

**GRANT AGREEMENT
BETWEEN
SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT
AND
SAN MATEO COUNTY GENEALOGICAL SOCIETY**

This Grant Agreement (“Agreement”) is made and entered into on the 1st day of April, 2009 (“Effective Date”) by and between the **San Mateo County Community College District, (“SMCCCD”)** a political subdivision of the State of California, with its principal place of business located at 3401 CSM Drive, San Mateo, CA 94402 for its Cañada College and **San Mateo County Genealogical Society (“SMCGS”)**, a California non-profit corporation, with its principal place of business located at 25 Lessingia Road, San Mateo, CA 94402-0083. **SMCCCD** and **SMCGS** may be referred to herein individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

- A** **SMCGS** is a California non-profit 501(c) (3) corporation.
- B** **SMCGS** is an educational organization formed to promote the study of history and genealogy through the collection of documents and manuscripts, recordation and preservation of family histories, instruction on research methodology, and to support and maintain the genealogical collection at the **Cañada College Library (LIBRARY)**.
- C** The parties enter into this Grant Agreement for the purpose of setting forth the rights and responsibilities of both Parties regarding the collection of books on genealogy and regional history at the **LIBRARY**.

AGREEMENT PROVISIONS

1. PURPOSE OF GRANT

SMCGS will donate to **SMCCCD**, for library purposes, its current collection of books on genealogy and regional history, genealogical periodicals and, its unpublished genealogies written by **SMCGS** members, as well as items added after this agreement is fully executed (“Collection”). The Collection will be the sole property of the **SMCCCD** after the initial date of its donation by **SMCGS** to **SMCCCD**, subject to the provisions of Section 1 and Section 20 of this Agreement.

- 2. SMCGS** shall donate books, periodicals, and other materials to the Collection. Such donations are subject to availability of funds. Once the books are catalogued, the Collection becomes the property of the **SMCCCD**. In the event that any part of the Collection is determined by the **LIBRARY** to be removed from the **LIBRARY**, the **LIBRARY** will notify **SMCGS** of the proposed removal and, if requested, the materials will be returned to **SMCGS**.

3. TERM OF AGREEMENT

- A.** The term of this Agreement shall begin on the effective date of March 20, 2009, and end on the Termination Date of August 31, 2018 and, may be extended for additional ten (10) year terms. Every ten (10) years, the Agreement shall be reviewed, revised and renewed, based on mutual interest and written consent by both Parties to maintain the Collection.

4. LOCATION OF COLLECTION

A. The materials in the Collection will be located in the **Cañada College Library (LIBRARY)**. The **LIBRARY** agrees to identify all items donated by **SMCGS**, including circulating and non-circulating items, as part of the Collection in the **LIBRARY** catalog. In addition, **SMCGS** will mark or brand each item in the Collection to identify it as part of the Collection. All materials donated to the **LIBRARY** shall be catalogued by **SMCGS**, including date of acquisition, so that the initial donations may be distinguished from subsequent donations as provided for in Section 1 of this Agreement.

5. SMCGS EVENTS

- A.** **SMCGS** shall be permitted to use **LIBRARY** meeting space two (2) times each month on a continuing basis during the term of this Agreement for its meetings.
- B.** **SMCGS** shall be permitted to use **LIBRARY** space for workshops on genealogy research on schedule to be determined to be mutually convenient for **SMCGS** and **LIBRARY**. These workshops, which may take the form of either an all day class or a series of half-day classes, shall not exceed one (1) workshop per month.

6. RARE OR FRAGILE BOOK STORAGE

LIBRARY shall store, according to its own policies, any rare or fragile materials which are part of the Collection.

7. MAINTENANCE OF BOOKS

SMCGS shall maintain, supervise and repair the Collection with available funds.

8. ADDITIONS TO COLLECTION

LIBRARY may add materials to the Collection at any time, at its sole discretion. Any materials added by the **LIBRARY** shall remain the sole property of the **SMCCCD**.

