

**Santa Clara County Open Space Authority**

# **20% Funding Program**

## **Policy & Procedure**

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## 20% FUNDING PROGRAM

### STATEMENT OF INTENT

These policies and procedures are to implement the Santa Clara County Open Space Authority's ("Authority") 20% funding program by which the Authority annually makes available to participating jurisdictions 20% of the net capital expenditures of assessments from Open Space Acquisition & Maintenance District No. 1 for acquisition and development of eligible open space projects within the Authority's jurisdiction. The participating jurisdictions include the cities of Campbell, Milpitas, Morgan Hill, Santa Clara and San Jose, and Santa Clara County.

A successful program should reflect the policies and philosophy of the Authority. Through the 20% Funding Program, the Authority will foster open space preservation in a timely and efficient manner.

### STATEMENT OF ELIGIBILITY

Open space acquisition projects undertaken by the participating jurisdictions are eligible for 20% Funding Program funds if they are consistent with the Authority's Criteria for Acquisition as set forth in the findings provided in Section C.1) of this policy (which incorporate the required criteria from the 5 Year Plan, pp. 5, 9 - 10).

20% funds may also be used for site development/restoration projects that provide or enhance open space as set forth in the required findings provided in Section C.2) of this policy (which incorporate the criteria from the 5 Year Plan, pp. 5, 21).

Examples of site development/restoration projects that may be considered for 20% funding program include (but are not limited to) the following:

1. Projects that enhance a site's open space benefits, including environmental restoration which "is defined as the improvement or rehabilitation of degraded ecosystems" (*see*, 5 Year Plan, p. 5).
2. Projects that enhance public awareness and appreciation of open space, such as trails, overlooks, observation blinds, benches, and interpretive signage programs.
3. Projects that convert abandoned lands (including, but not limited to, utility right-of-ways, surplus lands (including school sites), quarries, etc.) into lands with open space benefits consistent with the Authority's definition of open space.
4. Preparation of planning documents for eligible site development/restoration projects if participating jurisdiction can demonstrate that there is available funding for project completion within a reasonable timeframe given the size of the proposed project, and the participating jurisdiction commits to completing construction of the project as set forth in the funding agreement attached hereto as Exhibit B.

A participating jurisdiction may use the 20% funds for acquisition of a site with existing structures, provided that the overall site is consistent with the Authority's Acquisition Criteria.

Additional changes to approved development plans or a property acquired with the 20% funds may not be changed in the future without review and approval of the Authority's Board of Directors.

Any appraisal, legal, escrow, or other acquisition related activities, and any maintenance of acquisitions or projects funded by the Authority shall be managed and paid for by the participating jurisdiction.

## 20% FUNDING PROGRAM APPLICATION PROCEDURE

### SECTION I – APPLICATION PROCEDURE

#### A. Call for Applications

The Authority staff sends correspondence (e.g. letters or e-mail) along with copies of the 20% Program Funding Policy and prescribed application forms the beginning of each fiscal year (July 1) to participating jurisdictions. Staff will identify 20% funds currently available to the participating jurisdiction, and may request information on proposed projects.

#### B. Required Application Information

Participating jurisdictions shall apply in writing to the Authority utilizing the prescribed application form for specific projects for which they request 20% funds. Projects may include land acquisition, site development/restoration, and related direct capital costs within the Authority's boundaries, but shall exclude the costs for maintenance and operation, administrative overhead, staff time, and insurance premiums. Applications from participating jurisdictions shall include, at minimum, the following information:

- Name and location of the proposed project.
- A brief description of the proposed project.
- If the project involves acquisition, include a description of how the project is consistent with the Authority's Criteria for Acquisition and open space goals and policies of participating jurisdictions' General Plans.
- If the project involves site development or site restoration, a description of how the project is consistent with the Authority's Definition of Open Space, and open space goals and policies of the participating jurisdictions' General Plan open space goals and policies.
- Total cost (excluding long term maintenance cost and other administrative overhead) of the proposed project and requested funding from the Authority, and the source and amount of all necessary additional funds.
- Anticipated long-term maintenance cost, and an explanation of how those costs will be funded by the participating jurisdiction including a statement of the jurisdiction's ability to maintain the project.
- If planning documents are proposed to be funded, an explanation of how the project will be funded, what approvals are necessary to complete the project (including approvals by the participating jurisdiction's council or board), and anticipated completion date of the project.
- Any other information requested by Authority staff.
- Any available plans or specifications for the proposed project should be attached to the application.

