

## **SOCCER FOR SUCCESS GRANT AGREEMENT**

This Grant Agreement (this "Agreement") is made and entered into this 9<sup>th</sup> day of March, 2017 (the "Effective Date"), by and between the **United States Soccer Federation Foundation, Inc.** (the "Foundation") and **Fresno PARCS, FY17-204** (the "Grantee").

### **ARTICLE I: GENERAL TERMS**

- 1.1 Grant Award:** The Grant shall be in the form of cash and/or products from the Foundation's Partners ("Product") and shall be valued by the Foundation, in its sole and absolute discretion, in an amount equal to \$121,900. The Grant disbursements will follow the chart in Section 1.5 below.
- (a) **Product:** The Foundation will provide Product, in the amount of \$25,000 which shall be used to fund Field Equipment and Player Kits.
- (b) **Cash:** The Foundation will provide Cash, in the amount of \$96,900 which shall be disbursed in three installments, comprised of a first installment (the "First Installment") of \$34,600, a second installment (the "Second Installment") of \$31,150, and a third installment (the "Third Installment") of \$31,150. All Installments shall be disbursed by the Foundation in accordance with the terms of Section 2.1 herein.
- 1.2 Grant Project:** Consistent with the Foundation's interests in promoting youth soccer and improving health and social outcomes of children, particularly in underserved communities, the Grantee will use the Grant to help defray the cost of the *Soccer for Success* Program (the "Program"). The Grant will be used by the Grantee to benefit children as is described in the Grantee's grant application, as submitted to the Foundation (the "Grant Application").
- 1.3 Grant Term:** The term ("Term") of the Grant shall commence on the Effective Date and terminate on June 30, 2018.
- 1.4 Program Sessions:** The Program will operate during the Term of the Grant for a total of 36 weeks, consisting of three 12-week Sessions. The Grantee will operate the Program for 12 weeks in the Spring of 2017 (the "Spring 2017 Session") and for 24 weeks in the 2017-2018 program year, with 12 weeks in the Fall of 2017 and 12 weeks in the Spring of 2018 (the "Fall 2017 Session" and "Spring 2018 Session"). The dates of operation for each Session must be reported by the Grantee to the Foundation in accordance with Section 4.3 of this Agreement.
- 1.5 Program Participants and Disbursements:** During the Term of the Grant, the Grantee will operate the Program for the benefit of at least **1,400** children and youth in and around **Fresno, CA**, as structured below.

|                 | Spring 2017 | 2017-2018 Program Year | Totals    |
|-----------------|-------------|------------------------|-----------|
| Children Served | 500         | 900                    | 1,400     |
| Product Grant   | \$8,930     | \$16,070               | \$25,000  |
| Cash Grant      | \$34,600    | \$62,300               | \$96,900  |
| Total Grant     | \$43,530    | \$78,370               | \$121,900 |

### **ARTICLE II: FOUNDATION COVENANTS & OBLIGATIONS**

- 2.1 Grant Payments:** The Foundation shall disburse the Cash payments in three (3) equal installments, which will be made upon the Grantee's satisfaction of certain requirements herein. The First Installment shall be paid to the Grantee upon the Foundation's receipt of: (i) an executed copy of this

Agreement; (ii) a Certificate of Insurance which demonstrates the insurance coverage as set forth in Section 4.5 herein; (iii) the reporting responsibilities prior to the Spring 2017 Session in accordance with Section 4.3(a) and 4.3(b) herein. The Second Installment shall be paid to the Grantee upon the Foundation's satisfaction of the Grantee's compliance with the terms herein and the Foundation's receipt of: (i) the reporting requirements for the fall 2017 Session in accordance with Section 4.3(c), 4.3(d) and 4.3(e) herein. The Third Installment shall be paid to the Grantee upon the Foundation's satisfaction of the Grantee's compliance with the terms herein and the Foundation's receipt of: (i) the reporting responsibilities prior to the spring 2018 Session in accordance with Section 4.3 (a) and 4.3(b) herein.

