

STAFF REPORT*CITY OF OCEANSIDE*

DATE: January 12, 2022

TO: Honorable Mayor and City Councilmembers

FROM: Parks and Recreation Division

SUBJECT: **RESOLUTION ACCEPTING GRANT FUNDS FROM THE COUNTY OF SAN DIEGO NEIGHBORHOOD REINVESTMENT PROGRAM AND THE STATE OF CALIFORNIA SPECIFIED GRANT PROGRAM TO BE USED FOR BROOKS STREET SWIM CENTER RENOVATIONS**

SYNOPSIS

Staff recommends that the City Council adopt resolutions accepting \$289,900 in grant funds from the County of San Diego's Neighborhood Reinvestment Program; \$600,000 from the State of California's Specified Grant Program; appropriate the awarded funds to the Parks and Recreation Division to be used for renovations at Brooks Street Swim Center; and appropriate \$289,000 from the American Rescue Plan Act - Lost Revenue Account to fund the balance of the renovation.

BACKGROUND

The Brooks Street Swim Center has served the community for many decades and has undergone numerous renovations to ensure the facility is able to continue to safely serve this disadvantaged community. The useful life of many elements including the deck, plaster, and mechanical equipment at Brooks Street Swim Center has been reached, resulting in a safety hazards for program participants and patrons as well as leaving the facility susceptible to unexpected long-term closure.

ANALYSIS

The County of San Diego's Neighborhood Reinvestment Program (NRP) provides grant funds to County departments, public agencies, and to non-profit community organizations for one-time community, social, environmental, educational, cultural or recreational needs.

With the knowledge that the William A. Wagner Aquatics Center would be made available to the public in late August of 2021, the Parks and Recreation Division identified the need to perform much needed renovations to the City's existing aquatic facilities, the Brooks Street Swim Center and the Marshall Street Swim Center. In the fall of 2021, staff were notified that Assembly member Boerner-Horvath had secured \$600,000 in grant funding to be used to renovate Brooks Street Swim Center. Staff then requested grant funding in the amount of \$289,000 from the County of San Diego along with committed match from

the City. In early November, staff was notified of the award of \$289,000 to be used toward the Brooks Street Swim Center.

The County of San Diego's (NRP) grant funds, \$600,000 grant from the State of California and a matching amount from the American Rescue Plan Act (ARPA) Lost Revenue appropriation, will fund the needed renovations. This necessary renovation will ensure that this facility continues to be capable of offering lap swim, recreational swimming, swim lessons, and facility rentals to members of the community.

The Parks and Recreation Division is responsible for the administration of both grants, including reporting and financial management. Parks and Recreation will work closely with the Engineering Division of the Development Services Department who will manage the project. Staff anticipates issuing a Request for Proposal for design in the spring, advertise the project for construction in the summer, and commence construction during the winter 2022-23. It is anticipated the project will take five to seven months.

FISCAL IMPACT

The grant amounts of \$289,000 from the County of San Diego will be deposited and appropriated to accounts 836174221272.4376 and 836174221272.5305; and \$600,000 from the State Specific Grant program will be deposited and appropriated to accounts 836174121272.4376 and 836174121272.5305.

Staff is requesting to use \$289,000 of the ARPA Lost Revenue allocation account 837172821271.5305 to be appropriated to Brooks St Swim Center Reno ARPA account 837174221271.5305. ARPA Lost Revenue has a current available balance of \$8,892,936; therefore, sufficient funds are available.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

The Parks and Recreation Commission will be informed of the funding award as well as the intended improvement project at its next regularly scheduled meeting and will receive updates as the project progresses.

CITY ATTORNEY'S ANALYSIS

The referenced documents and agreements have been reviewed by the City Attorney and approved as to form.

RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE APPROVING APPLICATION(S) FOR SPECIFIED GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of a grant to the City of Oceanside, setting up necessary procedures governing the application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant's Governing Body to certify by resolution the approval of project applications before submission of said applications to the State; and

WHEREAS, the applicant will enter into a contract with the State of California to complete project(s);

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oceanside hereby:

SECTION 1. Approves the filing of project application(s) for specified grant project(s); and

SECTION 2. Certifies that said applicant has or will have available, prior to commencement of project work utilizing specified grant funds, sufficient funds, including those provided by this grant, to complete the project; and

SECTION 3. Certifies that the applicant has or will provide sufficient funds to operate and maintain the project(s); and

SECTION 4. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and

SECTION 5. Delegates the authority to the City Manager, or designee to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the project scope(s); and

1 SECTION 6. Agrees to comply with all applicable federal, state and local laws,
2 ordinances, rules, regulations and guidelines.

3 PASSED AND ADOPTED by the City Council of the City of Oceanside, California this
4 _____ day of _____, 2021, by the following vote:

5 AYES:

6 NAYS:

7 ABSENT:

8 ABSTAIN:

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12 _____
MAYOR OF THE CITY OF OCEANSIDE

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14 ATTEST:

APPROVED AS TO FORM

15 _____
16 City Clerk

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City Attorney

County office use only

P - 1001838
 O - 15670
 E - 53664
 T - 007
 A - 100123
 Supplier # - 1104346

**NEIGHBORHOOD REINVESTMENT PROGRAM
 GRANT AGREEMENT BETWEEN
 THE COUNTY OF SAN DIEGO
 AND City of Oceanside**

This Grant Agreement is entered into between the County of San Diego, a political subdivision of the State of California (County), and City of Oceanside, a Non-Profit California Corporation (Grantee), on _____ with an effective date of 11/02/2021.

WHEREAS, the County wishes to reinvest taxpayer funds in the community to benefit the public by providing grant funds to community-based organizations that assist in meeting the social, cultural and recreational needs of County residents; and

WHEREAS, the Board of Supervisors may allocate grant funding for purchases, programs or events that will occur either subsequent to the Board's action to approve the grant or that have occurred prior to the Board's approval date; and

WHEREAS, on 11/02/2021 (13), the Board of Supervisors allocated the grant funding set forth in this Agreement for the purpose described in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Amount of Grant.** The County agrees to pay to Grantee an amount of **\$289,000.00**. Under no circumstances is County obligated to pay Grantee more than this amount. County shall pay Grantee after County receives a signed copy of this Agreement from Grantee.
2. **Purpose of Grant.** Grantee shall use the grant funds provided by County under this Agreement solely for the following purpose: **to help replace pool plaster and address additional capital needs such as pool deck replacement, mechanical equipment, containment room, deck equipment, lighting, and wading pool repairs for the Brooks Street Pool located at 130 Brooks Street, Oceanside, CA 92054.**
3. **Term of Agreement.** The term of this Agreement shall be for 13 months starting on the effective date as specified above.
4. **Deadline for Use of Grant Funds and Documentation of Expenditures.**
 - (a) **Grantee shall spend all grant funds provided by the County for the purposes specified in Paragraph 2 within 12 months of the effective date of this Agreement as specified above.**
 - (b) **Grantee shall complete the Documentation of Grant Expenditures form provided by the County's administrator, setting forth Grantee's total actual expenditures of the grant funds provided under this Agreement. Grantee shall submit this completed form and the related documentation including, but not limited to, invoices/receipts, credit card statements, check stubs, check copies, copy of canceled checks, copy of bank statements, etc. to the County's administrator promptly after spending the grant funds, but in no event after the end of the Term of Agreement specified above.** If the parties agree to extend the Term of Agreement, Grantee shall submit this expenditure documentation before the end of the extended Term. If County's administrator requests additional information regarding Grantee's expenditure of the grant funds, Grantee shall promptly submit the requested information to County's administrator.
 - (c) If after reviewing Grantee's expenditure documentation, the County's administrator:
 - (i) determines that the Grantee failed to spend all of the grant funds;

- (ii) disallows any expenditure by Grantee; or
- (iii) determines that the grant funds provided exceed Grantee's total actual expenditures authorized under this Agreement;

Grantee shall refund to the County the amount specified by the County's administrator. Grantee shall make this refund within fifteen (15) business days after receiving a written request for refund from the County's administrator. In its sole discretion, the County may offset the refund amount from any payment due to or to become due to Grantee under this Agreement or any other agreement with the County.

