

File No. 131215

Committee Item No. 7

Board Item No. 21

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

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| <input checked="" type="checkbox"/> | <input checked="" 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 - San Francisco Parks Alliance - \$1,150,000]

2

3 **Resolution retroactively authorizing the Recreation and Park Department to accept and**
4 **expend a grant of up to \$1,150,000 from the San Francisco Parks Alliance for the**
5 **design and construction of a renovated playground in Mountain Lake Park, for the**
6 **period of June 20, 2013, through September 30, 2014.**

7 WHEREAS, Mountain Lake Park is situated between Lake Street and 12th Avenue;
8 and

9 WHEREAS, In 2010 The Friends of Mountain Lake Park Playground (“the Friends”), a
10 neighborhood advocacy group spearheaded by three mothers, formed with the goal of
11 renovating the playground at Mountain Lake 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 renovating the playground; and

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

19 WHEREAS, In collaboration with Rec Park, the community, and the architecture firm,
20 Bohlin, Cywinski, and Jackson (BCJ), the Friends began working on a conceptual plan to
21 renovate the playground; and

22 WHEREAS, On May 14, 2013 during the third and final community meeting, Rec Park
23 and BCJ presented the revised and final conceptual plan; and

24 WHEREAS, At that meeting, community members supported the conceptual plan to
25 install an approximately 22,500 square foot playground, replacing the existing playground with

1 a mix of equipment for both younger children, ages 2 to 5 years, and older children, ages 5 to
2 12 years; and

3 WHEREAS, The renovated playground will be fully accessible in compliance with
4 disability access laws, and will feature a poured-in-place rubber mat surface for safety,
5 benches for seating, and plantings; and

6 WHEREAS, The estimated cost to deliver the project is \$3,150,000; and

7 WHEREAS, Rec Park has budgeted a total of \$2,000,000 in 2012 Clean and Safe
8 Neighborhood Park Bond dollars for renovating the playground; and

9 WHEREAS, Rec Park does not have additional funds available for the renovation,
10 therefore Rec Park's commitment to build the playground as defined in the conceptual plan is
11 contingent upon the Friends, through SFPA, donating the remaining estimated \$1,150,000
12 needed to implement the conceptual plan; and

13 WHEREAS, The breakdown of the Grant is: a Cash Grant of up to \$750,000 to the
14 Recreation and Parks Department to be used to pay the City's contractor to construct the play
15 area and a Grant-In-Kind valued at approximately \$400,000 for conceptual, schematic, and
16 detailed design and construction documents necessary to implement the conceptual plan; and

17 WHEREAS, On June 20, 2013, the Recreation and Park Commission approved the
18 conceptual plan, the donor recognition plan and the memorandum of understanding with
19 SFPA for the design and construction of the conceptual plan, and recommended to the Board
20 of Supervisors to accept and expend the Grant as Resolution No. 1306-013; and

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

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

Supervisor Farrell
BOARD OF SUPERVISORS

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

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

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

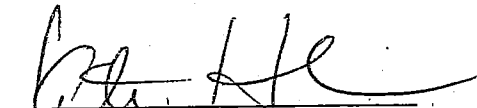
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12 Recommended:

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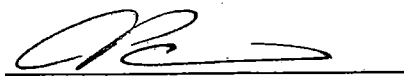
17 General Manager, Recreation and Park Department

18
19 Approved:

Approved:

20
21
22 
23 _____

24 Mayor



25 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 Mountain Lake Park
Playground Renovation

GRANT TITLE: Mountain Lake Park Playground 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 renovating the playground in Mountain Lake Park.