- 2.2 **Notify Grantee If Payments Will Not Be Made:** The Foundation will notify the Grantee if any payment will not be made because the Grantee is not in compliance with the terms of this Agreement. The notification will include rationale supporting the Foundation's view that the Grantee is not in compliance with the terms herein or any other findings that the Foundation determines justifies withholding payments. The Foundation will work with the Grantee to attempt to resolve the issues.
- 2.3 **Right to Amend or Terminate the Grant:** If the Foundation is of the opinion that the Grantee is incapable of satisfactorily completing their obligations under this Agreement, the Foundation may, at its discretion, amend or terminate this Agreement. The Foundation will meet with the Grantee to attempt to resolve the issues before making such a declaration.
- 2.4 **Site Visits and Audits:** The Foundation reserves the right, with reasonable notice, to conduct site visits to review and evaluate the Grantee's records, activities, organizational procedures and financial systems, conduct interviews, and provide technical assistance as necessary.

### **ARTICLE III: GRANTEE COVENANTS & OBLIGATIONS**

- 3.1 **Facts and Representations True and Correct:** The Grantee affirms the representations made in its Grant Application are true and correct and that the Foundation may rely upon the truth and correctness of the representations made in the Grant Application without further independent investigation. The Grantee further affirms that it has not omitted any material fact from its Grant Application the knowledge of which would impact the awarding of the Grant to the Grantee. The Grantee avows that no events have occurred since the date of such Grant Application which have materially and adversely altered the truth or reliability of the Grant Application, including: the tax status of the Grantee and the ability of the Grantee to successfully accomplish what it has set forth in the Grant Application. The Grantee agrees to immediately inform the Foundation, within five (5) business days, of any material change to the Grantee or the Grant Application, which might affect any terms of this Agreement.

The Grantee represents to the Foundation that the Program does not violate any applicable law, regulation, ordinance, lease, or otherwise violate the rights of any person or entity.

- 3.2 **Grantee's 115(1) Status; Use of Grant:**

- (a) The Grantee represents that it is tax exempt under IRS Code Section 115(1) and that it holds a valid determination letter from the Internal Revenue Service that it is not a private foundation within the meaning of IRS Code Section 509(a). The Grantee will maintain its status as a public charity. Loss of tax exempt status may result in termination of this Agreement by the Foundation. The Grantee will promptly notify the Foundation of any communication from the IRS from which it can be reasonably inferred that there is a risk that the Grantee may no longer be considered by the IRS as tax exempt and will promptly report to the Foundation all actions subsequently taken by the Grantee and the IRS.

- (b) The Grant will be used only for those lawful purposes authorized under IRS Code Section 501(c)(3) and, in particular, for those purposes described in the Grant Application upon which the Foundation relied in its selection of the Grantee. Any part of the Grant not used for the purposes consistent with IRS Code Section 501(c)(3), and otherwise in accordance with this Agreement, shall constitute a default and shall subject the Grantee to having the Award terminated. The Grantee shall also pay to the Foundation, promptly upon demand, all costs of collection relating to an attorney after such default, whether or not any action shall be instituted to enforce this Agreement or to otherwise collect hereunder.

### **3.3 License, Representations, and Warranties:**

- (a) During the Term of this Agreement, the Grantee will provide the Foundation with a copy of all materials it publishes that describe this Grant (whether in written, audio, visual, electronic, or other media) and the Grantee's services supported by the Grant (together, the "Materials"). The Grantee grants the Foundation a royalty-free, non-exclusive, worldwide, perpetual license to use, reproduce, and distribute the Materials in written, audio, visual, electronic or other media in furtherance of the Foundation's charitable purposes. The Foundation does not have the right to sublicense any of the rights to the Materials granted herein.
- (b) The Grantee represents and warrants to the Foundation that to the best of its knowledge: (1) it has the full power and authority to make and perform this Agreement and to grant the rights set forth in the paragraph above; (2) the Materials are the Grantee's original work (save for excerpts from other copyrighted materials that may be included with the written permission of the copyright owners) or the Grantee has acquired sufficient rights for any material contributed to the Materials by third parties, including the right to sub-license that third-party copyrighted material to the Foundation, (3) the Materials, and the use of them by the Foundation, do not violate any copyright, personal or proprietary right or any other right belonging to any third party, (4) the Materials do not contain any defamatory or libelous material, and (5) all statements, contained in the Materials, purporting to be facts are true.
- (c) Notwithstanding the license in this paragraph, if the Grantee notifies the Foundation in writing that some portion of the Materials are confidential or that unrestricted distribution of them might impair their value to the Grantee, the Foundation will not distribute the Materials that the Grantee designates.