During or after review of the application, Authority staff may request additional information it deems necessary to complete evaluation of the proposed project. If the information is not provided to Authority staff as requested, the application will be deemed incomplete and will not be processed for consideration of approval.

#### C. Review Procedure

To receive funds from the Open Space Authority's 20% Funding Program, a participating jurisdiction is required to submit a completed application for any new project a minimum of 90

days before a participating jurisdiction expects a decision on the application **and** prior to any closing on an acquisition or the start of any site development/restoration project. Funding will be denied for acquisitions that have already been completed or site development/restoration projects where construction has already commenced. Upon the acceptance by the staff of a completed application, the Authority staff shall process the application and prepare a staff recommendation (that includes analysis of the application's consistency or inconsistency with the Authority's criteria for funding) to the Citizens Advisory Committee ("CAC"). The CAC considers the staff recommendation and application, and recommends an action to the Board. After the CAC approves its recommendation, the staff will provide its recommendation and the CAC recommendation to the Board. If the CAC and/or staff recommend approval, the staff recommendation will include a proposed Board resolution and findings as to the project's consistency with the Authority's criteria for funding.

The findings for approval must include the following:

- 1) For acquisition of open space, the acquisition shall accomplish both of the following:
  - a) meet at least one of the following objectives:
    - i) preserve or restore the natural environment, which is defined as improvement or rehabilitation of a degraded ecosystem;
    - ii) provide for outdoor recreation, which is defined as leisure activity for the use and enjoyment of the outdoors with minimal structures and environmentally compatible development of the land;
    - iii) preserve or provide for agriculture which is defined as the growth of food, fiber or plant material;
    - iv) create a greenbelt or urban buffer; and/or
    - v) preserve significant scenic resources and viewsheds.
  - b) shall provide for, or have the potential to provide through restoration and/or site development, at least one of the following open space benefits:
    - i) environmental preservation, including preservation of natural geography representative of the region (such as wetlands, baylands, riparian areas, valley floor, hillsides, ridgelines), preservation of unique plant communities and diverse habitats, preservation of habitats of rare and endangered species, preservation of watershed lands;
    - ii) scenic preservation, including preservation of unique scenic resources, and preservation of viewshed;
    - iii) greenbelts or urban buffer creation;
    - iv) agricultural preservation;
    - v) outdoor recreation defined as leisure activity for the use and enjoyment of the outdoors with minimal structures and environmentally compatible development of the land;
    - vi) connections, such as trails, between open space lands of regional significance or between urban areas and open space lands.
- 2) For site development/restoration projects, the project shall accomplish both of the following:

- a) shall be constructed or improved on lands defined as open space as defined in subsection 1)a) above; and,
- b) meet at least one of the following criteria:
  - i) enhance a property's open space benefits defined as improvement or rehabilitation of degraded ecosystems;
  - ii) enhance public awareness and appreciation of open space, such as construction of trails, overlooks, observation blinds, benches, and interpretive signs; and/or,
  - iii) convert "abandoned lands," as utility rights-of-way, surplus school sites, quarries, etc., into lands with open space benefits.

This application review process includes technical review by the Authority staff and its legal counsel, and the review and recommendations of the CAC to the Board. The Authority's Board of Directors will make the final decision with consideration of the CAC recommendation, the staff recommendation and public comments.

The participating jurisdiction will be offered an opportunity to present its project to the CAC and the Board. The Board or the CAC may decide that action should be continued to answer significant questions or resolve outstanding issues.

### **D. Project Change**

After the application is approved, the participating jurisdiction may not change the project, or its design or use, unless such changes are approved by the Board.