9. STORAGE OF EQUIPMENT

LIBRARY shall provide storage space for **SMCGS** sufficient to accommodate miscellaneous equipment and supplies, subject to space available after the **LIBRARY** and **SMCCCD** have satisfied their storage needs. **LIBRARY** shall determine the amount of space available for storage of equipment and, shall determine the location of the storage. In the event that **LIBRARY** or **SMCCCD** needs space that was previously set aside for storage of **SMCGS** equipment and supplies, such **SMCGS** equipment and supplies shall be relocated by **SMCGS** at **SMCGS** expense.

10. LIBRARY USAGE

- A.** Use of **LIBRARY** facilities by **SMCGS** shall be subject to the Rules and Regulations established by **SMCCCD**, from time to time. Copies of these Rules and Regulations are available on the **SMCCCD's** website and shall be made available to **SMCGS**.
- B.** Use of **LIBRARY** facilities by **SMCGS** shall be arranged as to day, time and location within the premises by mutual agreement between the Librarian or such other person designated by the President of

Cañada College and the President of **SMCGS. LIBRARY** and **SMCCCD** events shall have priority with regard to scheduling.

- C. No activities of **SMCGS** on the **LIBRARY** premises shall interfere with the normal operations of the **LIBRARY**.

11. FEES

- A. No rental fees will be charged by **LIBRARY** to **SMCGS** for use of **LIBRARY** facilities during the regularly scheduled operating hours or for any storage facilities.
- B. Use of the **LIBRARY** facilities at times other than regularly scheduled public operating hours shall subject **SMCGS** to charges for janitorial, security and other services which would not have been provided by **SMCCCD**, but are required as a result of the activities of **SMCGS**.

12. NOTICES

All notices to the parties shall, unless otherwise requested in writing, be sent to the **LIBRARY** addressed as follows:

Cañada College Librarian
Cañada College
4200 Farm Hill Boulevard
Redwood City, CA 94061-1099
patterson@smccd.edu

And to **SMCGS** addressed as follows:

President
San Mateo County Genealogical Society
P. O. Box 5083
San Mateo, CA 94402-0083
president@smcgs.org

If notice is sent via e-mail, a signed, hard copy of the material shall also be mailed. The work day of the e-mail was sent shall control the date notice was deemed given if there is a computer generated document of the date of transmission. An e-mail transmitted after 1:00 pm on Friday shall be deemed to have been transmitted on the following Monday.

13. ASSIGNABILITY AND INDEPENDENT CONTRACTOR REQUIREMENTS

- A. The relationship of **SMCGS** to the **SMCCCD** is that of an independent contractor. **SMCGS** has full rights to manage its staff or volunteers subject to the requirements of the law. All staff and volunteers of **SMCGS** in connection with this Agreement shall be staff or volunteers of **SMCGS** and not employees of the **SMCCCD** in any respect.
- B. This Agreement shall not be assigned or transferred without prior written consent of the parties.

14. NON-DISCRIMINATION

SMCGS covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

15. COMPLIANCE WITH LAW

Contractor shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

16. TERMS AND AMENDMENTS

Amendments to the terms and conditions of this agreement shall be requested in writing by the Party desiring such revision, and any such adjustment to this Agreement shall be determined and effective only upon the mutual Agreement in writing of the Parties hereto.

17. INTEGRATED DOCUMENT

This Agreement embodies the Agreement between **SMCCCD** and **SMCGS** and its terms and conditions. No verbal agreements or conversations with any officer, agent or employee of **SMCCCD** prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon **SMCCCD**.

18. HOLD HARMLESS

SMCGS hereby releases and agrees to protect, defend, hold harmless, and indemnify **SMCCCD**, its officers, employees and elected officials, boards and commissions, from and against all claims, injury, liability, loss, cost and expense, or damage, however same may be caused, including all cost and reasonable attorney's fees in providing the defense to any claims arising there from, for any loss of or damage to property (real and/or person) and for personal injury to or death of any person or persons arising out of, occurring by reason of, or in any way connected with **SMCGS'** activities, or in consequence thereof.

19. WHEN RIGHTS AND REMEDIES WAIVED

In no event shall any acceptance of donation by **SMCCCD** hereunder constitute or be construed to be a waiver by **SMCCCD** of any breach of covenants or conditions of this Agreement or any default which may then exist on the part of **SMCGS**, and the making of any such donation while any such breach or default exists shall in no way impair or prejudice any right or remedy available to **SMCCCD** with respect to such breach or default.