### **3.4 Publicity Material and Recognition:** The Foundation shall have the right to publicize, show photographs and video of, and use the name and mission of the Grantee and the Program and otherwise promote its contributions to the Program in any and all media. In addition, the Grantee shall provide the following recognition elements, making certain that each adheres to the Foundation's Branding Guidelines:

- (a) The Foundation logo will be displayed on Grantee's website homepage or partner's page with a hyperlink to the Foundation's website homepage throughout the Term of the Grant.
- (b) The Foundation logo will be displayed on all uniforms provided by the Grantee to its Program participants during the Term of the Grant. As mentioned above, and as noted within the Foundation's Branding Guidelines, all logos, names or other marks contained on the official uniforms of the Program must first be approved by Foundation.
- (c) The Foundation, with the cooperation of the Grantee, will be granted the opportunity to direct up to two (2) Email Blasts related to its general philanthropic efforts, to Grantee's membership, the content of which will be mutually agreed upon by Foundation and Grantee.

- (d) The Foundation shall be included within a Press Release, announcing the awarding of the Grant that will be distributed to Grantee's membership. In addition, the Grantee will also make best efforts to note the support of relevant Foundation Partners.

**3.5 Use of Foundation Logo:** In the event the Grantee desires to use a logo owned or controlled by the Foundation in a manner consistent with this Agreement, the Grantee shall first submit a sample or concept of the proposed use to Foundation for prior written approval. Such approval may be withheld by the Foundation in its sole discretion. Any such use by the Grantee shall create no rights for the Grantee in or to the logo. Each logo shall remain at all times the sole and exclusive intellectual property of the Foundation, and the Foundation shall have the right, from time to time, to request samples of use from which it may determine compliance with these terms and conditions. The Foundation reserves the right to prohibit use of its logo if it determines, in its sole and absolute discretion, that usage thereof is not in accordance with the terms and conditions of this Agreement.

**3.6 Grantee Books and Records:** The Grantee agrees to maintain sufficient operating and financial books, records and related documentation regarding the activities of the Grantee and other evidence sufficient for the Foundation to satisfy its fiduciary, public and governmental responsibilities and duties regarding the Grant made by it to the Grantee. The Foundation shall have reasonable access to the books and records of the Grantee for inspection purposes and shall be entitled to copies of the same as they relate to the Grant and/or the Program.

**3.7 Site Visits:**

- (a) **Ad Hoc Visits:** Grantee will use its best efforts to accommodate any representative of the Foundation who requests to conduct a site visit, at the sole cost of the Foundation, for the purposes of collecting information about the Grant and/or for marketing purposes.
- (b) **Open House:** Grantee shall host, and schedule in consultation with the Foundation, one (1) Open House event per Term in which the Foundation's Team, Board of Directors, and/or donors can observe the Program in-person.

**ARTICLE IV: SOCCER FOR SUCCESS PROGRAM OPERATIONS**  
**GRANTEE REQUIREMENTS**

**4.1 Soccer for Success Program Operations:**

- (a) **Operation:** The Grantee shall operate the Program at least three (3) days a week, with at least 60 minutes of moderate to vigorous physical activity during each day of the Program. The Program must operate for at least 24 weeks during the Term of the Grant as set forth in Section 1.4 herein. The Grantee hereby acknowledges and agrees that it is solely responsible for the organization, management and operation of the Program and that the Foundation shall have no obligations arising from the Program whatsoever, except for such obligations specifically described in this Agreement. All costs and expenses relating to the Program, beyond the Grant afforded by the Foundation pursuant to this Agreement, shall be the sole responsibility of the Grantee.
- (b) **Nutrition and Family Engagement Components:** The Grantee shall integrate a nutrition and family engagement component to the Program as provided by the Foundation.
- (c) **General Conduct:** The Grantee agrees not to permit any activities during the Program which are inappropriate or may damage the reputation of the Foundation, its parent, subsidiary and

