

File No. 131211

Committee Item No. 3

Board Item No. 18

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date January 22, 2014

Board of Supervisors Meeting

Date 1/28/14

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Information Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>MOU</u> |
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Completed by: Linda Wong Date January 17, 2014

Completed by: L.W. Date 1/23/14

1 [Accept and Expend Grant - Kezar Triangle - Golden Gate Park - \$670,000]

2
3 **Resolution retroactively authorizing the Recreation and Park Department to accept and**
4 **expend a grant of up to \$670,000 from the San Francisco Parks Alliance, for the design**
5 **and construction of landscape improvements to Kezar Triangle in Golden Gate Park for**
6 **the period of August 15, 2013, through August 15, 2014.**

7 WHEREAS, Kezar Triangle is situated along Kezar Drive, Arguello Boulevard, and
8 Lincoln Way, west of the Kezar Stadium; and

9 WHEREAS, In 2010 Carla Crane, with the Carla and David Crane Foundation, formed
10 The Friends of Kezar Triangle ("the Friends") with the goal of beautifying and improving this
11 somewhat underutilized area in Golden Gate Park; and

12 WHEREAS, The Friends supports the Recreation and Park Department's mission of
13 providing San Franciscans with enriching recreational activities, maintaining beautiful parks,
14 and preserving the environment for the well-being of its diverse community efforts. The
15 Friends seek to support this mission through their philanthropic and creative support of
16 improving Kezar Triangle; and

17 WHEREAS, The Friends are fiscally sponsored by the San Francisco Parks Alliance
18 ("SFPA"); and

19 WHEREAS, In collaboration with locally based landscape architect, Jeff Miller,
20 Department staff, and the community, the Friends began working on a conceptual plan to
21 improve Kezar Triangle. The objectives of the conceptual plan are to: enhance the ecology of
22 the park with native plants, ease the maintenance with a new irrigation system, provide
23 accessible pedestrian pathways, create areas for temporary art installations, and maintain the
24 open central grass meadow for recreational activities; and

25 WHEREAS, During 3 community meetings and during numerous meetings with Rec

1 Park staff, Jeff Miller presented analysis and usage of the site, introduced the conceptual
2 plan, solicited comments and feedback; and

3 WHEREAS, On May 28, 2013 during the third and final community meeting, Jeff Miller
4 presented the revised and final conceptual plan and the Friends presented the project
5 proposal for temporary, nature based art installations; and

6 WHEREAS, At its July 2013 meeting, the San Francisco Arts Commission voted to
7 approve the project proposal of temporary, nature based art installations, Resolution No.
8 0708-13-171; and

9 WHEREAS, On August 15, 2013, the Recreation and Park Commission approved the
10 conceptual plan, the donor recognition plan and the Memorandum of Understanding with
11 SFPA for the design and construction of the conceptual plan, and recommended to the Board
12 of Supervisors to accept and expend the Grant as Resolution No. 1308-014; and

13 WHEREAS, The breakdown of the grant is: a Grant to the Recreation and Parks
14 Department to be used to pay for the services of one Recreation and Park Department Project
15 Manager to coordinate the design and construction approvals process valued at \$19,000; a
16 Grant-in-Place of a design and construction services valued at approximately \$650,000; and

17 WHEREAS, The Department proposes to maximize use of available grant funds on
18 program expenditures by not including indirect costs in the grant budget; now, therefore, be it

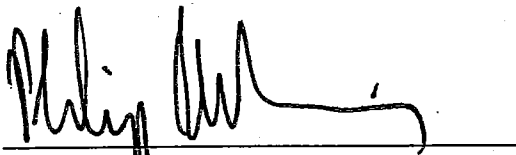
19 RESOLVED, That the Board of Supervisors approves the Grant and authorizes the
20 Recreation and Park Department General Manager to accept and expend the Grant, and to
21 perform all acts required of the City there under; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of
23 indirect costs in the grant budget; and be it

24 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
25 with respect to the Grant are hereby approved, confirmed and ratified; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors authorizes the Recreation and
2 Park General Manager to enter into any modifications to the Grant that the Recreation and
3 Park General Manager determines, in consultation with the City Attorney, are in the best
4 interests of the City and do not materially increase the obligations or liabilities of the City, are
5 necessary or advisable to effectuate the purposes of the Grant or this Resolution, and are in
6 compliance with all applicable laws, including the City's Charter.
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12 Recommended:

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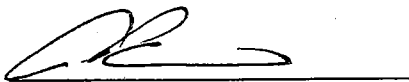
16 General Manager, Recreation and Park Department
17

18
19 Approved:

Approved:

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24 Mayor


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Controller

Recreation and Park Department



Mayor Gavin Newsom
Philip A. Ginsburg, General Manager

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Philip A. Ginsburg, General Manager
Recreation and Park Department

DATE: October 8, 2013

SUBJECT: Accept and Expend Grant Resolution for the Kezar Triangle
Improvement Project

GRANT TITLE: Kezar Triangle San Francisco Parks Alliance Grant

Attached please find the original and 4 copies of each of the following:

- Proposed grant resolution; original signed by Department, Mayor, Controller
- Grant Information form, including disability check list
- Project Budget
- Memorandum of Understanding

Special Timeline Requirements: We would like legislation introduced as soon as possible.

The award will be used for landscape improvements to Kezar Triangle.

Departmental representative to receive copy of the adopted resolution:

Name: Abigail Maher Phone: 831-2790

Interoffice Mail Address: Abigail.maher@sfgov.org

Certified copy required: Yes No

(Note: certified copies have the seal of the City/County affixed and are occasionally required by funding agencies. In most cases ordinary copies without the seal are sufficient.)

