

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE PORT OF SAN FRANCISCO  
AND THE SAN FRANCISCO PARKS ALLIANCE**

**CRANE COVE PARK FUNDRAISING CAMPAIGN**

This Memorandum of Understanding (“**MOU**” or this “**Agreement**”) is made and entered into as of \_\_\_\_\_, 2021 (the “**Effective Date**”), by and between the City and County of San Francisco (the “**City**”) acting by and through the Port of San Francisco (the “**Port**” or “**Department**”), and the San Francisco Parks Alliance, a California non-profit benefit corporation (the “**SFPA**” or “**Friends**”). For purposes of this MOU, “**Party**” means the Port or SFPA, as a party to this MOU; and “**Parties**” means both Port and SFPA, as parties to this MOU.

**RECITALS**

- A. WHEREAS, the Port manages the San Francisco waterfront as the gateway to a world-class city, and advances environmentally and financially sustainable maritime, recreational and economic opportunities to serve the City, Bay Area, and California; and
- B. WHEREAS, the Port delivers vibrant and diverse waterfront experiences that enrich the City and San Francisco Bay Area; and
- C. WHEREAS, the Port is currently completing construction of Crane Cove Park which will be a new 7-acre park of the Port, located in the Central Waterfront generally between 19<sup>th</sup> Street and Mariposa Streets east of Illinois Street; and
- D. WHEREAS, Crane Cove Park will be a major new public open space that preserves historic maritime resources, provides public access and recreation opportunities to the Bay, and contributes to a vibrant new Pier 70 neighborhood, and expands the Port’s necklace of public open spaces; and
- E. WHEREAS, the Crane Cove Park Project (the “**Project**”) is a long-standing project of the Port, and was first identified as a project in the Port’s Waterfront Land Use Plan adopted in 1997, and further articulated in the Port’s Pier 70 Preferred Master Plan, which was endorsed by the Port Commission in 2010; and
- F. WHEREAS, on June 14, 2011, the Port Commission authorized award of a contract for planning, design and engineering services for the Project to AECOM Technical Services, Inc., with sub consultants including: Architectural Resource Group, AGS Engineers, Ajmani & Pamidi Engineers and Martin Lee Corporation Cost Estimators (Resolution No. 11- 44); and
- G. WHEREAS, on September 12, 2016 the Port Commission authorized the award of Construction Contract No. 2740, Crane Cove Park Site Preparation and Surcharge Project, to

Shimmick Construction Company, Inc. (Resolution 16-37); and

H. WHEREAS, On November 13, 2018 the Port Commission authorized the award of Construction Contract No. 2812, Crane Cove Park: Park Improvements and 19<sup>th</sup> Street Parking Lot Project, to Gordon N. Ball, Inc. (Resolution 18-61); and

I. WHEREAS, upon the Port Commission's award of Construction Contract No. 2812, the Port implemented cost control measures to remove certain components of the Project to keep the Project scope within budget, and the Port also advertised for competitive re-bids for the amended Crane Cove Park: Park Improvements and 19<sup>th</sup> Street Parking Lot phase of the Project, and in November of 2018 the Commission authorized Port staff to award the contract, thereby deferring completion of the removed components until future phases; and

J. WHEREAS, the Port released its 2019-2023 Strategic Plan and set objectives to improve Port open spaces to provide publicly desired amenities and activities; and specifically set objectives to deliver Crane Cove Park on time and budget, and to raise private funds for historic crane cabs, the children's playground, and dog run by 2020, components that were removed from the scope of Construction Contract No. 2812 (the "**Project Components**"); and

K. WHEREAS, the Port has thus far committed \$36.6 million to the Project, and estimates that approximately \$6.122 million is required to fund the Project Components; under this MOU, SFPA and the Port agree to partner on a fundraising campaign dedicated to raising private funds to fund the Project Components and such additional components to enhance Crane Cove Park as the Parties may mutually agree (as more fully described in Section 2.1 below, the "**Campaign**") and SFPA has already secured commitments of significant funds for the Campaign; and