- (d) **If Grantee fails to provide the required documentation of expenditures as required in Subparagraph (b) above, the County's administrator may request Grantee to refund to the County all or any portion of the grant funds provided under this Agreement.** Within fifteen (15) business days of receipt of a written request for a refund, Grantee shall refund to the County the amount specified by the County's administrator. Grantee's failure to comply with this refund requirement shall constitute a material breach of this Agreement.
- (e) Unless authorized by the Board, expenditures incurred by the Grantee prior to the effective date of this Agreement for the purpose specified in Paragraph 2 are not eligible expenditures under Subparagraph (b) above.
- (f) If Grantee fails to use all grant funds as specified in Paragraph 2 above before the deadline specified in Subparagraph (a) above, Grantee may request an extension of the Term. Grantee shall make any such request in writing at least two weeks before the deadline specified in Subparagraph (a) above. Grantee and the County's administrator may agree in writing to extend the Term of Agreement to allow Grantee additional time to spend the grant funds for the purpose specified in Paragraph 2.

5. Restrictions on Use of Grant Funds.

- (a) Grant funds shall not be used for any purposes prohibited by laws governing the use of public funds, including but not limited to, religious, political campaigning, or purely private purposes or activities.
- (b) Any Grantee that provides or participates in any activity for which public funds may not be used, such as religious activities, shall inform the County of this activity prior to accepting any grant funds. Grantee shall ensure that no grant funds awarded pursuant to the Agreement are used to support in any manner said activity.
- (c) Grantee shall not spend any part of the grant amount on fund raising activities.
- (d) Grantee shall not spend any part of the grant amount on food or beverages; except, that Grantee acting as a food bank or other similar organization may provide food and beverages to needy individuals or families if this was the purpose of the grant as specified by Paragraph 2.
- (e) Grantee may not include in its Documentation of Grant Expenditures report under this Agreement any expenditures for which Grantee has received or is or will be claiming funding from any other source. Grantee's failure to comply with this requirement shall constitute a material breach of this Agreement.
- (f) Grantee shall not donate any portion of this Grant to a third party.
- (g) Grantee shall not assign or transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the County.

(h) By executing this Agreement, Grantee certifies that it qualifies for the receipt of grant funds under Board Policy B-72 and will at all times abide by the terms of the Policy, except to the extent waived by the Board at the time of grant award.

6. **Administrator of Agreement.** The Office of Financial Planning, under the Deputy Chief Administrative Officer/Chief Financial Officer, shall administer this Agreement on behalf of the County, and **Mark Olson** at (760) 435-5529 shall administer it on behalf of Grantee.

7. **Notice.** All communications from Grantee to the County shall be sent to the Deputy Chief Administrative Officer/Chief Financial Officer as listed below. Any notice or notices or other documentation required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested, to the following addresses:

County: Deputy Chief Administrative Officer/Chief Financial Officer
Office of Financial Planning
County of San Diego
1600 Pacific Highway Room 352
San Diego, CA 92101

Grantee: City of Oceanside
City of Oceanside Oceanside branch
300 N Coast Highway
Oceanside, CA 92054

8. **Audit and Inspection of Records.** At any time during normal business hours and as often as the County may deem necessary, the Grantee shall make available to the County for examination all of its records with respect to all matters covered by this Agreement and will permit the County to audit, examine and make excerpts or transcripts from such records, and make audits of all invoices, materials, payrolls, records of personnel and other data relating to all matters covered by this Agreement. Unless otherwise specified by the County, said records shall be made available for examination within San Diego County. Grantee shall maintain such records in an accessible location and condition for a period of not less than four years following Grantee's submission of the Documentation of Grant Expenditures report under this Agreement unless County agrees in writing to an earlier disposition. The State of California or any Federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon County by this Agreement.