File Number: 131211
(Provided by Clerk of Board of Supervisors)

Grant Resolution Information Form
(Effective July 2011)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: Kezar Triangle
2. Department: The Recreation and Park Department
3. Contact Person: Abigail Maher Telephone: 831-2790
4. Grant Approval Status (check one):
 Approved by funding agency Not yet approved
5. Amount of Grant Funding Approved or Applied for: \$670,000.00
- 6a. Matching Funds Required: \$
b. Source(s) of matching funds (if applicable):
- 7a. Grant Source Agency: The San Francisco Parks Alliance
b. Grant Pass-Through Agency (if applicable):
8. Proposed Grant Project Summary: The San Francisco Parks Alliance, on behalf of the Friends of Kezar Triangle and the David and Carla Crane Foundation, supports improvements to Kezar Triangle in Golden Gate Park.
9. Grant Project Schedule, as allowed in approval documents, or as proposed:
Start-Date: August 2013 End-Date: August 2014
- 10a. Amount budgeted for contractual services: \$0
b. Will contractual services be put out to bid? No
c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? N/A
d. Is this likely to be a one-time or ongoing request for contracting out? N/A
- 11a. Does the budget include indirect costs? Yes No
b1. If yes, how much? \$
b2. How was the amount calculated?
c1. If no, why are indirect costs not included?
 Not allowed by granting agency To maximize use of grant funds on direct services

[X] Other (please explain): Not allowed by granting agency.

c2. If no indirect costs are included, what would have been the indirect costs? Force account labor overhead.

12. Any other significant grant requirements or comments:

****Disability Access Checklist** (Department must forward a copy of all completed Grant Information Forms to the Mayor's Office of Disability)**

13. This Grant is intended for activities at (check all that apply):

- | | | |
|------------------------------------------------------|------------------------------------------------------|------------------------------------------------------------|
| <input checked="" type="checkbox"/> Existing Site(s) | <input type="checkbox"/> Existing Structure(s) | <input type="checkbox"/> Existing Program(s) or Service(s) |
| <input type="checkbox"/> Rehabilitated Site(s) | <input type="checkbox"/> Rehabilitated Structure(s) | <input type="checkbox"/> New Program(s) or Service(s) |
| <input type="checkbox"/> New Site(s) | <input checked="" type="checkbox"/> New Structure(s) | |

14. The Departmental ADA Coordinator or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local disability rights laws and regulations and will allow the full inclusion of persons with disabilities. These requirements include, but are not limited to:

1. Having staff trained in how to provide reasonable modifications in policies, practices and procedures;
2. Having auxiliary aids and services available in a timely manner in order to ensure communication access;
3. Ensuring that any service areas and related facilities open to the public are architecturally accessible and have been inspected and approved by the DPW Access Compliance Officer or the Mayor's Office on Disability Compliance Officers.

If such access would be technically infeasible, this is described in the comments section below:

Comments:

Mayor's Office on Disability reviewed the concept plan and will review construction documents for ADA compliance

Departmental ADA Coordinator or Mayor's Office of Disability Reviewer:

Paulina Arava

(Name)

PPD ADA Coordinator for Physical Access

(Title)

Date Reviewed: 10/2/13

Paulina Arava
(Signature Required)

Department Head or Designee Approval of Grant Information Form:

Philip Ginsburg

(Name)

General Manager, San Francisco Recreation and Parks Dept.

(Title)

Date Reviewed: 10/2/13

(Signature Required) *PLEASE SEE ABOVE!*

Kezar Triangle	
Grant Name: The San Francisco Parks Alliance-	
\$670,000.00	
Budget Category:	Amount:
A. Personnel	\$19,000.00
B. Fringe	\$0.00
C. Travel	\$0.00
D. Equipment	\$0.00
E. Supplies	\$0.00
F. Site Elements	\$0.00
G. Construction	\$651,000
	\$670,000.00
H. Indirect Costs	\$0.00
Grant Amount	\$670,000.00

MEMORANDUM OF UNDERSTANDING

City and County of San Francisco
Recreation and Park Department

and

San Francisco Parks Alliance

and the

Friends of Kezar Triangle

for the

Design and Construction of Improvements at the Kezar Triangle in Golden Gate Park

This Memorandum of Understanding ("MOU"), dated for reference purposes only as August 15, 2013, by and among the City and County of San Francisco ("City"), acting through the Recreation and Park Department ("RPD"), the Friends of Kezar Triangle, a neighborhood park advocacy group ("Friends"), and the San Francisco Parks Alliance, a California nonprofit public benefit corporation ("SFPA"), acting as the fiscal agent for the Friends; collectively referred to herein as the ("Parties"). The purpose of this MOU is to delineate the responsibilities of each of the parties in the design and construction of landscape and environmental art improvements at the Kezar Triangle ("Project").

RECITALS

- A. RPD operates and maintains real property owned by the City and County of San Francisco located between Kezar Drive, Arguello Boulevard, and Lincoln Way commonly known as "Kezar Triangle" that is described on Exhibit A attached hereto ("Property"). The Property is owned by the City.
- B. The Friends of Kezar Triangle is a park advocacy group that was formed to re-imagine and revitalize Kezar Triangle. The goal of the Friends is to promote a holistic approach to place that combines art, ecology and community engagement. The Friends has entered into a fiscal sponsorship agreement with SFPA for purposes of designing and constructing the Project at Kezar Triangle.
- C. In partnership with RPD and SFPA, the Friends has led the community design process for the Project. At a community meeting held on May 28, 2013, Friends and RPD presented a conceptual site plan ("Conceptual Plan") for the design and construction of landscape and environmental art improvements at Kezar Triangle. At that meeting, community members supported the Conceptual Plan to renovate the landscaping with improved turf and irrigation, expand native plantings and selected trees, and designate areas for temporary environmental art exhibits. The improvements will be fully accessible in compliance with disability access laws. The temporary art component will be in partnership with the San Francisco Arts Commission.
- D. Friends, acting through SFPA as its fiscal sponsor, proposes to provide funding and services necessary to implement the Conceptual Plan in one phase as shown in Exhibit B.