L. WHEREAS, on November 12, 2019, the Port Commission voted, by Resolution No. 19-45, to approve this MOU and authorize Port staff to seek Board of Supervisors' approval of the MOU and to accept and expend grant funds and in-kind contributions made in connection with the Campaign; and

M. WHEREAS, on XX, 2021, the City's Board of Supervisors voted, by Resolution No. XX-XX, to approve this MOU and to accept and expend grant funds and in-kind contributions made in connection with the Campaign totaling up to \$7 million to fund the Project Components; and

N. WHEREAS, subject to the foregoing Board of Supervisors approval, the Parties wish to memorialize their general working relationship on the Crane Cove Park Fundraising Campaign, with the understanding that the specific terms of delivery of each donation will be documented and approved by the Port Commission pursuant to separate grant agreements;

NOW, THEREFORE, effective upon the execution of this MOU by both Parties, the Parties agree

as follows:

1. **Term of MOU.** This MOU shall become effective on the date on which it has been executed by both of the Parties (the “**Effective Date**”) and shall expire, unless otherwise earlier terminated, on the date that is 5 years after the Effective Date (the “**Term**”). There shall be 3 options to extend the Term for one year per each option with the mutual written agreement of the Parties. Either Party shall have the option, in its sole discretion, to terminate this Agreement at any time for convenience and without cause by giving written notice that specifies the effective date of such termination to the other Party. If this Agreement is terminated, the Parties will work together to take necessary actions to effectuate the termination of this Agreement.
  
2. **The Campaign/Grant Agreements Required.**
  - 2.1 **The Campaign.** The Campaign shall consist of all efforts by the Parties to fundraise for equipment, structures, fixtures (collectively, “**Fixtures**”), cash, materials, and supporting services related to the delivery and installation of the Project Components to and in Crane Cove Park.
  
  - 2.2 **Future Grant Agreements.** The Parties anticipate that, through the Campaign, the SFPA will collect through third-party donations, funds, contributions and grants in the form of cash, in-kind services and materials (“**Campaign Funds**”) and ultimately transfer them to the Port for completion of the Project through future grant agreements (“**Grant Agreements**”). Each Grant Agreement shall incorporate the terms of this MOU by reference, and will include further provisions as applicable to ensure compliance with City requirements on matters such as project delivery, access to the Park, donor recognition, contracting requirements, transfer of ownership and conditions thereof, approvals, insurance, and indemnity. In the event of a conflict between this Agreement and any Grant Agreement, the terms of the separate Grant Agreement shall govern. Each separate Grant Agreement shall be subject to approval by the Port Commission. For the avoidance of doubt, the Parties agree that this MOU does not commit or guaranty that any individual Grant Agreement(s) will be executed; execution of such Grant Agreement(s) shall be in the sole discretion of SFPA and the Port Commission.

3. **Schedule.** The Parties agree to work together to develop a Campaign schedule based on the Port's construction schedule for Crane Cove Park.
  
4. **Budget.** The Parties agree to seek Campaign Funds based on the preliminary Campaign Budget ("**Budget**") attached to this MOU as Exhibit A. All Campaign Funds will be donated to the Port in accordance with this MOU and the applicable Grant Agreements. Port acknowledges that, like all non-profits, SFPA must use a portion of the funds it raises to fund its own administrative expenses. The parties agree that, for this Campaign, SFPA may retain eleven percent (11%) of any cash contributions it raises for the Campaign to reimburse itself for its administrative expenses related to the Campaign ("**Campaign Costs**"). For purposes of this MOU, references to the Budget and to Campaign Funds do not include Campaign Costs which are retained by SFPA from incoming donations. SFPA must disclose the 11% administrative fee to all potential donors to the Campaign. Campaign Costs are subject to audit by the City as provided in this MOU. Changes to the Campaign Budget shall be reviewed and agreed in writing by the Parties. Subject to the terms of the Grant Agreements, any unexpended Campaign Funds shall be used by Port to fund work or other activities at Crane Cove Park at the conclusion of the Campaign.
  