## **SECTION II – PROGRAM POLICY**

### **A. Accumulating Fund**

20% funds available for application by each participating jurisdiction accumulate for a period of five years. Participating jurisdiction may request that the Authority accumulate funds for a longer period for a specified project that requires a greater funding level than what would be accumulated in five years. If such a request has not been made, and if after five years the participating jurisdiction has not applied for available 20% funds, the Authority shall encourage the jurisdiction to apply for funding. If the participating jurisdiction chooses not to apply, or if after ten years the participating jurisdiction still has not applied for funds, the Board may choose to direct those funds of over 5 years in age to other participating jurisdictions or to the Authority's other needs.

### **B. Interest on Accumulation**

Interest on accumulating 20% funds accrues to the available fund of the participating jurisdictions.

### **C. Project Indemnity and Agreement**

As a condition of funding, the participating jurisdiction shall enter into an agreement in the form attached hereto as Exhibit A for property acquisitions, and in the form attached hereto as Exhibit B for site development/restoration projects. As part of that agreement, the participating jurisdiction shall agree to record a conservation easement in favor of the authority to protect public use in perpetuity, and shall agree to indemnify and hold harmless Authority from and against any and all claims, losses, demands, damages, costs, expenses, injuries, judgments, penalties, obligations and liabilities whatsoever for or in connection with or in any way related to the use of 20% Program Funds.

### **D. Fund Disbursement and Accountability**

#### **1. Fund Disbursement**

The Authority will disburse these funds, or part thereof, after the participating jurisdiction submits copies of invoices or receipts showing expenses incurred by the participating jurisdiction for the project and the Authority's General Manager is satisfied that such expenditure is necessarily and reasonably incurred. The Authority shall only disburse funds in an amount that is no more than that shown on the participating jurisdiction's invoices or receipts, and under no circumstances shall the total amount disbursed to the participating jurisdiction for the project exceed the approved amount. With respect to acquisitions, funds shall only be deposited in an escrow account specially set up for the approved acquisition.

#### **2. Project Audit and Accountability**

a) The participating jurisdiction shall retain all records pertaining to the project for audit purposes for a period of three (3) years after completion of the project or until all project related claims have been fully and finally settled, whichever occurs last. Participating jurisdiction shall make all project records and data available to the Authority within five (5) business days of the Authority's written request.

b) Subject to (a) above, and prior to the participating jurisdiction's disposal of any or all project records, the participating jurisdiction shall notify the Authority and the Authority shall have the opportunity to place the project records in storage unless a written release is provided to the participating jurisdiction by the Authority's General Manager.

c) Audits may be conducted at the Authority's discretion. The Authority conducts at least two types of audits. The audits will take two forms: (1) a walk through inspection of the project and an informal review of the project records by Authority staff, (2) a formal financial audit conducted by either Authority staff or a consultant. Participating jurisdictions shall be prepared and cooperate with both types of audits.

d) In the event audit or inspection of the project records results in the disclosure of any unauthorized expenditures or activities, participating jurisdiction shall, within thirty (30) days of the date of Authority's written demand, repay Authority for all funds received for such unauthorized costs or activities. Participating jurisdictions shall also pay Authority's investments, and all costs of the audit(s) or inspection(s).

e) Participating jurisdictions shall submit project status reports quarterly. Authority staff will give the status reports at scheduled CAC and Board meetings, as they deem appropriate.

### **E. Project Recognition**

Authority funding of projects shall be recognized through appropriate site signage during and after construction, or other means as approved by the Authority. Participating jurisdictions receiving funding must agree to meet with Authority staff regarding recognition and signage if requested by the Authority. A location, size and design for a sign acknowledging the Authority's funding assistance must be selected and approved by the Authority's staff. The participating jurisdiction shall invite the Authority to any ribbon cutting ceremony and shall include

## Exhibit A

### *20% Funding Program Policy and Procedure*

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recognition of the Authority in any materials (including, but not limited to, brochures, invitations, e-mails and web pages) that are circulated to the general public concerning an acquisition and/or opening of any project to the public.