Approved by Rec Park Commission on 8/15/2013

- A. On August 15, 2013 by Resolution No. 1308-014, the San Francisco Recreation and Park Commission ("Commission") approved the Conceptual Plan shown on Exhibit B, approved this MOU, and recommended that the Board of Supervisors accept from SFPA, acting on behalf of the Friends, (1) an in-kind grant of design and construction services valued at up to approximately Six Hundred Fifty Thousand Dollars (\$650,000) for implementation of the Conceptual Plan, and (2) a cash grant of \$19,000 to fund the services of one RPD Project Manager to coordinate the design and construction approvals process (the "Grant"). Services to be provided by SFPA under the in-kind grant shall include design development, construction documents, construction, change order requests, extra work authorizations, claims for additional cost, construction management services, and all related permits and approvals necessary to implement the Conceptual Plan. Friends intends to provide funds sufficient to implement the Grant regardless of final cost. The City's acceptance of the Grant is subject to and conditioned upon acceptance by the Board of Supervisors.
- E. The Parties have established a preliminary Project and Funding Schedule, which is attached hereto as Exhibit C, and a preliminary Project Budget, which is attached hereto as Exhibit D.
- F. The City's Planning Department has found that the Project is categorically exempt from environmental review under the California Environmental Quality Act (a copy of these findings is on file with the Recreation and Park Commission Secretary and are incorporated herein by reference);

NOW, THEREFORE, the Parties hereto agree as follows:

1. **Term of MOU.** This MOU shall become effective upon approval of this MOU by the City in accord with applicable City Charter and Code provisions and full execution by the Parties (the "Effective Date") and shall expire, unless otherwise earlier terminated as set forth in Section 10 below, on the date upon which the City executes a letter accepting the Improvements as set forth in Section 12 (the "Term").
2. **The Project.** The "Project" shall consist of the provision of design and construction services necessary to implement the Conceptual Plan attached hereto as Exhibit B.
3. **Schedule.** The Parties have agreed upon certain milestones as set forth in Exhibit C attached hereto (the "Schedule"). The Schedule may be amended only by mutual written consent of each of the Parties.

4. Roles and Responsibilities.

4.1. **The City.**

A. It is the role of the Recreation and Park Commission to:

1. Approve the Conceptual Plan, and

Approved by Rec Park Commission on 8/15/2013

2. Approve a donor recognition and signage plan for the Project, which are to conform to the Commission's Grant Policy (Res. No. 0103-042) and to RPD's sign standards; and

3. Recommend to the Board of Supervisors to accept the Grant from Friends, acting through SFPA as fiscal sponsor.

B. Subject to the acceptance of the Grant by the Board of Supervisors, RPD shall provide the following for the Project:

1. Project Management. RPD shall provide the services of one RPD Project Manager to coordinate necessary City approvals and services for the Project, including but not limited to specialized design services, Environmental Review, compliance with disability access laws, and other RPD reviews, and 2. Maintenance. After completion of construction of the Project and acceptance by the City, RPD will be responsible for the maintenance of the Project according to the Proposition C¹ park maintenance standards.

C. RPD reserves the right to remove or alter the site improvements to the Property in its sole discretion. However, RPD shall conduct "good faith efforts" to contact SFPA in advance of removing or altering any major component of the site improvements in order to allow SFPA the opportunity to restore the site improvements, where applicable.

4.2 Friends and SFPA.

A. General Obligations.

1. The Parties acknowledge that, in contemplation of this MOU, SFPA has entered into a fiscal sponsorship agreement with the Friends to act as fiscal sponsor for the Friends. In furtherance thereof, to the extent required under California Business and Professions Code section 7040(a), the City shall designate SFPA as an "authorized representative" of the City acting through RPD as such term is used therein. The Parties further recognize that as the Friends' fiscal agent, SFPA shall assume full responsibility and liability for any and all of the Friends' obligations hereunder, including but not limited to insurance and indemnity obligations.

2. Friends, through SFPA, shall provide all labor, materials, and project and construction management services necessary for the completion of design and the construction of the Project in accordance with the conceptual and schematic designs set forth in Exhibit B, and the project

¹ Proposition C is codified at Section 16.107 of the San Francisco City Charter.

schedule outlined in Exhibit C. Such services shall include all necessary design services leading to fully permitted Construction Drawings for the Project, and construction management services necessary to build the Project. Friends, through SFPA, shall be responsible for fully incorporating comments from RPD staff in the Construction Document development phase. Friends, through SFPA, shall be responsible for ensuring that the Construction Drawings comply with all applicable laws, statutes, ordinances and governmental rules and regulations, including, without limitation, all federal and state laws governing disability access. Friends, through SFPA, shall be responsible for obtaining all permits and governmental approvals necessary to complete the Project.

3. Friends, through SFPA, will select a contractor or contractors of its choice to perform all services relating to site preparation and installation of the Project, subject to the requirements in subsections C and D below. Friends, through SFPA, will fund all costs associated with its contracts or subcontracts for construction management, design consultation/value engineering, and contractor's work, and all costs associated with the acquisition of all materials and supplies necessary for the contractor to perform its work. Friends, through SFPA, will be fully responsible for all payments to all consultants, contractors and subcontractors retained by it and performing work related to the Project at no cost to the City.

4. Friends, through SFPA, shall provide evidence satisfactory to the City of the acknowledgment of all consultants, contractors and subcontractors, that the City is not financially liable, and shall not be invoiced, for any costs incurred in performing any work related to the Project, except as expressly approved by the City.

5. Friends, through SFPA, shall deliver the construction services free of all liens, easements or claims and shall provide RPD with fully executed waivers and releases from all contractors and subcontractors of all claims against the City, its employees, and agents.