9. **Termination of Agreement for Cause.** If Grantee fails to perform its obligations according to this Agreement, the County may send Grantee a written notice of default that specifies the nature of the default. Grantee shall cure the default within fifteen (15) business days following receipt of the notice of default. If Grantee fails to cure the default within that time, the County may terminate this Agreement by giving Grantee written notice of immediate termination. Upon termination, Grantee shall promptly provide County's administrator with Documentation of Grant Expenditures setting forth Grantee's total actual expenditures for the purpose of the grant as of the effective date of termination. Grantee shall promptly refund to County all funds County paid to Grantee under this Agreement that exceed Grantee's total actual expenditures made in conformance with this Agreement, as determined by County's administrator, as of the effective date of termination. The County may also seek any and all legal and equitable remedies against Grantee for breaching this Agreement.

10. **Termination for Convenience of County.** County may terminate this Agreement at any time by giving written notice to Grantee of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. On or before the date of termination, Grantee shall provide County's administrator with Documentation of Grant Expenditures setting forth Grantee's total actual expenditures for the purpose of the grant as of the effective date of termination. Grantee shall promptly refund to County all funds County paid to Grantee under this Agreement that exceed Grantee's total actual

expenditures for the purpose of the grant, as determined by County's administrator, as of the effective date of termination.

11. **Termination for Convenience of Grantee.** Grantee may terminate this Agreement at any time by giving written notice to County's administrator of such termination and specifying the effective date thereof at least 60 days before the effective date of such termination. On or before the date of termination, Grantee shall provide County's administrator with Documentation of Grant Expenditures setting forth Grantee's total actual expenditures for the purpose of the grant as of the effective date of termination. Grantee shall promptly refund to County all funds County paid to Grantee under this Agreement that exceed Grantee's total actual expenditure for the purpose of the grant, as determined by County's administrator, as of the effective date of termination.
12. **Interest of Grantee.** Grantee covenants that Grantee presently has no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with Grantee's completing the purpose of the grant as specified in Paragraph 2. Grantee further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained by Grantee.
13. **Publication, Reproduction and Use of Material.** No material produced, in whole or in part, under this Agreement shall be subject to copyright in the United States or in any other Country. The County shall have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.
14. **Insurance.** Grantee shall maintain insurance against claims or injuries to person or damages to property that may arise from or in connection with the use of the grant funds by Grantee, its agents, representatives, employees, volunteers or subcontractors. The cost of such insurance shall be borne by Grantee and coverage limits shall be a minimum of \$1,000,000 General Liability per occurrence/\$1,000,000 aggregate for operations, products and completed operations for bodily injury, personal injury and property damage; \$500,000 Automobile Liability per accident for bodily injury and property damage; and Workers' Compensation and Employers Liability Insurance as required by the California Labor Code. County shall retain the right at any time to review the coverage and amount of insurance required.
15. **Independent Capacity.** In the performance of this Agreement, Grantee and its officers, agents, employees and volunteers shall act in an independent capacity and not as officers, employees, agents or volunteers of the County. This Agreement does not create an employment relationship between Grantee and the County.
16. **Equal Opportunity.** Grantee will not discriminate against any employee, or against any applicant for such employment because of age, race, color, religion, physical handicap, ancestry, sex, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
17. **Defense and Indemnity.** To the fullest extent permitted by law, County shall not be liable for, and Grantee shall defend and indemnify County and its officers, agents, employees and volunteers (collectively, "County Parties") against any and all claims, deductibles, self-insured retention's, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, "Claims"), which arise out of or are in any way connected to County's provision of grant funds and/or Grantee's use of grant funds under this Agreement arising either directly or indirectly from any act, error, omission or negligence of Grantee or its officers, employees, volunteers, agents, contractors, licensees or servants, including without limitation, Claims caused by the sole passive negligent act or the concurrent negligent act, error or omission, whether active or passive, of County Parties. Grantee shall have no obligation, however, to defend or indemnify County Parties from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the sole active negligent act or willful misconduct of County Parties.

18. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the State of California.
19. **Complete Agreement.** This Agreement constitutes the entire agreement between Grantee and County regarding the subject matter contained herein. All other representations, oral or written, are superseded by this Agreement. Neither party is relying on any representation outside of this Agreement. This Agreement may be changed only by written amendment signed by both parties.
20. **Waiver.** The failure of either party to enforce any term, covenant or condition of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce this, or any other term, covenant or condition of this Agreement. No waiver shall be deemed effective unless the waiver is expressly stated in writing and signed by the party waiving the right or benefit.
21. **Consultation with Counsel.** Each party has had the opportunity to consult with independent legal counsel of its own choosing before executing this Agreement and has executed this Agreement without fraud, duress, or undue influence of any kind.
22. **Interpretation.** The provisions of this Agreement shall be liberally construed to effectuate its purpose. The language of all parts of this Agreement shall be construed simply according to its plain meaning and shall not be construed for or against either party.
23. **Corporation Qualified to Do Business in California.** If Grantee is a California corporation, Grantee warrants that it is a corporation in good standing and is currently authorized to do business in California.
24. **Terms and Conditions Survive Expiration of Term of Agreement.** Unless otherwise specified herein, all terms and conditions of this Agreement shall survive the expiration of the Term of Agreement specified in Paragraph 3 above or the termination of this Agreement under Paragraphs 6, 7, or 8 above.
25. **Remedies.** The rights and remedies in this Agreement are in addition to, and not a limitation on, all other rights and remedies available at law or in equity, and exercise of one right or remedy shall not be deemed a waiver of any other right or remedy.
26. **Recognition.** If Grantee chooses to give written recognition of this grant, Grantee shall recognize the County of San Diego and not one or more individual County Supervisors.
27. **Prevailing Wage.** To the extent this grant funds construction, alteration, demolition, installation, repair, refuse and ready mix concrete hauling, or maintenance work and the amount of the grant exceeds \$1,000, the project funded by the grant shall be deemed a "public work" for prevailing wage purposes. It is not the intent of this Agreement to impose an obligation to pay prevailing wages on work otherwise exempt from the State's prevailing wage laws. Grantee shall be solely responsible for ensuring prevailing wages are paid when owed.

Projects subject to the payment of prevailing wages are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Grantee shall be responsible for ensuring all required job site postings and all certified payroll and other reporting applicable to it as an awarding body are completed in accordance with the State's prevailing wage regulations. Information regarding the State's prevailing wage requirements can be obtained from the Director, Department of Industrial Relations at www.dir.ca.gov, Labor Code § 1720, et seq., and 8 Cal. Code of Regs. § 16000, et seq.
28. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WHEREFORE, the parties execute this Agreement on the date first written above.

COUNTY OF SAN DIEGO



By: Manager, Office of Financial Planning

Deputy Chief Administrative Officer/Chief
Financial Officer
or Designated Representative

Fatima Barredo, Director
Office of Financial Planning

GRANTEE

By: _____ Date _____

Authorized signatory

Print Name and Title

[Note: Person signing on behalf of Grantee must be authorized by Grantee's Board of Directors to sign this Agreement and must be same person Grantee listed in its funding application as being authorized to sign.]

Return This Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ACCEPTING GRANT FUNDS IN THE AMOUNT OF \$289,000 FROM THE COUNTY OF SAN DIEGO NEIGHBORHOOD REINVESTMENT PROGRAM GRANT

WHEREAS, the 2021-2022 THE COUNTY OF SAN DIEGO NEIGHBORHOOD REINVESTMENT PROGRAM GRANT is reinvesting taxpayer funds in to the community. It will benefit the public by providing grant funds to community based organizations that assist in meeting the social, cultural and recreational needs of our Oceanside residents.

WHEREAS, THE COUNTY OF SAN DIEGO NEIGHBORHOOD REINVESTMENT PROGRAM GRANT objective is to help replace pool plaster for the Marshall and Brooks Street Pool.

NOW, THEREFORE, the City Council of the City of Oceanside does find and resolve as follows:

1. The City Council accepts grant funds in the amount of \$289,000 from THE COUNTY OF SAN DIEGO NEIGHBORHOOD REINVESTMENT PROGRAM GRANT.
2. The City will administer THE COUNTY OF SAN DIEGO NEIGHBORHOOD REINVESTMENT PROGRAM GRANT, including periodic monitoring of the performance goals, and required documentation of grant expenditures.

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