affiliated companies, sponsors, benefactors, donors, officers, directors, employees, accountants, attorneys, agents, successors, and assigns ("Foundation Parties"). Neither the Grantee, its employees, volunteers, coaches, instructors, trainers, officials, agents, and other personnel who will serve at the Program ("Program Team") or anyone under Grantee's direction or control shall: (i) engage in any fighting or use physical force; or (ii) use or encourage any abusive, obscene, objectionable or inappropriate language, behavior, gestures or displays toward any person.

- (d) **Training:** Every coach must attend and complete at least one (1) Foundation Training per program year. This Training must be administered by a Foundation Team member or an appropriately qualified Program Team member.

Additionally, at least one (1) coach must attend the 2017 *Soccer for Success* National Training, where coaches will be trained on delivering local trainings to the remainder of Grantee's Program Team.

#### **4.2 Soccer for Success Program Staffing:**

- (a) **Child to Coach Ratio:** The Grantee shall maintain a minimum of a 15:1 child to coach ratio.
- (b) **Team Selection:** The Grantee is responsible for the selection of its Program Team.
- (c) **Background Checks:** In an effort to protect the children participating in the Program, all Program Team members will be required to go through a comprehensive background screening conducted by a vendor approved by the Foundation. Such screening shall include, but not be limited to, the following law enforcement and public records background checks:

- Criminal History Check
- Sex Offender Registry Check
- Social Security Number Check
- Address Checks

The Grantee is responsible for securing the appropriate consent, authorization and release forms from the Program Team. The Grantee agrees that any Program Team members who have been convicted of or plead guilty to any crime(s) involving any sexual, physical or verbal abuse of children will not be permitted to serve or interact with the children participating in the Program.

The Grantee further agrees that no Program Team member will be permitted to participate in the Program until such person has completed a background screening conducted by a vendor approved by the Foundation. Upon completion of the background screening, each Program Team member must submit confirmation of completion to the Grantee. The Grantee shall submit all confirmations to the Foundation upon request by the Foundation and as further described in Section 4.3 herein.

#### **4.3 Soccer for Success Program Reports:** The Grantee must ensure that the following reports, relating to the Program, are submitted as provided in this section:

- (a) **Program Site Reports:** No later than one (1) month prior to the start of each Session, the Grantee shall create or modify a site record for each active *Soccer for Success* program site for the relevant Session, complete with all required information, through Salesforce. Each active site record must contain at least one Data Entry Group, where applicable player and coach records will be assigned, indicating their participation at this site for such season.

- (b) **Coach-Mentor Records:** No later than one (1) month prior to the start of each Session, the Grantee shall create or modify a record for each active *Soccer for Success* coach-mentor, complete with all required information, through Salesforce. Each active coach-mentor record must contain the accurate number of Coach Data records, indicating each instance and location of where coach-mentors are participating.

Only coach-mentors with confirmed background checks through Salesforce can participate in the Program.