6. Friends, through SFPA, shall ensure that the completed Project complies with all applicable disability access laws.

B. Funding.

1. Cash Grant. Friends, through SFPA, shall provide RPD with approximately \$19,000 to fund the services of the RPD Project Manager described in Section 4.1(B)(1) above. Friends, through SFPA, shall provide the funds to RPD in two tranches as follows:

a. Construction Documents Phase: \$9,500, to be delivered to RPD on or before August 27, 2013.

b. Construction Inspection Phase: \$9,500, to be delivered to RPD on or

Approved by Rec Park Commission on 8/15/2013

before the date that Friends receives the Notice to Proceed from RPD.

2. On or before the date that Friends receives the Notice to Proceed, Friends shall certify to RPD that it has in place all funds necessary to complete construction of the Project. If adequate funds have not been raised by such date, construction shall be delayed and shall not commence unless and until Friends has obtained all funds necessary to complete construction.

3. SFPA, acting as fiscal sponsor for Friends, shall not be liable to RPD, City or any other person to provide funds or services under this MOU except and only to the extent the amounts of such funds or services are provided by Friends. Neither SFPA nor RPD shall be obligated to fund any funding shortfall pursuant to this MOU or any other agreement unless such party expressly so agrees in writing.

C. Architect/Design Professional Contract.

SFPA's contract with the architect or design professional it hires to design the Project ("Architect") shall include the following terms and conditions:

1. Insurance. Architect shall maintain in force, during the full term of its agreement, insurance in the amounts and coverages specified in Exhibit E, and name as an additional insured the City and County of San Francisco, its Officers, Agents, and Employees.

2. Indemnification.

a. General. To the fullest extent permitted by law, Architect shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Architect or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of the Architect, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities").

b. Limitations. No insurance policy covering the Architect's performance under this Agreement shall operate to limit the Architect's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Architect assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnitee or the contractors

of any Indemnitee.

c. Copyright infringement. Architect shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles or services to be supplied in the performance of Architect's services under this Agreement. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

3. Construction Phase Support. The Architect shall be retained for the duration of the Project's construction and be required to provide the City with construction support services related to the Project.

4. Code Compliance. The Architect shall comply with requirements of applicable codes, regulations, and current written interpretation thereof published and in effect during the Architect's services. Where there is an irreconcilable discrepancy between any of the above mentioned codes and regulations, the Architect shall identify to RPD the irreconcilable discrepancy, exercise a professional standard of care in determining which code or regulation governs, and provide RPD with the basis for its determination. In the event of changes in such codes, regulations or interpretations during the course of the Project that were not and could not have been reasonably anticipated by the Architect and which result in a substantive change to the Plans, the Architect shall not be held responsible for the resulting additional costs, fees or time, and shall be entitled to reasonable additional compensation for the time and expense of responding to such changes. The Architect shall be responsible, however, to identify, analyze and report to the City pending changes to codes and regulations that would reasonably be expected to affect the design of the Project, including pending changes to the California building codes and San Francisco Building Code and other amendments.

5. Standard of Performance. The Architect shall acknowledge and agree that the Architect shall perform its services under the agreement in accordance with the professional standard of care applicable to the design and construction administration of projects of similar size and complexity in the San Francisco Bay Area.

D. Construction Contract.

The contract that Friends, through SFPA, enters into for construction (the "Contract") with a third party contractor (the "Contractor") shall contain the

Approved by Rec Park Commission on 8/15/2013

following provisions.

1. Insurance: All Contractors SFPA selects to perform work on the Project shall maintain in force, during the full Term of this MOU, insurance in the following amounts and coverages:

a. Workers' Compensation, with Employers' Liability Limits not less than \$1,000,000 each accident; and

b. Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Personal Injury, Products and Completed Operations; and

c. Business Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned, and Hired auto coverage, as applicable.

d. Builder's Risk Insurance with limits not less than \$1,000,000 each occurrence.

e. Professional liability insurance, applicable to the contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services, including but not limited to design and architectural services, to be provided under this MOU.

Commercial General Liability and Business Automobile Liability Insurance policies must provide the following:

a. Name as Additional Insured the City and County of San Francisco, its Officers and Employees, in the City's role as the owner of the Property with respect to vicarious liability arising from the negligence of the Friends and/or SFPA.

b. That such insurance applies separately to each insured against whom claim is made or suit is brought.

All policies shall provide thirty (30) days' advance written notice to City of cancellation mailed to the address provided below in Section 7, provided, however, that in the event of cancellation for non-payment of premiums, only ten (10) days advance written notice to City shall be provided.

Should any of the required insurance be provided under a claims-made form, the Friends/SFPA's contractor shall maintain such coverage continuously throughout the term of this MOU and, without lapse, for a period of three years beyond the

Approved by Rec Park Commission on 8/15/2013

expiration of this MOU, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the MOU, such claims shall be covered by such claims-made policies.

Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

Before the Contractor commences any operations under this MOU, the Friends/SFPA or the Contractor must furnish to City certificates of insurance and additional insured policy endorsements, in form and with insurers satisfactory to City, such insurers shall have an AM Best rating of not less than A-VIII, and shall be authorized to do business in the State of California; evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon City request. Acceptance of insurance coverage shall not diminish the liability of the Friends and/or SFPA.

2. Performance and Payment Bond

a. At the time of execution of the Contract, Contractor shall file with the City the following bonds using the form provided by the City:

i. a corporate surety bond, in a sum not less than 100 percent of the Contract Sum, to guarantee the faithful performance of the Contract ("Performance Bond"); and

ii. a corporate surety bond, in a sum not less than 100 percent of the Contract Sum, to guarantee the payment of labor, materials, supplies, and equipment used in the performance of the Contract ("Payment Bond").

b. Said Performance Bond shall cover all corrective work required during the correction period, all warranty and maintenance work required by the Contract, and any and all work required to correct latent defects.

c. Corporate sureties issuing these bonds and Bid bonds shall be legally authorized to engage in the business of furnishing surety bonds in the State of California. All sureties shall have a current A.M. Best Rating not less than "A-, VIII" and shall be satisfactory to the City.