5. **Use of Funds.** Campaign Funds raised shall only be expended in accordance with the Grant Agreement as approved by the Port Commission authorizing the use of funds for a specific purpose. Upon expiration of this MOU, Port shall set aside and use any accepted, but unexpended funds, for ongoing maintenance and repair of improvements at Crane Cove Park.
  
6. **Roles and Responsibilities.**

**6.1. PORT**

- A. **Use of Funds.** The Port shall have final authority to expend Campaign Funds received from SFPA in compliance with each Grant Agreement, and all applicable laws, rules, regulations and policies. The Port shall ensure that all funds raised through the Campaign are spent on Crane Cove Park, and that the funds are not spent on other parks or open spaces, or other expenses not related to the Project.

- B. Approvals.** Unless as otherwise specified in any Grant Agreement, the Port shall be responsible for securing all City and other required approvals in order to complete any Project Components funded by the Campaign. These approvals shall include, but are not limited to, environmental review, building permits, compliance with disability access laws and internal Port and Commission reviews and all approvals by other departments and agencies as needed.
- C. Project Management.** The Port will designate a project manager to oversee any work related to the delivery of any Project Component that will be funded through the Campaign. The role of the project manager may include, but is not limited to, day-to-day coordination, oversight of design, permitting, and construction processes related specifically to delivery of that Project Component. The role of the project manager may be further articulated in each Grant Agreement executed pursuant to this MOU.
- D. Maintenance and Operation.** The Port shall maintain and operate Crane Cove Park. Once accepted by the Port, the Port shall be responsible for maintaining and operating the Fixtures delivered to Port for later installation at Crane Cove Park or installed in Crane Cove Park under a Grant Agreement. Donated Fixtures shall remain in Crane Cove Park for their useful life, in Port's sole discretion.
- E. Port Funds.** Except as explicitly and affirmatively specified in this Agreement, (i) Port shall not expend any Campaign Funds received under this Agreement, (ii) Port is not required to commit any Port or City funds to the Project and (iii) Port shall have no obligation to fund the Project Components or make up any funding shortfall.
- F. Non-Exclusive.** Port reserves the right to directly receive contributions for Crane Cove Park from other sources.

## **6.2. SFPA**

- A. Funding.** SFPA, in partnership with Port, shall attempt to secure Campaign Funds in an aggregate value up to \$7 million to ensure the delivery of Project Components in accordance with the Budget. SFPA shall accept and track all private funds and in-kind contributions for the Campaign and shall provide the Port monthly updates on Campaign revenue, expenses (including Campaign Costs) and balances. Contributions to the Campaign may include, but are not limited to cash grants or in-kind contributions of services or materials. For the avoidance

of doubt, the SFPA does not hereby commit or guaranty that sufficient funds shall be secured for the Campaign or that any individual Grant Agreements will be executed and SFPA has no obligation to fund the Project Components or make up any funding shortfall. Without affecting any other term of this MOU and at SFPA's risk if this MOU is never executed or if any particular Grant Agreement is not executed by Port, the Parties agree that funds raised by SFPA since November 12, 2019 for the Campaign shall be included and subject to the terms of this MOU, including for the purposes of determining Campaign Costs.

- B. Compliance with Laws.** Each Party shall keep itself fully informed of City's Charter, codes, ordinances and regulations and all state, and federal laws, rules and regulations affecting the performance of its respective obligations under this Agreement and shall at all times comply with such Charter codes, ordinances, and regulations, rules and laws including without limitation, the requirements of SF Administrative Code §10.100.205 et seq. and Section 67.29-6 of the City's Sunshine Ordinance.
- C. Project Delivery.** The Parties anticipate that the future Grant Agreements may provide for varying methods of collaboration between the Parties. The following illustrative examples provide a starting point for describing this collaboration and will be further refined by mutual agreement in subsequent Grant Agreements.
- (1) Cash Grants.** SFPA may deliver cash grants to the Port necessary for the completion of a given Project Component prior to the bidding of a contract for completion of the applicable Project Component.
  - (2) In-Kind Grants of Design Services.** SFPA may enter into a contract with a design professional to design a Project Component ("**Design Services**"). SFPA shall ensure that any design professional responsible for designing a Project Component conforms to the budget developed and approved by the Parties. For all such Project Component designs, SFPA shall ensure that submittals adhere to Port design guidelines and the Port Building Code and can be permitted by Port
  - (3) In-Kind Contributions of fully Designed and Delivered Fixtures.** SFPA may enter into a contract with a third-party contractor to fabricate, construct and/or install a Fixture ("**Delivered Fixture**"). Prior to the commencement of any fabrication, construction and/or installation, SFPA shall certify to the Port that it has in