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: _____
(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: Mountain Lake Park Playground
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: \$1,150,000.00
- 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 Mountain Lake Park Playground, supports the renovation of the playground in Mountain Lake Park.
9. Grant Project Schedule, as allowed in approval documents, or as proposed:
Start-Date: June 2013 End-Date: September 2014
- 10a. Amount budgeted for contractual services: \$750,000.00
b. Will contractual services be put out to bid? Yes
c. If so, will contract services help to further the goals of the Department's Local Business Enterprise (LBE) requirements? Yes
d. Is this likely to be a one-time or ongoing request for contracting out? One time
- 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
 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 checked="" 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 has reviewed the concept plan and will review construction document for ADA compliance.

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

Paulina Avrica

(Name)

PPD ADA Coordinator for Physical Access to Facilities

(Title)

Date Reviewed: 10/2/13

Paulina Avrica
(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

Philip Ginsburg
(Signature Required)

Mountain Lake	
Grant Name: The San Francisco Parks Alliance-	
\$1,150,000.00	
Budget Category:	Amount:
A. Personnel	\$0.00
B. Fringe	\$0.00
C. Travel	\$0.00
D. Equipment	\$0.00
E. Supplies	\$0.00
F. Site Elements	\$0.00
G. Design and Construction Documents	\$400,000.00
H. Construction	\$750,000.00
I. Indirect Costs	\$0.00
Grant Amount	\$1,150,000.00

MEMORANDUM OF UNDERSTANDING

City and County of San Francisco
Recreation and Park Department

and

San Francisco Parks Alliance

for the

Design and Construction of the Mountain Lake Park Playground

This Memorandum of Understanding ("MOU"), dated for reference purposes only as June 20, 2013, by and among the City and County of San Francisco ("City"), acting through the Recreation and Park Department ("RPD"), and the San Francisco Parks Alliance, a California nonprofit public benefit corporation ("SFPA") acting as a fiscal sponsor for The Friends of Mountain Lake Park Playground ("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 the Mountain Lake Park Playground Renovation Project ("Project").

RECITALS

- A. RPD operates and maintains real property owned by the City and County of San Francisco between Lake Street and 12th Avenue, commonly known as "Mountain Lake Park" in San Francisco that is described on Exhibit A attached hereto ("**Property**"). The Property is owned by the City.
- B. The Friends is a neighborhood park advocacy group that is fiscally sponsored by SFPA. At a community meeting held on May 14, 2013, Friends and RPD presented a conceptual plan ("**Conceptual Plan**") for a renovated playground on the Property. (Exhibit B.) At that meeting, community members supported the Conceptual Plan to install an approximately 22,500 square foot playground, replacing the existing playground with a mix of equipment for both younger children, ages 2 to 5 yrs, and older children, ages 5 to 12 yrs. The renovated playground will be fully accessible in compliance with disability access laws, and will feature a poured-in-place rubber mat surface for safety, benches for seating, and plantings. The estimated cost to deliver the project as defined in the Conceptual Plan is \$3,150,000.
- C. RPD has budgeted a total of \$2,000,000 in 2012 Clean and Safe Neighborhood Park Bond dollars ("**City Funds**") for the Project, consisting of \$1.5 million for construction, and \$500,000 for project management, construction management and other soft costs related to the Project. Because RPD does not have additional funds available for the Project, RPD's commitment to build the Project as defined in the Conceptual Plan is contingent upon the Friends, through SFPA, donating the remaining estimated \$1,150,000 needed to implement the Conceptual Plan. At the time of award, unencumbered bond dollars shall be placed in a project contingency fund and made available to fund contract costs. Upon final completion of the project,

Approved by Rec Park Commission on 6/20/2013

any unexpended bond funds shall be appropriated to the program budget in accordance with the bond language.