3. Warranty. The contract shall require that Contractor warrants and guarantees to the City that materials and equipment provided under the Contract will be first-class in quality and new, that the work will be free from defects and of the quality specified, and that the work will conform to the requirements of the Contract Documents. Contractor additionally warrants manufacturers' product warranties as may be required by the Contract Documents.

Approved by Rec Park Commission on 8/15/2013

4. Third Party Beneficiary: Friends, through SFPA, agrees that in any contract it enters into for the construction of the Project, the City shall be named as a third-party beneficiary, including, without limitation, of all warranties of the work, and as an additional obligee of all required performance bonds.

5. Prevailing Wages: Friends, through SFPA, will require all Contractors and subcontractors to pay their workers the prevailing rate of wage for the craft or classification of work performed.

6. Indemnification: The contract with the Contractor shall contain the following requirements:

a. Consistent with California Civil Code section 2782, Contractor shall assume the defense of, indemnify and hold harmless the City, its boards and commissions, other parties designated in Document 00805, and all of their officers, agents, members, employees, authorized representatives, or any other persons deemed necessary by any of them acting within the scope of the duties entrusted to them, from all claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to attorney's fees, directly or indirectly arising out of, connected with or resulting from the performance of the Work. This indemnification shall not be valid in the instance where the loss is caused by the sole negligence or intentional tort of any person indemnified herein.

b. The City, its boards and commissions, and all of their officers, agents, members, employees, and authorized representatives shall have no liability to Contractor for any type of special, consequential or incidental damages arising out of or connected with Contractor's work. This limit of liability applies under all circumstances including, but not limited to, the breach, completion termination, suspension, cancellation or rescission of the work or this Contract, negligence or strict liability by the City, its boards and commissions, and their representatives, consultants or agents.

c. Contractor acknowledges that any claims, demands, losses, damages, costs, expenses, and legal liability that arise out of, result from, or are in any way connected with the release or spill of any legally designated hazardous material or waste or contaminated material as a result of the work performed under this Contract are expressly within the scope of this indemnity, and that the costs, expenses, and legal liability for environmental investigations, monitoring, containment, removal, repair, cleanup, restoration, remedial work, penalties, and fines arising from the violation of any local, state, or federal law or regulation, attorney's fees, disbursements, and other response costs are expressly within the scope of this indemnity.

d. On request, Contractor shall defend any action, claim or suit

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asserting a claim covered by this indemnity. Contractor shall pay all costs that may be incurred by the City and all indemnified parties specified in subparagraph 3.19A, including reasonable attorney's fees.

7. Amendments. This MOU may be amended only by mutual written consent of each of the Parties, executed in the same manner as the original agreement.

6. Delivery of Improvements. Friends/SFPA shall deliver the improvements undertaken by Friends/SFPA and their agents free of all liens, easements or potential claims and shall provide RPD fully executed waivers and releases from all contractors and subcontractors hired by Friends of all claims against the City, its employees and agents. Upon delivery of the improvements undertaken by Friends/SFPA, Friends/SFPA shall assign to the City any warranties or guaranties required by its contracts with the contractors and subcontractors hired by Friends. Friends shall also assign to the City the right to any available remedies for latent defects.

8. Insurance.

A. SFPA shall procure and keep in effect at all times during the term of this MOU, at SFPA's expense, insurance as follows:

1. General Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent Contractors, Explosion, Collapse and Underground (XCU), Broadform Property Damage, Sudden and Accidental Pollution, Products Liability and Completed Operations;

2. Automobile Liability Insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable, and sudden and accidental pollution; and

3. Workers' Compensation Insurance with Employer's Liability Coverage with limits of not less than One Million Dollars (\$1,000,000) each accident.

B. Delivery of Certificates. Prior to the commencement date of this Agreement, SFPA shall deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to City, evidencing the coverages required from SFPA hereunder, together with complete copies of the policies at City's request. Prior to the date any contractor commences work on the Property hereunder, SFPA shall deliver to City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to City, evidencing the coverages required from such contractor hereunder, together with complete copies of the policies at City's request.

C. No Limitation of Obligations. SFPA's compliance with the provisions of this Section shall in no way relieve or decrease SFPA's indemnification obligations under this MOU or any of SFPA's other obligations hereunder. Notwithstanding anything to the

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contrary in this MOU, this MOU shall terminate immediately, without notice to SFPA, upon the lapse of any required insurance coverage.

9. Indemnification. Subject to any provision in this MOU or in any subsequent agreement entered into hereunder to the contrary, each party agrees to waive claims against and indemnify the other party as follows:

SFPA agrees to defend, indemnify and hold harmless the City, its officers, employees and agents ("City Indemnitees") from any and all acts, claims, omissions, liabilities and losses asserted by any third party arising out of acts or omissions of SFPA and/or the Friends in connection with this MOU, except those arising by reason of the sole negligence of the City Indemnitees.

City agrees to defend, indemnify and hold harmless SFPA, their officers, directors, employees and agents, from any and all acts, claims, omissions, liabilities and losses asserted by any third party arising out of acts or omissions of City, its officers, employees and agents in connection with this MOU, except those arising by reason of the sole negligence of SFPA and/or Friends, their officers, directors, employees and agents.

In the event of concurrent negligence of the City, its officers, employees and agents, and SFPA, their officers, directors, employees and agents, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified.

SFPA's obligations under this Section shall survive the expiration or other termination of this MOU.

10. No Recourse. RPD and SFPA recognize and acknowledge that Friends is an unincorporated association of neighbors and friends of Kezar Triangle, that each member is a volunteer, and that each is unpaid, devoting his or her services to the objectives and purposes of Friends. Accordingly, no director, officer, or member of Friends shall have any personal responsibility or liability whatsoever for the discharge of the obligations of Friends set forth in this MOU, and no director, officer, or member of Friends shall have any personal responsibility or liability whatsoever for any obligations or liabilities of Friends assumed or incurred by Friends under this MOU, provided however that SFPA assumes all such obligations and liabilities for the Friends under this MOU.

