

July 28, 2020

MEMORANDUM OF UNDERSTANDING

Grant Agreement

This MEMORANDUM OF UNDERSTANDING ("Agreement") serves as an agreement between **AARP**, a social welfare organization located at 601 E Street, NW, Washington, DC 20049 and City of San Leandro, a California charter city located at 14200 Chapman Road, San Leandro, CA, 94578 ("Organization"). Whereas, AARP wishes to grant Organization funding for the purposes set forth herein, and Organization wishes to perform the grant activities described herein. Therefore, the parties agree as follows:

AARP Grant Terms and Conditions. AARP shall provide Organization with grant funding of \$8,700.00 ("Grant Funds") for the purpose of engaging students, elders, other residents and community groups on the creation of a public space for gardening, education, and exploring the San Leandro Creek ecosystem to enhance social engagement and interaction ("Goal"). Organization will perform the activities described herein between August 20, 2020 and December 18, 2020 ("Grant Period"). The Organization will perform the Grant Activities at or near the following location: Bancroft Middle School, 2200 Bancroft Ave, San Leandro, CA 94577. Payment shall be provided according the schedule herein, and subject to the following terms and conditions:

- a. Grant Fee Schedule.* AARP shall disburse Grant Funds to Organization, according to the schedule below.
 - i. AARP will provide a one-time payment of **\$8,700.00**
- b. Scope of Grant and Anticipated Activities to be Funded.* Organization shall use the Grant Funds to undertake the following activities and achieve the following deliverables (collectively "Grant Activities"):
 - i. Organization will hold a design charrette for the community garden space and outdoor education lab by the San Leandro Creek at Bancroft Middle School.
 - ii. Organization will form Intergenerational teams to develop design ideas for the garden and education lab space during the first month of the Grant Period.
 - iii. The event will be held at Bancroft Middle School and be completed by December 18, 2020.
 - iv. Organization agrees that all Grant activities shall be conducted in accordance with applicable CDC, state and local health regulations.
 - v. Organization agrees to create a documented approach for social distancing for all in-person Grant components.
 - vi. Organization will include AARP provided and approved branding and language that indicates AARP's support for the Challenge project as applicable:
 - 1.b.vi.1 Events and Temporary Demonstrations: Signs, banners, or similar signage associated with the activity will indicate that the event or activity was funded with support from AARP
 - 1.b.vi.2 Permanent Structures: Structures (benches, wayfinding signs, community gardens, tables, seating, shelters, art installations, murals, or similar structures) will include a permanent plaque or other sign that indicates support from AARP

1.b.vi.3 Printed, Digital Resources or similar communications: Materials will include the AARP logo and mention of support from AARP
vii. Project(s) will be complete by December 18, 2020.

- c. *Reporting Requirements.* Grantee shall submit a financial and programmatic report to AARP within thirty (30) days of the expiration of the grant period, detailing all progress or achievement of the activities described herein. The report shall include an itemized listing of any and all expenditures and draw-downs of the Grant Funds made during the Grant Period. Organization will submit After Action Report with visuals (photos and/or video) to AARP national office by January 31, 2021.
 - d. *Documentation and Right to Audit.* Organization shall retain invoices, receipts, accounting records and other supporting documentation for at least five (5) years following the expiration of the Grant Period. Organization shall maintain books and records consistent with generally accepted accounting principles and good business practices. AARP retains the right to audit Organization's books and records upon reasonable notice, for the limited purpose of confirming that funds are expended and drawn down solely to conduct Grant Activities and in accordance with the terms of this Agreement.
2. **Permissible Use of Funds, Repayments, and Refunds.** Organization shall use the Grant Funds exclusively for the performance of Grant Activities. AARP retains the right to receive an immediate refund of all improperly expended or unearned funds, as determined in AARP's sole reasonable discretion, from Organization upon written demand. If Organization anticipates a change in the scope or direction of Grant Activities, it must procure prior written approval from AARP before expending Grant Funds for any activity not specifically detailed herein. Furthermore, upon the expiration of the Grant Period or if Organization fails to comply with any term of this Agreement, Organization agrees to return any unexpended portion of the Grant Funds in Organization's possession upon written demand from AARP.
3. **Term and Termination.** The effective date of this Agreement shall be the date of execution, and the Agreement shall automatically terminate on January 31, 2021. The Agreement may be terminated by AARP at any time and for any reason upon written notification to Organization. Upon such termination, Organization shall not be required to return any portion of the paid Grant Funds to AARP, and AARP shall have no further obligation to provide Organization with any unpaid portion of the Grant Funds.
4. **No Implied Agency.** Nothing in this Agreement shall be deemed to create any partnership, joint venture, joint enterprise, or agency relationship among the parties, and no party shall have the right to enter into contracts on behalf of, to legally bind, to incur debt on behalf of, or to otherwise incur any liability or obligation on behalf of, the other party hereto, in the absence of a separate writing, executed by an authorized representative of the other party. Each party shall be solely responsible for its employees and contractors used to provide the Agreement.
5. **No commercial or political activity.** Both parties recognize that AARP is a non-profit, non-partisan tax-exempt organization and agree that the Grant Funds will not be used to support or oppose political candidates or initiatives. Notwithstanding any specific deliverable herein, Grant Funds shall not be used to promote any commercial product or for-profit corporation.