- (c) **Player Records:** Within the first six (6) weeks of each Session, the Grantee shall create or modify a record for each active *Soccer for Success* player, complete with all required information, through Salesforce. Each active player record must contain a Player Data record for each season the player participates. The Grantee will provide pre- and post- Body Mass Index and PACER information, for all or a portion of the participating players, in a format determined by the Foundation in its sole discretion, no later than three (3) weeks following the conclusion of each season. The Grantee will provide attendance information for all participating players, in a format determined by the Foundation in its sole discretion, no later than three (3) weeks following the conclusion of each season. The Foundation will provide Grantee with the appropriate training to properly conduct and report the assessments.
- (d) **Surveys/Assessments:** In a format determined by the Foundation, the Grantee will provide nutrition and youth development surveys, for all or a portion of the players. The Foundation will provide the Grantee with the appropriate materials and training to properly conduct the surveys/assessments. The Foundation will directly administer coach-mentor and parent/guardian surveys each Session.
- (e) **Family/Community Engagement:** In a format determined by the Foundation, the Grantee will provide information on family and community engagement activities/events taking place in conjunction with the Program.
- (f) **Photographs, Videos and Stories of the Program:** By the conclusion of each Session, the Grantee will provide (i) high resolution photographs and videos documenting the Program's impact for the Session, and (ii) at least three (3) Program success story that may be utilized by the Foundation. Program success stories must be reported through Salesforce. The Foundation shall have the right to use all photographs, videos and stories provided by Grantee to publicize the Foundation's support of the Program and the Foundation's philanthropic efforts. The Grantee will ensure that all necessary permissions have been granted before providing such to Foundation, and will inform Foundation of any requirements for credit to be given when particular photographs, videos, or stories are used.

- 4.4 **Participant Waiver and Release Forms:** The Grantee shall require the parents/legal guardians of all participants in the Program to sign a waiver and release form approved by the Foundation. No participant may partake in the Program until such waiver and release has been completed. The Grantee will collect all waivers and releases and shall make them available for inspection by the Foundation upon the Foundation's request.

- 4.5 **Insurance:** Throughout the Term of this Agreement, the Grantee shall provide and maintain, at its expense, the following insurance which shall protect the Grantee and the Foundation on a primary basis from any and all claims arising out of or in connection with the Grant, the Program and the obligations of the Grantee pursuant to this Agreement.

- (a) **Commercial General Liability** insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate. Such insurance shall include coverage for premises liability,

contractual liability, products-completed operations, participant legal liability, personal and advertising injury, property damage and bodily injury liability (including death). Said policy shall be endorsed to name the Foundation and Foundation Parties as Additional Insureds.

- (b) **Automobile Liability** insurance, to the extent necessary, covering liability arising out of the Grantee's use, operation and/or maintenance of any auto (including buses), with limits not less than \$1,000,000 each accident combined single limit for bodily injury and property damage.
- (c) **Workers' Compensation** insurance covering employees of Grantee serving at the Program, with limits as required by statutory law, including Employer's Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 disease-each employee and \$1,000,000 disease-policy limit.
- (d) **Umbrella and/or Excess Liability** insurance with limits not less than \$2,000,000 each occurrence shall apply in excess of the Commercial General Liability, Auto Liability and Employer's Liability policy limits.

All such insurance required above shall be (1) considered primary with respect to Claims arising out of the Program; and (2) shall be written by insurance companies that are satisfactory to Foundation and that are licensed to do business in the state in which the Program takes place. Grantee shall not allow any of the required policies to be materially changed, reduced or cancelled unless the Grantee provides thirty (30) days prior written notice thereof to the Foundation.

Upon execution of this Agreement and at each renewal of the required policies, the Grantee shall provide the Foundation with a certificate of insurance confirming that the appropriate insurance is in place and that the policies have been properly endorsed to meet the insurance requirements as set forth above.

## **ARTICLE V: MISCELLANEOUS**

- 5.1 **Independent Contractors:** For the purpose of this Agreement, the Foundation and the Grantee shall be, and shall be deemed to be, independent contractors and not agents or employees of the other. Neither the Foundation nor the Grantee shall have the authority to make statements, representations or commitments of any kind, or to take action which shall be binding on the other, except as may be explicitly provided for herein or otherwise authorized in writing.
- 5.2 **Grant Not Assignable:** The Grant is intended solely for the benefit of the Grantee. No benefit of the Grant may be delegated, assigned or otherwise transferred without the advance, written consent of the Foundation.
- 5.3 **Absence of Warranties:** THE FOUNDATION MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR OTHERWISE RELATING TO THE GRANT, THE PROGRAM OR THE PERFORMANCE BY GRANTEE OF ANY SERVICES. IN NO EVENT WILL THE FOUNDATION BE LIABLE FOR ANY DAMAGES OF ANY KIND INCLUDING, BUT NOT LIMITED TO, PERSONAL INJURY, LOST PROFITS, OR OTHER CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES ARISING OUT OF THIS AGREEMENT OR PERFORMANCE OF THE OBLIGATIONS HEREUNDER.

