

**AGREEMENT  
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO  
AND THE SAN FRANCISCO PARKS ALLIANCE**

This Agreement ("Agreement") is made and entered into as of March 14, 2017 (the "Effective Date"), by and between the City and County of San Francisco (the "City"), acting by and through the Recreation and Park Department (the "RPD"), and the San Francisco Parks Alliance, a California non-profit public benefit corporation (the "SFPA"). For purposes of this Agreement, "Party" means RPD or SFPA, as a party to this Agreement; and "Parties" means both RPD and SFPA, as parties to this Agreement.

**RECITALS**

- A. WHEREAS, it is central to the missions of RPD and SFPA that all San Franciscans have inspiring, clean and safe places to play; and
- B. WHEREAS, San Francisco voters approved the 2012 Clean and Safe Neighborhood Parks Bond, which identified \$15.5 million to renovate and remediate dilapidated playgrounds; and
- C. WHEREAS, in April 2014 the Recreation and Park Commission appointed a task force that included park professionals, children's advocates and city-wide open space advocates to determine the most dilapidated playgrounds in San Francisco; and
- D. WHEREAS, the task force held six public meetings over six months to set criteria for prioritizing the playgrounds most in need of renovation and developed a list of 13 playgrounds, consisting of "Tier 1" and "Tier 2" playgrounds as highest and second highest priority for renovation as set forth in Exhibit A, based on factors such as the presence of wood treated with Chromated Copper Arsenate (CCA), low neighborhood median income, and high neighborhood youth density; and
- E. WHEREAS, In December 2014 the Recreation and Park Commission unanimously adopted the task force's list of 13 highest priority playgrounds for renovation; and
- F. WHEREAS since \$15.5 million is not sufficient to renovate all 13 playgrounds, SFPA and RPD agreed to partner on Let'sPlaySF – a fundraising campaign dedicated to ensuring that no child in San Francisco has to play on a playground constructed with CCA-treated wood and that playgrounds in areas of low median income and high youth density are transformed into safe places to play; and
- G. WHEREAS, on Dec 15, 2016, the Recreation and Park Commission ("Commission") approved this Agreement and recommended that the Board of Supervisors accept grants totaling up to \$15 million from SFPA in cash and in-kind contributions to support the renovation of all 13 playgrounds named in this initiative. Acceptance of this grant from the SFPA is conditioned upon acceptance by the Board of Supervisors.

NOW, THEREFORE, subject to and effective upon the execution of this Agreement by both Parties (the “**Effective Date**”), the Parties agree as follows:

1. **Term of Agreement.** This Agreement shall become effective upon acceptance of this grant the City in accordance with applicable City Charter and Code provisions and full execution by the Parties (the “**Effective Date**”) and shall expire, unless otherwise earlier terminated by mutual agreement of the parties, eight years from the Effective Date, unless the Parties mutually agree to extend the term (the “**Term**”).

2. **Budget.** The Parties agree to the preliminary budget attached to this agreement as Exhibit B. Changes to the budget shall be reviewed and agreed upon by Parties.

a) Notwithstanding anything contained in herein to the contrary, the City shall have final authority on the expenditure of public funds in compliance with all applicable City laws, rules, regulations and policies.

b) Any unexpended private Initiative funds shall be used to fund work at Initiative playgrounds at the conclusion of the Initiative.

3. **Roles and Responsibilities.**

3.1 RPD

A. **Funding.** City Funds budgeted for the Initiative consist of \$15.5 million from the 2012 Clean and Safe Neighborhood Bond for design and construction of dilapidated playgrounds. Pursuant to the recommendation of the Failing Playgrounds Task Force, which were approved by the Recreation and Park Commission, Tier 1 playgrounds will be prioritized.

B. **Approvals.** RPD shall be responsible for assisting with all City and other required approvals in order to complete the renovation projects and further the Initiative. These approvals shall include, but are not limited to Environmental Review, compliance with disability access laws and internal RPD and Commission reviews and reviews by all other departments and agencies as needed.

C. **Project Management.** RPD shall provide the services of a Project Manager for each of the 13 playground projects.

3.2 SFPA

- A. **Funding.** SFPA shall secure up to \$15 million in cash and in-kind grants to ensure the renovation of all 13 playgrounds identified in Exhibit A. SFPA support for this initiative is expected to include cash grants for playground design and construction, in-kind grants of design and construction services and in-kind grants of construction materials and supplies.
- B. **Reporting.** SFPA shall work with RPD on joint quarterly Cost Control Reports for all playground projects containing private support.

**4. Miscellaneous.**

**4.1. Entire Agreement.** This Agreement, including the exhibits hereto, which are made a part of this Agreement, contains the entire understanding between the Parties and supersedes all other oral or written agreements, with the exception of duly executed and approved Related Project Agreements.

**4.2. Amendment.** This Agreement may be amended only by the mutual written consent of each of the Parties, executed in the same manner as the original agreement.