- D. SFPA enters into this MOU in its capacity as the fiscal sponsor for the Friends. The Friends, acting through SFPA as its fiscal sponsor, proposes to provide supplemental funding and services to RPD to fill the \$1,150,000 funding gap necessary to implement the Conceptual Plan. Specifically, SFPA proposes to give RPD, on behalf of the Friends, a grant valued at \$1,150,000 consisting of (1) an in-kind grant valued at approximately \$400,000 (**"In-Kind Grant"**) for conceptual, schematic, and detailed design and construction documents necessary to implement the Conceptual Plan, and (2) a cash grant of up to \$750,000 (**"Cash Grant"**) for construction of the Project (cumulatively, the **"Grant"**).
- E. Implementation of the Conceptual Plan is contingent on the success of Friends' future fundraising. Friends intends to provide funds sufficient to implement the Project regardless of final cost. Friends' fundraising campaign will include the sale of pavers, plaques and/or tiles with donor name(s) to recognize donors of \$1,000 or more, subject to the approval of the Commission (**"Donor Recognition Plan"**).
- F. The City's acceptance of the Grant from SFPA is contingent upon approval by the San Francisco Board of Supervisors.
- G. Friends intends to propose a separate grant to the City in the future to implement a maintenance fund at a future date and contingent on its fundraising efforts.
- H. 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).
- I. On June 20, 2013 the San Francisco Recreation and Park Commission (**"Commission"**) approved the Conceptual Plan, approved the Donor Recognition Proposal, approved this MOU, and recommended that the Board of Supervisors accept and expend the Grant.

NOW, THEREFORE, the Parties hereto agree as follows:

1. **Term of MOU.** This MOU shall become effective only upon acceptance of the Grant by the San Francisco Board of Supervisors, and 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 upon completion of construction of the Project, unless otherwise earlier terminated as set forth in Section 14 below (the **"Term"**).

Approved by Rec Park Commission on 6/20/2013

2. **Schedule.** The Parties have agreed upon certain milestones as set forth in 2012 Clean and Safe Neighborhood Park Bond Report dated May 15, 2012 in Exhibit C attached hereto (the "Schedule"). The Schedule is preliminary and may be amended by mutual written consent of each of the Parties.

3. **Roles and Responsibilities.**

3.1. **The City.**

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

1. Approve the Conceptual Plan;
2. Approve the proposed Donor Plan for the Project, including plaques and bricks, which are to conform to the Commission's Gift Policy (Res. No. 0103-042); and
3. Recommend to the Board of Supervisors to accept and expend the Grant from SFPA, acting as fiscal sponsor for Friends.

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

1. City Funds. The City Funds budgeted for the Project consist of (1) \$1,500,000 for construction (which includes a 10% contingency), and (2) \$500,000 for project management and other soft costs related to the Project. RPD does not have any other funds available for the Project. RPD's commitment to provide City Funds to implement the Conceptual Plan is contingent upon SFPA providing the full amount of the Cash Grant set forth in Section 3.2 below.
2. Project Management. RPD shall provide the services of one RPD Project Manager to:
 - a. Contract with the Department of Public Works ("DPW") for the coordination and administration of contract preparation and administration, and construction management, and
 - b. Coordinate necessary City approvals and services for the Project, including but not limited to Environmental Review, compliance with disability access laws, and RPD Department and Commission reviews, and
 - c. Administer the construction contract, in conformance with City requirements to complete the Project, and

- d. Facilitate the community meetings and public notification process.
- C. The Parties hereto acknowledge that, in contemplation of this MOU, SFPA has entered into a fiscal sponsorship agreement with Friends to act as fiscal sponsor for 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.
- D. 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. RPD's rights and obligations described in this Section shall survive expiration of this Agreement.

3.2 SFPA.

A. In-Kind Grant – Design and Preparation of Construction Documents.

1. Project Design. SFPA shall engage the services of a licensed and insured design professional ("Architect") to prepare conceptual, schematic, and detailed designs and construction documents for the Project as described in the Conceptual Plan.
 - a) No later than by July 1, 2014, or no less than 60 calendar days prior to advertisement for bids, SFPA shall deliver to RPD detailed construction drawings and technical specifications for the Project, including five (5) full size sets, five (5) half size sets, and one electronic file-copy, all bearing the stamp and signature of the licensed design professional ("Plans").
 - b) To insure that the Project design is within the sum of SFPA's Cash Grant (\$750,000) and the City Funds for construction (\$1,500,000) (collectively the "Construction Budget"), the Plans shall include deductive alternate(s) with a combined value of not less than 10% of the estimated construction cost.
 - c) Architect's Plans shall comply with applicable provisions of the California and San Francisco Building Codes, the Americans with Disabilities Act and any other disability access laws, and applicable standards for professional playground design. 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.