11. Public Relations. RPD, SFPA, and the Friends shall use good faith efforts to cooperate on matters of public relations and media responses related to the Project. The Parties shall also use good faith efforts to cooperate with any inquiry by the other Party or by the public in regard to this Agreement. This Agreement, and any report or memorandum between the Parties, shall be subject to the disclosure requirements of the City's Sunshine Ordinance and the California Public Records Act.

Any response to an inquiry by a news or community organization to RPD, SFPA, or the Friends in reference to the Project shall include a recommendation to contact the other

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Party. Neither SFPA nor RPD shall issue a press release in regard to this Agreement without providing prior notice to the other party. To facilitate the execution of this Section, the City and SFPA have each designated one person as a spokesperson with respect to this Agreement. All media contacts to RPD will be directed to the Director of Policy and Public Affairs at the address provided for RPD in Section 14 below. All media contacts to SFPA will be directed to Steve Schweigerdt at the address provided for SFPA in Section 14 below. All media contacts to SFPA will be directed to Carla Crane at the address provided for the Friends in Section 14 below.

At a time and in a format to be determined by the Parties, RPD, SFPA, and the Friends may hold at least one joint public event, such as a ground breaking ceremony or ribbon cutting ceremony. At any such event, the Parties shall participate on an equal basis. If RPD, SFPA, or the Friends holds any other event solely or largely dedicated to the Project, the Parties shall, as time permits, notify the other Party and allow that Party to participate on an equal basis. Materials and collateral for the Project shall be approved by RPD, SFPA, and the Friends.

Nothing in this Agreement shall prohibit SFPA or RPD from discussing this Agreement in response to inquiries from the public or the press.

12. Final Acceptance. Upon notice from Friends that (a) the improvements undertaken by Friends are complete in accordance with the Construction Drawings, and (b) Friends has obtained all necessary regulatory approvals, and upon submission to the City of the waivers and releases and assignments required under this Agreement, RPD shall, within ten (10) working days of such notice, perform a final inspection of the Property. Contingent on conducting this inspection, RPD must receive from Friends as-built drawings that are marked-up on hard copy of construction drawings, operating manuals, all warranties and any additional requirements as outlined in the Construction Drawings. In addition, RPD must receive electronic files, preferably CAD files or scanned versions on a compact disc (CD). Upon RPD's inspection and decision to accept the improvements, RPD will, no later than seven (7) days from such decision to accept the work, prepare a letter of final acceptance (the "Acceptance Letter") addressed to Friends and SFPA. Upon receipt of the Acceptance Letter, Friends/SFPA shall immediately remove all of its property from the Property and shall repair, at the Friends' cost, any damage to the Property caused by such removal or caused by Friends/SFPA's construction activities on the Property as permitted hereunder, and shall with the exception of the land underneath the improvements and subject to the Construction Drawings, restore the Property to its condition prior to construction of the improvements undertaken by Friends. Prior to delivery of the Acceptance Letter to Friends, the improvements shall not be open to the public.

13. Early Termination and Notices. SFPA and the Friends may terminate this MOU due to the City's failure to comply with any term of this MOU (including all exhibits hereto) 30 days after having given the City notice of such failure, unless the City cures such failure to the SFPA/Friends' reasonable satisfaction within such 30-day period, or a different reasonable timeframe mutually agreed upon by the Parties in writing.

Approved by Rec Park Commission on 8/15/2013

The City may terminate this MOU due to the SFPA and/or Friends' failure to comply with any term of this MOU (including all exhibits hereto) 30 days after having given the SFPA/Friends notice of such failure, unless SFPA/Friends cures such failure to the City's reasonable satisfaction within such 30-day period, or a different reasonable timeframe mutually agreed upon by the Parties in writing


Notice of termination, and any other notices under this MOU, shall be provided to each Party at the addresses below. The Parties addresses for purposes of such notices are:

FRIENDS OF KEZAR TRIANGLE	SF RECREATION AND PARK DEPARTMENT	SAN FRANCISCO PARKS ALLIANCE
Carla Crane Friends of Kezar Triangle 2485 Broadway Street San Francisco, CA 94115	Philip A. Ginsburg, General Manager SF Recreation & Park Dep't 501 Stanyan Street San Francisco, CA 94117	Matthew O'Grady Executive Director San Francisco Parks Alliance 451 Hayes Street, 2nd Floor San Francisco, CA 94102
Sam Bower Friends of Kezar Triangle 1966 36th Ave. Oakland, CA 94601	<i>with a copy to:</i> <u>Francesca Gessner</u> <u>Deputy City Attorney</u> Office of the City Attorney, General Government Team City and County of San Francisco City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102	<i>with a copy to:</i> SFPA ATTORNEY


Approved by Rec Park Commission on 8/15/2013

IN WITNESS WHEREOF, the undersigned have indicated their approval effective as of the respective dates set forth to their names.

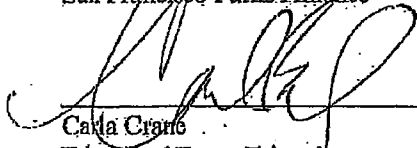
APPROVED:


Philip A. Ginsburg
General Manager
Recreation and Park Department

9-18-13
Date



Matthew O'Grady
Executive Director
San Francisco Parks Alliance

9/30/13
Date


Carla Crane
Friends of Kezar Triangle

9/27/13
Date

APPROVED: RECREATION AND PARK COMMISSION

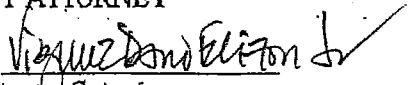
By: 
Margaret McArthur, Secretary

Date: 8/15/13

Resolution No. 1308-014

APPROVED AS TO FORM:

DENNIS J. HERRERA
CITY ATTORNEY

By: 
Francesca Gessner
Deputy City Attorney
Attachments:

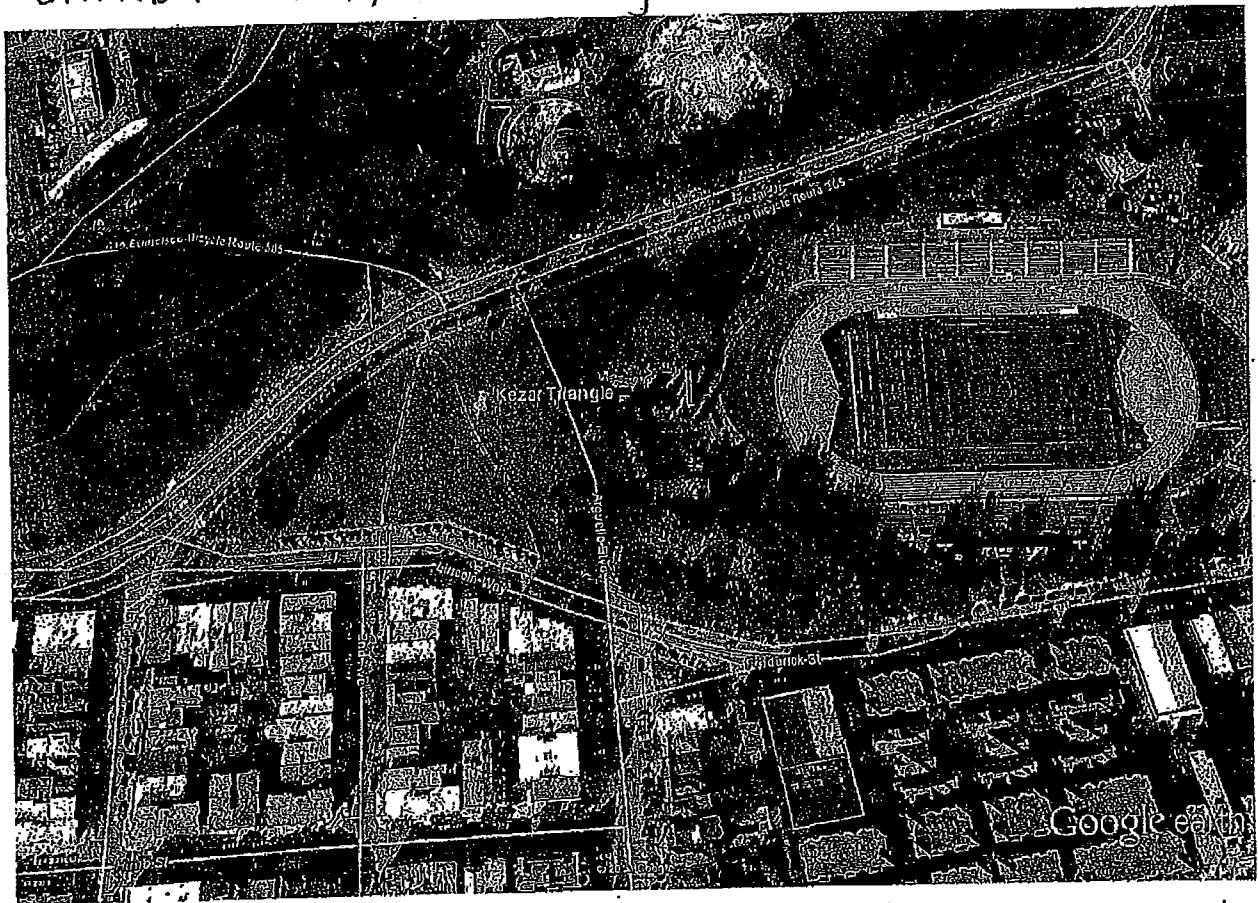
- Exhibit A - Map Showing Project Location
- Exhibit B - Conceptual Design Plans
- Exhibit C - Preliminary Project Schedule
- Exhibit D - Preliminary Project Budget
- Exhibit E - Architect Insurance

Approved by Rec Park Commission on 8/15/2013

**EXHIBIT A:
MAP SHOWING PROJECT LOCATION**

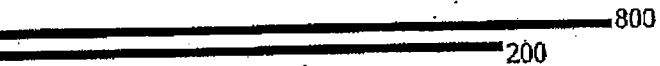
(see attached pages)

EXHIBIT A: MAP showing project location



Google earth

feet
meters

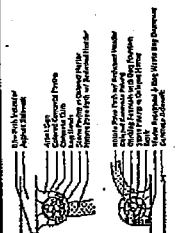


Approved by Rec Park Commission on 8/15/2013

**EXHIBIT B:
CONCEPTUAL DESIGN PLANS**

(see attached pages)

Site Amenities Legend

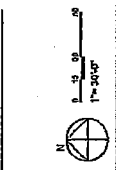


Planting Legend

Type	Botanical Name	Common Name	Flower Color	Container Size	Spacing
NEW TREES	<i>Cercis californica</i>	California Redbud	Pink/White	24" box	
	<i>Amelanchier alnifolia</i>	Strawberry Tree	Pink/White	24" box	
	<i>Lonicera chrysantha</i>	Ironwood	White with Red Edge	24" box	
	<i>Quercus agrifolia</i>	Coast Live Oak	Green	24" box	
	<i>Quercus agrifolia</i>	transplanted			
EXISTING TREES	<i>Hesperis matronalis</i>	Evening Primrose			
	<i>Verbena</i>	Verbena			
	<i>Eucalyptus</i>	Eucalyptus			
	<i>Cork Oak</i>	Cork Oak			
	<i>California Sycamore</i>	California Sycamore			
	<i>Crested Live Oak</i>	Crested Live Oak			
	<i>Yew Tree</i>	Yew Tree			
	<i>Honeycrisp Pear</i>	Honeycrisp Pear			
	<i>Hippocrene</i>	Hippocrene			
		No New seeding and fauna			