**4.3. Notices.** All notices under this Agreement shall be sufficiently given if hand delivered or mailed by registered or certified mail, postage prepaid, or by overnight express delivery, cost prepaid, to:

City:	SFPA:
Philip A. Ginsburg General Manager Recreation and Park Department McLaren Lodge 501 Stanyan Street San Francisco, CA 94117 Fax No.: (415) 831-2096	Rachel Norton Interim CEO San Francisco Parks Alliance 1663 Mission Street Suite 320 San Francisco, California 94103 Fax No.: (415) 703-0889
Sarah Madland Director of Policy and Public Affairs Recreation and Park Department McLaren Lodge 501 Stanyan Street San Francisco, CA 94117	Rachel Norton Director of External Affairs San Francisco Parks Alliance 1663 Mission Street, Suite 320 San Francisco, California 94103
<i>with a copy to:</i>	<i>with a copy to:</i>

Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, California 94102 Attn: Manu Pradhan Deputy City Attorney	Pillsbury Winthrop Shaw Pittman LLP Four Embarcadero Center, 22nd Floor San Francisco CA 94111  Attn: Brian Wong
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**4.4. Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California and the City's Charter.

**4.5. Approvals.** All City approvals under the agreements contemplated hereby shall be given by the Department's General Manager, or his designee in his or her reasonable discretion, except as otherwise specified herein or in the City Charter, or the S.F. Municipal Code.

**4.6. Independent Relationship of the Parties.** The City shall not be liable for any act of the SFPA and the SFPA shall not be liable for any act of the City, and nothing herein contained shall be construed as creating the relationship of employer and employee between the City and the SFPA or any of their respective agents or employees. The SFPA shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it performs the duties required of it by the terms of this Agreement. 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 Agreement. 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 Agreement shall be deemed to render the City a partner in the SFPA's business, or joint venture or member in any joint enterprise with the SFPA.

**4.7. No Third Party Beneficiaries.** Except as expressly provided, nothing contained in this Agreement shall create or justify any claim against the City 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 City. The provisions of this Agreement are not intended to benefit any third party, and no third party may rely hereon.

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

<p>CITY AND COUNTY OF SAN FRANCISCO</p> <p>By:  Philip A. Ginsburg, General Manager Recreation and Park Department</p> <p>DATE: <u>3.14.17</u></p>	<p>SFPA</p> <p>By:  Drew Becher, CEO San Francisco Parks Alliance</p> <p>DATE: <u>3/14/17</u></p>
<p>APPROVED AS TO FORM:</p> <p>DENNIS J. HERRERA City Attorney</p> <p>By:  Manu Pradhan Deputy City Attorney</p>	

## Exhibit A

### LIST AND LOCATION OF PLAYGROUND PROJECT SITES TO BE RENOVATED AS PART OF LET'SPLAYSF

RPD operates and maintains real property owned by the City and County of San Francisco acting through the Recreation and Park Department at all of the following locations.

#### **TIER 1 PLAYGROUNDS**

- 1) The playground at Washington Square at Filbert and Powell Streets
- 2) Merced Heights Playground at Byxbee and Shields Streets
- 3) Sergeant John Macaulay Park at Larkin and O'Farrell Streets
- 4) The playground in the Golden Gate Park panhandle commonly known as Panhandle Playground at Oak Street near Ashbury Street
- 5) The playground at the group picnic area in John McLaren Park near John F. Shelley Drive
- 6) Alice Chalmers Playground at 670 Brunswick Street

#### **TIER 2 PLAYGROUNDS**

- 7) A playground at Buchanan Street Mall on a pedestrian portion of Buchanan Street between Grove and Eddy Streets.
- 8) Herz Playground at Hahn and Visitacion Streets
- 9) Juri Commons at Guerrero and 26<sup>th</sup> Streets
- 10) The playground at Sigmund Stern Grove at Sloat Boulevard near 21<sup>st</sup> Avenue
- 11) Richmond Playground at 18<sup>th</sup> Avenue and Lake Streets
- 12) The playground at Golden Gate Heights Park at 12<sup>th</sup> Avenue and Rockridge Drive
- 13) West Portal Playground at Ulloa and Lenox Streets

**Exhibit B  
PRELIMINARY BUDGET**

Let'sPlaySF Initiative Budget		TOTALS
<b>EXPENSES</b>		
<b>Construction Expenses</b>		
Tier 1 Design and Construction		\$ 15,400,000
Tier 2 Design and Construction		\$ 14,000,000
<b>Other Expenses (over 5 years)</b>		
SFPA Campaign Staff		\$ 702,470*
Campaign Expenses		\$ 208,120*
	<b>TOTAL EXPENSES</b>	\$ 30,310,590
<b>SOURCES</b>		
2012 Park Bond-Failing Playgrounds		\$ 15,500,000**
Other Public Funds		\$ 4,150,000***
Let'sPlaySF grants		\$ 10,750,000 - \$15,000,000
	<b>TOTAL SOURCES</b>	\$ 30,400,000 - \$34,650,000

\*Only private funds will be used for these items.

\*\* RPD shall ensure that the \$15.5 million budgeted from the 2012 Clean and Safe Neighborhood Bond is spent in accordance with the policy of the Recreation and Park Commission.

\*\*\* This amount consists of funds previously designated for four Tier 2 Playgrounds and includes General Fund allocations to RPD for Buchanan Street Mall, Herz Playground and West Portal Playground; and Community Opportunity Fund awards to West Portal Playground and Juri Commons.