2. SFPA's Contract With Architect. SFPA's contract with the Architect shall include the following terms and conditions:
 - a. Insurance. SFPA shall require the Architect to maintain in force, during the full term of its agreement, insurance in the amounts and coverages specified in Exhibit E, and to name as an additional insured the City and County of San Francisco, its Officers, Agents, and Employees.
 - b. 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.
 - c. 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.
 - d. 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.
3. Fixed Budget Limit Of Project Construction Cost
 - a. The fixed budget limit of construction cost (the "Fixed Budget Limit") for the Project is the sum of SFPA's Cash Grant of up to \$750,000 and

the City Funds for construction of \$1,500,000. The Fixed Budget Limit includes all of the costs of basic construction, including a 10% construction contingency. The Fixed Budget Limit excludes alternates, either additive or deductive.

- b. SFPA shall ensure that the Architect shall be responsible for designing a Project that conforms to the Fixed Budget Limit, where the lowest responsive bid submitted by a responsible bidder is within five percent (5%) of the Fixed Budget Limit, assuming a 10% construction contingency. In the event that cost estimates prior to bidding or actual bids indicate that the Construction Cost will exceed the Fixed Budget Limit, the SFPA shall, at the request of the City and at no cost to the City: (i) revise the design and construction documents, plans and specifications and (ii) assist the City with re-bidding of the Project, until the construction cost is within +/-5% of the Fixed Budget Limit (while maintaining a 10% construction contingency), subject to the following conditions:

- i. The City, in consultation with SFPA and its agents, may modify the Fixed Budget Limit, or may apply additive or deductive alternates to the lowest responsive bid, to meet the Fixed Budget Limit. The Architect and the City will confer at all phases of design and before the design of any alternates. To insure that the Project design is within the sum of SFPA's Cash Grant (\$750,000) and the City Funds for construction (\$1,500,000) (collectively the "Construction Budget"), the Plans shall include deductive alternate(s) with a combined value of not less than 10% of the estimated construction cost, with final determination by the City in consultation with SFPA, as to the scope of such alternates, which alternates shall be a part of the bid package, and the order in which the alternates would be accepted.

- ii. In the event that redesign services are necessary after the City has received bids for construction of the Project, SFPA shall ensure that the Architect provides such changes at no cost to the City. The Architect must complete any redesign within two (2) months of notification by the City of its intent to redesign.

- iii. In the event that redesign services are performed after the Architect has received notification by the City to redesign and modify the Contract Documents, preparation of modified Construction Documents and preparation of a final estimate of construction cost provided by the SFPA, and obtaining City approval of the final Construction Documents, shall be the limit of the Architect's responsibility arising out of the establishment of the Fixed Budget Limit except, however, that this shall in no way limit the Architect's responsibility or the City's remedies in the

event that the reason that the Fixed Budget Limit was exceeded was the result of the Architect's negligent acts, errors or omissions.

iv. Should the City accept a bid which exceeds the Fixed Budget Limit, there shall be no additional compensation (*i.e.*, no proportional increase in fee) to the Architect resulting from the increased contract amount.

- B. Cash Grant. In support of the Project, no later than September 1, 2014, SFPA shall donate to the City up to \$750,000 for construction of the Project as set forth in the Conceptual Plan. RPD shall not put the project out to bid unless and until SFPA provides RPD with sufficient funds to align the Construction Budget to the Engineer's Estimate.