place all funds necessary to complete such fabrication, construction and/or installation. Upon such certification, the Port shall issue a notice to proceed to SFPA. Final acceptance and transfer of ownership of such Fixtures shall be addressed in future Grant Agreements as necessary.

- (4) Intellectual Property License.** For any Design Services and Delivered Fixtures, SFPA shall and shall request the design professional or third-party contractor, as applicable, grant to Port all necessary licenses and rights, including intellectual property rights to enable Port to use “works for hire, “drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, construction documents and/or designs developed for each Fixture. If the design professional or third-party contractor does not grant such licenses, Port has the right in its sole discretion to reject the specific donation.
- (5) Other Contributions.** In the event other contributions are made to the Campaign that fall outside of the above delivery methods, the Port and SFPA shall mutually define the most efficient delivery method for that contribution.

### 6.3. **Joint Responsibilities.**

- A. Regular Communications.** The Parties shall maintain regular communication with each other and appropriate project consultants regarding project milestones, highlights, challenges, budgets, and schedules. Upon the reasonable request of SFPA, the Port will disclose such non-confidential information as may be necessary or advisable in connection with the conduct of the Campaign.
- B. Assignment of Responsibilities.** The Parties shall regularly review the roles and responsibilities for the entire Campaign. In particular, upon execution of each Grant Agreement for delivery of a Project Component, the Parties shall review roles and responsibilities related to public outreach and engagement as appropriate given the Campaign budget and staffing constraints.
- C. Reporting and Review.** The Parties shall ensure timely submittal and review of all necessary reporting subject to this subsection.

  - (1) Campaign Progress Reporting.** The Parties agree to provide annual Campaign Progress Reports (“**Progress Reports**”) to the Port Commission not less than annually. Progress Reports shall include, without limitation, the following information: milestones, highlights, challenges, schedules, and information about the

source of all revenue and contributions at the donor level, of all expenditures and uses as well as Campaign Costs.

- (2) **Campaign Budget.** The Parties shall review monthly Campaign revenue, expenditures, and cash flow on a monthly basis and shall jointly decide whether to approve proposed changes to the overall Campaign budget and schedule.
- (3) **Financial Reporting and Audit Provisions.** The parties shall comply with the additional provisions regarding financial reporting and auditing attached hereto as Exhibit C which are fully incorporated herein. The provisions of Exhibit C shall survive the expiration of this Agreement with respect to reporting and auditing in connection with this Agreement.

**7. Ownership of Fixtures.** As further defined in each Grant Agreement, (i) the Parties agree that any and all Fixtures delivered to Port for later installation at Crane Cove Park or installed in Crane Cove Park shall, upon acceptance by Port under a Grant Agreement, become property of the Port; and (ii) SFPA agrees to relinquish any claim of ownership or title to such Fixtures.

**8. Insurance.** Without in any way limiting SFPA's liability pursuant to the "Indemnification" section of this Agreement, SFPA must maintain in force, during the full term of this Agreement, insurance in the amounts and coverages specified in Exhibit B, and shall name as an additional insured the Port of San Francisco, City and County of San Francisco, and their Officers, Agents, and Employees. The parties acknowledge that subsequent Grant Agreement(s) may impose additional requirements on SFPA and/or their contractors as needed.