CONCEPT PLAN



MILLER COMPANY
landscape architects

150 CALIFORNIA STREET
SAN FRANCISCO, CA
415.774.1700
www.millerco.com

KEZAR TRIANGLE
Golden Gate Park, San Francisco, CA

CONCEPT PLAN	
DATE	10/15/2010
PROJECT	KEZAR TRIANGLE
SCALE	1" = 30'
DRAWN	MM
CHECKED	MM
DATE	10/15/2010
SCALE	1" = 30'
PROJECT	KEZAR TRIANGLE
DRAWN	MM
CHECKED	MM
DATE	10/15/2010

L 1.1

Approved by Rec Park Commission on 8/15/2013

**EXHIBIT C:
PRELIMINARY PROJECT SCHEDULE**

The Project Schedule is based on the community meeting schedule, RPD Structural Maintenance Review schedule, and proposed construction timeline. It is intended to establish a preliminary schedule for the Kezar Triangle improvement project, but is subject to change by RPD.

Phase	Target Start	Target Finish
Planning	July 2012	May 2013
		July 2013
Design	May 2013	
30% Construction Document (CD) Review	July 2013	August 2013
60% CD Review	August 27, 2013	
90% CD Review	September 24, 2013	
Substantial Completion Review	October 8, 2013	
Complete CDs		
Construction	October 2013	November 2013
Closeout	November 2013	January 2014

Approved by Rec Park Commission on 8/15/2013

**EXHIBIT D:
PRELIMINARY BUDGET**

(see attached pages)



**COST ESTIMATE FOR
THE KEZAR TRIANGLE AT GOLDEN GATE PARK
February 28, 2013**

Project Set Up
Contractor Mobilization (10% of Project Subtotal)

Quantity	Unit	Unit Price	Cost
			\$ 39,681.50

Demo
Grub + Strip (e) Turf
Tree Protection

13200	s.f.	1	\$ 13,200.00
1	allow	2000	\$ 2,000.00

Grading
Finish Grading

4500	s.f.	0.35	\$ 1,575.00
------	------	------	-------------

Paving + Surface Treatment
Concrete Paving @ North Entry
Concrete Paving @ South Entry
Concrete Curb @ North Entry
Stone Paving 2" thickness
2"x4" Redwood Header Board
Naturpave Stabilized D.G.
Stabilized Turf
Bike Racks

275	s.f.	13.5	\$ 3,712.50
250	s.f.	13.5	\$ 3,375.00
.66	l.f.	20	\$ 1,320.00
350	s.f.	28	\$ 9,800.00
1500	l.f.	3.5	\$ 5,250.00
4100	s.f.	11.5	\$ 47,150.00
1	allow	10,000	\$ 10,000.00
2	each	1800	\$ 3,600.00

Elements
Log Bench
Stump Seals
Vertical Element @ North Entry
Kiosk

5	each	1750	\$ 8,750.00
8	each	500	\$ 4,000.00
1	allow	26,000	\$ 26,000.00
1	allow	3500	\$ 3,500.00

Irrigation
Turf area Irrigation
Groundcover area Irrigation

80,000	s.f.	1	\$ 80,000.00
23000	s.f.	2	\$ 46,000.00

Planting
Soil Amendment and Prep
Soil Import
Retaining Logs
Sod Repair
24" Box Trees
Native Planting
No Mow Grass seeding
Mulch

200	c.y.	100	\$ 20,000.00
200	c.y.	100	\$ 20,000.00
8	each	1200	\$ 9,600.00
4000	s.f.	2	\$ 8,000.00
17	each	360	\$ 6,120.00
9200	s.f.	4	\$ 36,800.00
11750	s.f.	1.25	\$ 14,687.50
225	c.y.	55	\$ 12,375.00

Project Subtotal
RP Capital Projects Manager
Fiscal Sponsor
10% Contingency
Project Total

\$ 396,815.00
TBD
TBD
\$ 39,681.50
\$ 476,178.00

Assumptions
Redwood Logs provided by SFRPD

**EXHIBIT E:
ARCHITECT CONTRACT INSURANCE REQUIREMENTS**

Without in any way limiting SFPA and Architect's liability pursuant to the "Indemnification" section of this Agreement, Architect must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

- 1) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and
- 2) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and
- 3) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.
- 4) Professional liability insurance, applicable to Architect's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

b. Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

- 1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.
- 2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. Regarding Workers' Compensation, Architect hereby agrees to waive subrogation which any insurer of Architect may acquire from Architect by virtue of the payment of any loss. Architect agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Architect, its employees, agents and consultants.

d. All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the City address in the "Notices to the Parties" section.

e. Should any of the required insurance be provided under a claims-made form, Architect shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to

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claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

f. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

g. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

h. Before commencing any operations under this Agreement, Architect shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement.

i. Approval of the insurance by City shall not relieve or decrease the liability of Architect hereunder.

j. If a subcontractor will be used to complete any portion of this Agreement, the Architect shall ensure that the consultant shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Architect listed as additional insureds.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor" inquires
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Time stamp or meeting date
 RECEIVED
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 3 DEC 17 PM 1:55

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

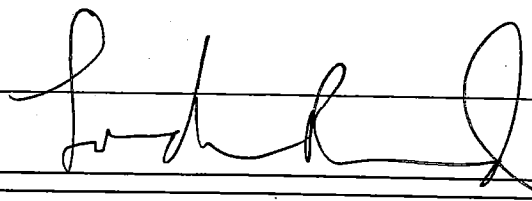
Breed

Subject:

Accept and Expend Grant – San Francisco Parks Alliance - \$670,000.00

The text is listed below or attached:

Resolution authorizing the Recreation and Park Department to accept and expend a grant of up to \$670,000.00, from the San Francisco Parks Alliance, for the design and construction of landscape improvements to Kezar Triangle in Golden Gate Park.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