5. 4 **Indemnification:** The Grantee agrees to indemnify, defend and hold harmless all Foundation Parties from and against any and all third party claims, demands, losses, damages, liabilities, costs and expenses (including reasonable legal/attorneys' fees and expenses arising out of or related to any legal proceeding and any legal appeal) ("Claim" or "Claims") related to the Grant, the Program or this Agreement and liabilities of any kind or nature whatsoever, whether in contract, tort, or otherwise, resulting from any claim (including, without limitation, personal injury, death, or property damage) actually or allegedly arising out of or in connection with operation, location, or condition of the Program, or any person's participation in the Program, whether authorized or unauthorized, proper or improper. Grantee's indemnification obligation hereunder shall survive the expiration or earlier termination of this Agreement. Without limiting this obligation, Grantee will maintain the insurance described in Section 4.5 of this Agreement.
5. 5 **Applicable Law; Jurisdiction:** This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia, without regard to principles of conflict of laws. Each party agrees that any action or proceeding with respect to this Agreement may only be brought in a federal or state court situated in the District of Columbia, and by execution and delivery of this Agreement, such party irrevocably consents to jurisdiction and venue in each such court.
5. 6 **Attorneys' Fees:** The Grantee agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by the Foundation in connection with any litigation concerning this Agreement should the Foundation prevail against Grantee in such litigation, whether commenced by the Foundation or the Grantee.
5. 7 **Third Party Beneficiaries:** It is expressly agreed, and by this statement specifically intended by the parties, that nothing within this Agreement shall be construed as indicating any intent by either party to benefit any other entity or person not a party signatory to this Agreement by any provision or to entitle any such third party to any right of action on account hereof.
5. 8 **Notices:** Any notice, report, consent or other communication required or permitted to be given hereunder, unless otherwise stated herein, shall be in writing, and shall be given by delivering such notice in person, by registered or certified United States mail, postage prepaid and return receipt requested, or by recognized overnight delivery service and shall be given when received at the following addresses of the parties hereto unless otherwise designated in writing:
- |                              |                                          |
|------------------------------|------------------------------------------|
| <u>If to the Foundation:</u> | <u>If to the Grantee:</u>                |
| U.S. Soccer Foundation       | PARCS Department                         |
| Attn: Grants Department      | Attn: Shaun Schaefer, Community Services |
| 1211 Connecticut Ave. NW     | Manager                                  |
| Suite 500                    | 1515 E. Divisadero                       |
| Washington, DC 20036         | Fresno, CA 93721                         |
5. 9 **Entire Agreement; Modifications:** This Agreement contains the entire agreement between the Foundation and the Grantee and cannot be changed, modified, amended, waived or canceled except in writing and executed by each of the parties hereto.
5. 10 **Counterparts and Facsimile Signatures:** This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile signature by any party and such signature will be deemed binding for all purposes hereof without delivery of an original signature being thereafter required.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized signatories as of the date first above written.

**USER:**

United States Soccer Federation  
Foundation, Inc.

**CITY:**

CITY OF FRESNO,  
a municipal corporation

By: \_\_\_\_\_

  
Ed Foster-Simeon  
President & CEO

By: \_\_\_\_\_

Kristina Chamberlin, Assistant  
Director  
PARCS Department

By: \_\_\_\_\_

**ATTEST:**

YVONNE SPENCE, CMC  
City Clerk

Name: \_\_\_\_\_

By: \_\_\_\_\_

Deputy

Title: \_\_\_\_\_

(If corporation or LLC, CFO, Treasurer,  
Secretary or Assistant Secretary must sign  
here also)

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
City Attorney

By: \_\_\_\_\_

Seth Mehrten  
Deputy City Attorney