**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:

To the extent allowable by law, SFPA agrees to defend, indemnify and hold harmless the City, Port, and their officers, employees and agents ("Port Indemnitees") from any and all acts, claims, omissions, liabilities and losses asserted by any third party arising out of acts or omissions of SFPA, their officers, employees and agents in connection with this MOU, except those arising by reason of the intentional act of the Port Indemnitees.

To the extent allowable by law, City agrees to defend, indemnify and hold harmless SFPA, its 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 or willful misconduct of SFPA, its officers, directors, employees and agents.



In the event of concurrent negligence of the City, Port, or their respective officers, employees and agents, and SFPA or its officers, directors, employees and agents, the Parties agree that any joint 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.

The indemnity obligations described in this Section shall survive expiration of this Agreement.

**10. Communications.** The Port and the SFPA shall use good faith efforts to cooperate on matters of public relations and media responses related to the Crane Cove Park Fundraising Campaign. To the fullest extent possible all print and electronic communications regarding the Project or any of the individual playgrounds as they pertain to the Campaign shall refer to Crane Cove Park Fundraising Campaign and include the SFPA and Port logos.

The Port and SFPA shall use good faith efforts to cooperate with any inquiry by the other Party or by the public in regard to the Project.

Neither Party shall contact the media for the purposes of promoting the Campaign or any individual Project Component without the agreement of both Parties. Neither the Port nor SFPA shall issue a press release in regard to this MOU or the Campaign or the Project or a Project Component without providing prior written notice to the other Party.

Any response by either Party to an inquiry by a news or community organization in reference to the Project shall include a recommendation to contact the other Party. All media contacts to the Port will be directed to the Director of Policy and Public Affairs at the address provided for the Department in Section 12.3 below. All media contacts to the SFPA will be directed to the Director of External Affairs at the address provided for the SFPA in Section 12.3 below.

At a time and in a format to be determined later by the Parties, the Port and the SFPA may conduct events, such as groundbreakings and openings to promote and celebrate the Project. The timing, general format and budget for such events shall be reviewed and approved by the Parties. The Parties shall make good faith efforts to participate on an equal basis at such events.

This MOU and the obligations under this Section are subject to and shall be in compliance with the City's Sunshine Ordinance, the California Public Records Act and other laws applicable to disclosure of information to the public.

**11. Donor Recognition.** If requested by the SFPA in connection with the Campaign or any individual Project Component, the Parties will work together to develop a donor recognition program (which may include naming rights). Any donor recognition program will be subject

to approval by the Port Commission and may be subject to approval by the Board of Supervisors. Upon mutual agreement with respect to a donor recognition program, the staff of the Port department shall present the program for Port Commission approval and take other steps to implement the program.

**12. Miscellaneous.**

- 12.1. **Entire MOU.** This MOU, including the exhibits hereto, which are made a part of this MOU, contains the entire understanding between the Parties and supersedes all other oral or written agreements, with the exception of duly executed and approved Grant Agreements.
- 12.2. **Amendment.** This MOU may be amended only by the mutual written consent of the Parties, executed in the same manner as the original MOU.
- 12.3. **Notices.** All notices under this MOU shall be sufficiently given if hand delivered or mailed by registered or certified mail, postage prepaid, or by overnight express delivery, cost prepaid, to:

<b>Port:</b>	<b>SFPA:</b>
Elaine Forbes Executive Director Port of San Francisco Pier 1, The Embarcadero San Francisco, CA 94111	Drew Betcher CEO San Francisco Parks Alliance 1074 Folsom Street San Francisco, California 94103
Randy Quezada Director of Communications Port of San Francisco Pier 1, The Embarcadero San Francisco, CA 94111	Sonia Gonzalez Banks Director of External Affairs San Francisco Parks Alliance 1074 Folsom Street San Francisco, California 94103
<i>with a copy to:</i>  Office of the City Attorney Attn: Port General Counsel Port of San Francisco Pier 1, The Embarcadero San Francisco, California 94111	<i>with a copy to:</i>  Pillsbury Winthrop Shaw Pittman LLP Four Embarcadero Center, 22nd Floor San Francisco CA 94111

- 12.4. **Governing Law.** This MOU shall be construed and enforced in accordance with the laws of the State of California and the City of San Francisco Charter.