20. TERMINATION

Either Party may terminate this Agreement in whole or in part, without cause, when both Parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The Party who seeks termination shall give the other Party written notice ("Notice of Termination") which clearly expresses that Party's intent to terminate the Agreement. The Notice of Termination shall become effective no less than ninety (90) calendar days after a Party receives such notice.

If either Party terminates this Agreement, **SMCGS** may withdraw those materials in the Collection donated to LIBRARY pursuant to Section 1 of this Agreement (initial donation) and subsequent

donations and or purchases of additional materials, provided such material is withdrawn within ninety (90) days of the termination of the Agreement.

In the event that **SMCGS** ceases to function and exist, all donations made by **SMCGS** shall become the property of **SMCCCD**.

21. DISPUTE RESOLUTION

- A.** Unless otherwise mutually agreed to by the Parties, any controversies between **SMCGS** and **SMCCCD** regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other party.
- B.** The parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of San Mateo County to appoint a mediator. The mediation meeting shall not exceed one day.
- C.** Mediation under this section is a condition precedent to filing an action in any court. In the event litigation arises out of any dispute related to this Agreement, the Parties shall each pay their own attorney's fees, expert witness costs and cost of suit.
- D.** Only after both the administrative dispute resolution procedure and the mediation procedure have failed to resolve a dispute between the Parties may one or both of the parties file suit, subject to the Section 23-C limitation on venue.

22. INSURANCE REQUIREMENTS

Prior to the execution of this Agreement, Parties shall furnish to each other a Certificates of Insurance showing satisfactory proof of the following insurance:

A. Commercial General Liability and Property Insurance

Commercial general liability insurance, written on an "occurrence" basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, blanket contractual liability, broad form endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than \$2,000,000 annual general aggregate and \$1,000,000 each occurrence.

Each Party shall provide the certificate, and the certificate shall also show the information that the each party is named on the Comprehensive General Liability and Property Damage policies as co-insured or added thereon by endorsement as a named insured or additional insured. If added by endorsement, certificates shall clearly state that "The San Mateo County Community College District (San Mateo County Genealogical Society), its Officers, Agents and Employees are named as additional insured per attached endorsement" and that such insurance policy shall be primary to any insurance or self insurance maintained by the Parties.

B. Business Automobile Liability Insurance

Business automobile liability insurance with limits not less than \$1,000,000 each occurrence including coverage for owned, non-owned and hired vehicles.

C. Workers' Compensation Insurance

The SMCGS 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, Contractor certifies awareness of the provisions of section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and certifies compliance with such provisions before commencing the performance of this work of the Agreement as set forth in California Labor Code section 1861.

23. MISCELLANEOUS PROVISIONS

- A. Severability Clause: In case any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal, or unenforceable in any respect, it shall not affect the validity of the other provisions which shall remain in full force and effect.
- B. No Pledging of **SMCCCD's** Credit: Under no circumstances shall **SMCGS** have the authority or power to pledge the credit of **SMCCCD** or incur any obligation in the name of **SMCCCD**. **SMCGS** shall save and hold harmless **SMCCCD** its officers, employees and officers, boards and commissions, for expenses arising out of this Agreement.
- C. Venue: In the event that suit shall be brought by any Party to this Agreement, the Parties agree that venue shall be exclusively vested in the state courts of the County of San Mateo.
- D. Use of **SMCCCD/LIBRARY** Logo: **SMCGS** agrees not to use the **SMCCCD/ LIBRARY's** insignia, or emblem, or distribute any information related to this Agreement in any magazine, trade paper, newspaper or other medium without the consent of **SMCCCD**. Such consent will not be unreasonably withheld if the intended use is to further the purposes of the Collection.

The parties acknowledge and accept the terms and conditions stated herein as evidenced by the following signatures of their duly authorized representatives. It is the intent of **San Mateo County Community College District/Cañada College** and **San Mateo County Genealogical Society** that this Agreement shall become operative on the Effective Date first set forth above.

SMCCCD:

By:

SMCGS:

By:

_____ Date _____

James W. Keller
Executive Vice Chancellor

_____ Date: _____

Diane E. Smelker
President
25 Lessingia Court/P.O. Box 5083
San Mateo, CA 94402-0083
Telephone: 650.572.2929

