications of the Agreement that can be given effect without the invalid provision or application, and to this end the provisions of the Agreement are severable.

L. Effective Date

After the Agreement has been executed by LANLT's authorized representative, the effective date of the Agreement shall be the date that the Agreement is fully executed by County as provided above.

M. Governing Law

This Agreement has been negotiated, executed and delivered and will be performed in the State of California and shall be governed by and construed in accordance with California law, without giving effect to any choice or conflict of law provision or rule that would cause the application of the law of any jurisdiction other than California.

N. Captions

All captions and headings in this Agreement are for the purposes of reference and convenience only. They will not limit or expand the provisions of this Agreement.

O. Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same

instrument. This Agreement shall not be effective as to any party unless and until it has been executed by or on behalf of each party.

P. Independent Status.

This Agreement is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association as between County and LANLT. LANLT understands and agrees to bear the sole responsibility and liability for furnishing Workers' Compensation benefits to any person for injuries arising from or connected with services performed on behalf of LANLT pursuant to this Agreement. LANLT shall use independent contractors having the appropriate license(s) from the State of California to perform construction work and submit such contractor's license numbers to County.

Q. Compliance with Law.

LANLT's completion of the Project shall conform to and abide by all Los Angeles County ordinances and all State and Federal laws and regulations insofar as the same or any of them are applicable to parties' performance of their respective obligations under this Agreement; and where permits and/or licenses are required for LANLT's construction of the Project under applicable law, the same must be first obtained from the regulatory agency having jurisdiction thereover.

R. Entire Agreement

This Agreement contains the entire agreement between the County and LANLT and no addition or modification of any terms or provisions shall be effective unless set forth in writing and signed by both parties consistent with Section I. above.

[Signatures appear on following page]

IN WITNESS WHEREOF, LANLT has executed this Agreement, or caused it to be duly executed by its authorized representative, and the County of Los Angeles by order of its Board of Supervisors, has delegated to the County Director of Parks and Recreation the authority to execute this Agreement on its behalf on the date and year written below.

LOS ANGELES NEIGHBORHOOD LAND TRUST, a California nonprofit corporation

By _____ Date _____
Winston Stromberg, Esq
Secretary
Los Angeles Neighborhood Land Trust

LOS ANGELES COUNTY, a body corporate and politic

By _____ Date _____
John Wicker
Director
Department of Parks and Recreation

APPROVED AS TO FORM FOR THE COUNTY:

MARY C. WICKHAM
County Counsel

By _____
Casey C. Youn, Senior Deputy County Counsel

Exhibit A

Board Motion

(attached)

Exhibit B

Scope of Work

The allocated Funds will allow the Los Angeles Neighborhood Land Trust ("LANLT") to complete the improvements at Amelia Mayberry Park associated with the Project. The Funds will go towards the development and construction of the following: American with Disabilities Act ("ADA") path of travel and upgrades; relocation of existing restroom entry points; new masonry for privacy screens; the demolition of existing partition walls; installation of new partition panel; and installation of skylights for ventilation into the existing restroom roof.

Exhibit C

Park Schematic Design