- 12.5. **Approvals.** All Port approvals required under the agreements contemplated shall be given by the Port Executive Director, or his or her designee in his or her reasonable discretion, except as otherwise specified herein or in the City Charter, or the S.F. Municipal Code.
- 12.6. **Independent Relationship of the Parties.** The Port shall not be liable for any act of the SFPA and the SFPA shall not be liable for any act of the Port, and nothing herein contained shall be construed as creating the relationship of employer and employee between the Port and the SFPA or any of their respective agents or employees. The SFPA has and hereby retains the right to exercise full control and supervision of its duties and full control of employment, direction, compensation and discharge of all persons assisting it in the performance this MOU. The SFPA agrees to be solely responsible for all matters relating to payment and employment of employees, including compliance with social security, withholding and all other regulations governing such matters. Nothing set forth in this MOU shall be deemed to render the Port a partner in the SFPA's business, or joint venture or member in any joint enterprise with the SFPA.
- 12.7. **No Third Party Beneficiaries.** Except as expressly provided, nothing contained in this Agreement shall create or justify any claim against the Port or the SFPA by any third person with respect to the performance of any duties or other projects being undertaken by the SFPA or the Port. The provisions of this MOU are not intended to benefit any third party, and no third party may rely hereon.

[Signatures on Next Page]

IN WITNESS WHEREOF, the parties hereto have executed this MOU:

Port of San Francisco  By: _____ Elaine Forbes, Executive Director Port of San Francisco  DATE: _____	SFPA  By: _____ Drew Betcher, CEO San Francisco Parks Alliance  DATE: _____
CONTROLLER DEEMED APPROVED AS TO MOU AUDIT AND FINANCIAL REPORTING INCLUSION	
APPROVED AS TO FORM:  DENNIS J. HERRERA City Attorney  By: _____ Rona H. Sandler Deputy City Attorney	

**Port Commission Reso. 19-45**  
**BoS Reso. xx-xx**

**Exhibit A**

**PRELIMINARY BUDGET  
TO BE FUNDED AS PART OF THE  
CRANE COVE PARK FUNDRAISING CAMPAIGN**

The Parties acknowledge and agree that the following Preliminary Budget is an estimate of costs to deliver Project Components to be funded through the Crane Cove Park Fundraising Campaign.

<b>Grant Budget</b>	<b>Project Cost</b>
Tot Lot	\$ 717,567
Riggers Yard	\$ 80,853
Dog Run	\$ 655,763
Crane Tops	\$ 4,000,000
Project Management	\$ 111,656
Contingency	\$ 556,584
<b>TOTAL</b>	<b>\$ 6,122,423</b>

## EXHIBIT B

### SFPA Insurance Requirements

1. The SFPA must maintain in force, during the full term of this Agreement, insurance in the following amounts and coverage:
  - a. General Liability Insurance with limits not less than \$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) as applicable, Broadform Property Damage, Sudden and Accidental Pollution as applicable, Products Liability and Completed Operations; and
  - b. Automobile Liability Insurance with limits not less than \$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.
2. Delivery of Certificates. Prior to the Effective Date of this Agreement, the SFPA shall deliver to the City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to the City, evidencing the coverages required from the SFPA, together with complete copies of the policies at the City's request. Prior to the date any contractor commences work on the Property, the SFPA shall deliver to the City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to the City, evidencing the coverages required from the contractor, together with complete copies of the policies at the City's request.