6. **Indemnification.** Each Party (an "Indemnifying Party") shall indemnify, hold harmless, and defend the other Party, its affiliates, and their respective partners, officers, directors, employees, contractors, agents and representatives (each of whom is an "Indemnified Party") against all liability, costs, actions, suits, judgments, damages, and expenses (including reasonable attorneys' fees and court costs) arising out of or resulting from (a) the negligent, reckless or willful acts or omissions of Indemnifying Party, its officers, directors, employees, members, independent contractors, or agents, (b) Indemnifying Party's breach of this MOU, including failure to provide the services and work as set forth in this MOU; and (c) any claim that the services or work product of the Indemnifying Party provided under this MOU infringe or violate the intellectual property or other rights of third parties, except to the extent caused by the Indemnified Party. The Parties acknowledge and agree that the indemnity specified herein will include, without limitation, indemnification for settlements or compromises of matters covered by this indemnity. The Indemnifying Party shall not settle any such suit or claim without the Indemnified Party's prior written consent if such settlement would be adverse to the Indemnified Party's interest. The Indemnified Party may, at its option, conduct the defense in any third party action arising as described above and the Indemnifying Party agrees fully to cooperate with such defense. The obligations and rights granted in this Section 6 shall survive the expiration and termination of the Agreement.
7. **Insurance.** Both parties agree to carry and maintain comprehensive general liability and professional liability in an amount not less than one million dollars (\$1,000,000) and workers' compensation insurance in an amount as required by applicable law covering all personnel engaged in the furnishing of services under this Agreement for the duration of the Grant Period.
8. **Acknowledgment and Trademark Licenses.** Organization shall acknowledge AARP in any press release, public announcement, or publicly-released documents related to the Grant Activities detailed herein. To that end, AARP grants Organization a royalty-free non-exclusive, revocable license to use its name and corporate logo solely for that purpose upon the advance written approval of AARP in each instance. In addition, Organization grants AARP a non-exclusive, royalty-free, world-wide, license to use Organization's corporate trademark, including its name and/or logo for the limited purpose of communications regarding the grant between AARP and Organization to AARP members, the 50+ and the general public in promotion of AARP in all media and mediums, including without limitations, broadcast, print, online and AARP membership materials until the expiration or termination of this Agreement. All trademark licenses granted under this section are non-transferrable and shall automatically terminate at the expiration or termination of this Agreement.
9. **Publicity.** Notwithstanding any specific deliverable herein, neither party may issue a press release, hold a press conference, or otherwise refer to the other party in any manner with respect to this Agreement without the prior written consent of such other party.
10. **Warranties.** Each Party hereby represents and warrants that: (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder; (b) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its origin; (c) it has not entered into, and during the Term will not enter into, any agreement that would prevent it from complying with this Agreement; (d) it will comply with all applicable laws and regulations in its performance of this Agreement; and (e) the content, media and other materials used or provided as part of the Agreement shall comply with all applicable laws and regulations and shall not infringe or otherwise violate the intellectual property rights, rights of publicity or other proprietary rights of any third

party. If necessary, Organization shall enter into written agreements and obtain written releases from third parties, in order to ensure that any work product can be used by AARP as contemplated herein.

- 11. Confidentiality and Privacy.** Both parties agree to take commercially reasonable measures to protect information obtained from the other, provided information is marked "confidential" or is of such a nature that the recipient party has reason to believe it is confidential. Organization shall not rent, sell, lease, distribute, or otherwise knowingly make available to any third party any information obtained from AARP about AARP, AARP members, or any AARP activity, unless (i) prior written authorization has been obtained; or (ii) Organization is required to release information by valid subpoena or court order. This section shall survive the expiration or termination of this Agreement.
- 12. Additional Terms.** Organization shall not assign or otherwise transfer the Agreement, including by change of control, to any party without the prior written consent of AARP. This Agreement represents the entire agreement between Parties and replaces any prior agreement or proposed variation. Should there be any conflict between any forms or documents exchanged by the Parties, the terms and conditions of this Agreement shall govern. This Agreement shall be amended only by mutual written agreement executed by all Parties or their respective designees. The Parties agree that this Agreement will be governed by the Laws of the District of Columbia without regard to District of Columbia conflict of laws statutes/rules. If any portion of this Agreement shall be declared illegal, void or otherwise unenforceable, the remaining provisions will not be affected, but will remain in full force and effect.
- 13. Notice.** For purposes of this Agreement, the following individuals shall serve as points of contact, including delivery of reports, for both AARP and the Organization:

AARP

Jean Setzfand
SVP, Programs
601 E Street, NW, WDC 20049
California, 94578

Organization

Hoi-Fei Mok
Sustainability Manager
14200 Chapman Road, n/a, San Leandro,

5106723108
hfmok@sanleandro.org

ACCEPTED AND AGREED TO BY:

AARP

By: _____

Printed Name: Jean Setzfand

City of San Leandro

By:  _____

Printed Name: _Hoi-Fei Mok_____

Title: Senior Vice President, Programs

Date: _____

Title: __Sustainability Manager _____

Date: _8/7/20_____