**Exhibit C**  
**Disclosure Obligations; Recordkeeping and Auditing**

- A. **Acknowledgment of Disclosure Obligations under City Law.** San Francisco Administrative Code Section 67.29-6 requires the Department to disclose on its website the amount and source of all money, goods or services worth more than \$100 in the aggregate for the purpose of carrying out or assisting any City function. For all gifts, grants, and other donations received under this MOU, the disclosure must identify Friends as the contributor, the amounts contributed, and a statement as to any financial interest Friends has involving the City, including a contract, grant, lease, or request for license, permit, or other entitlement for use. Under the Administrative Code, the Department must post this information on its website within 30 days of the date of any such donation. If required by City law, the Department must also disclose this or other information about donations from Friends in any related resolution or ordinance submitted to the Board of Supervisors for approval.
- B. **Friends' Reporting & Disclosure Obligations.**
1. **Donor and Grant Information.** Friends agrees to comply with San Francisco Administrative Code Section 67.29-6 by posting on its website the names of all individuals or organizations that contribute \$100 or more to Friends, by gift, grants, or other instruments, in the form of money, goods, or services, for the purpose of carrying out or assisting the Department's performance of its City functions; the amounts contributed; and a statement as to any financial interest the donor contributing to the Friends has involving the City, including any donor's contract, grant, lease, or request for license, permit, or other entitlement for use. Friends will post this information on its website within 30 days of receipt of any gift, grant or other instrument, and will also provide this information to the Department each year by no later than July 15 for the preceding fiscal year. Friends will maintain this donor information on its website until at least the end of the fifth fiscal year after the donation. To ensure compliance with this requirement and to maximize public transparency, Friends will not accept anonymous donations from a single source aggregating more than \$100 for purposes covered under this MOU. These provisions shall also apply to any grants received by Friends, if those grant funds are transferred to the City for the purpose of carrying out or assisting any City function.
  2. **Financial Reports.** Friends will provide to the Department and the Department will upload a PDF (searchable text) copy of the Friends' annual audited financial report and IRS Form 990 annual tax return into the City's financial system as part of the MOU documentation and prior to City's execution of this MOU. The annual audited financial report filings provided by the Friends must include detailed information about the Friends' total sources and uses of funds and also the sources and uses of funds dedicated to support the Department covered under this MOU, the names of the Friends' Board of Directors and Officers, and the names of any and all payees of Funds covered by this MOU, including consultants, contractors and subcontractors and any current or past City

employees paid and any funds provided directly to the City Department to support the Department's functions including but not limited to employee recognition and public events. Additionally, Friends will post its audited financial report and its IRS Form 990 and all related tax return schedules on its website annually within 60 days of the completion of each.

3. **Links to Friends Website.** The Department will provide a link on its website to Friends' website for the public to readily access the information required under this MOU. Friends will also post this MOU on its website along with copies of any other copies of Grant Awards or other City Contracts and MOU Agreements with any City Department including the Department covered by this MOU.
4. **Friends' Supplier Registration.** As part of the MOU Agreement execution, the Friends must register and submit an IRS Form W-9 through the SF City Partner portal, a complete copy of their most recent IRS Form 990 tax return and complete their Approved Supplier set up through the Controller's Supplier Management Unit.
5. **Friends' Invoices through SF City Partner Online (eSettlements) site.** If the MOU Agreement includes invoicing by Friends to the City Department, all invoices must be submitted online with any/all required supporting documentation through the SF City Partner portal's Online eSettlements site.

**C. Recordkeeping and Auditing.**

1. **Recordkeeping.** Friends will maintain books and records relating to this MOU, in accordance with generally accepted accounting practices consistently applied, that contain all information required to allow the Department and/or the City's Controller, at their discretion, to audit Friends' records and to verify contributions and expenditures in accordance with this MOU.
2. **Auditing.** Friends shall make such books and records relating to this MOU available to the Department and/or the City's Controller (or their representatives) upon commercially reasonable prior written notice, but in no event more than ten (10) days after such notice is provided to conduct an audit. Friends shall retain and shall allow the Department and/or the City's Controller to access such books and records for a period of the later of (i) five (5) years after the end of each year to which such books and records apply, (ii) five (5) years after the issuance date of the Friends' audited financial statement or the IRS Form 990 annual tax return to which such books and records apply, or (iii) if an audit is commenced or if a controversy should arise between the parties hereto regarding the contributions or expenditures hereunder, until such audit or controversy is terminated.