SFPA, acting as fiscal sponsor for Friends, shall not be liable to the City 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.

4. **Funding.** 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.
5. **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. **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 F, and shall name as an additional insured the City and County of San Francisco, its Officers, Agents, and Employees.

7. 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, 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, their officers, employees and agents (including but not limited to the Architect) in connection with this MOU, except those arising by reason of the sole negligence of the City Indemnitees.

Approved by Rec Park Commission on 6/20/2013

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 of SFPA, its officers, directors, employees and agents.

In the event of concurrent negligence of the City, its officers, employees and agents, and SFPA and/or the Friends, 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.

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

8. **No Recourse.** RPD and SFPA recognize and acknowledge that Friends is an unincorporated association of neighbors and friends of Mountain Lake Park Playground, 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.
9. **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 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 Kate Green 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.

10. **Financial Reports and Disposition of Unexpended Funds.** Upon acceptance of the Grant, RPD agrees to provide quarterly financial reports to SFPA until such time as all Grant funds have been expended or the disposition of unexpended Grant funds has been effected in accordance with the following sentence. Within 60 days of completion of the Project, RPD shall direct any unexpended Cash Grant funds to a restricted fund for the exclusive purpose of maintaining the Property.
11. **Amendments.** Any amendments or modifications to this MOU shall be subject to the mutual written agreement of Parties, and RPD's agreement may be made upon the sole approval of the General Manager of the Department; provided, however, material amendments or modifications to this MOU which materially increase RPD's liabilities or financial obligations under this MOU shall additionally require the approval of the Commission.
12. **No Third Party Beneficiaries.** This Agreement is made for the purpose of setting forth certain rights and obligations of SFPA, the Friends, and the City, and no other person or entity will have any rights or obligations under this Agreement.
13. **Early Termination and Notices.** SFPA 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 SFPA's reasonable satisfaction within such 30-day period, or a different reasonable timeframe mutually agreed upon by the Parties in writing.

The City may terminate this MOU due to the SFPA's 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 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.

Approved by Rec Park Commission on 6/20/2013


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 THE MOUNTAIN LAKE PARK PLAYGROUND	SF RECREATION AND PARK DEPARTMENT	SAN FRANCISCO PARKS ALLIANCE
<p>Jen Fetner Friends of the Mountain Lake Park Playground 283 10th Ave. San Francisco, CA 94118</p>	<p>Philip A. Ginsburg, General Manager SF Recreation & Park Dep't 501 Stanyan Street San Francisco, CA 94117</p>	<p>Matthew O'Grady Executive Director San Francisco Parks Alliance 451 Hayes Street, 2nd Floor San Francisco, CA 94102</p>
<p>Kate Green Friends of the Mountain Lake Park Playground 628 Lake St. San Francisco, CA 94118</p>	<p>Sarah Ballard Director of Policy and Public Affairs SF Recreation & Park Dep't 501 Stanyan Street San Francisco, CA 94117</p>	<p><i>with a copy to:</i> Noa Clark Pillsbury Winthrop Shaw Pittman LLP Four Embarcadero Center, Suite 2200 San Francisco, CA 94111</p>
<p>Claire Myers Friends of the Mountain Lake Park Playground 82-5th Avenue San Francisco, CA 94118</p>	<p><i>with a copy to:</i> Francesca Gessner Deputy City Attorney 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</p>	


Approved by Rec Park Commission on 6/20/2013

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

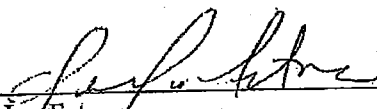
APPROVED:


Philip A. Ginsburg
General Manager
Recreation and Park Department

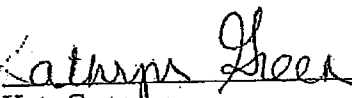
9-18-13
Date


Matthew O'Grady
Executive Director
San Francisco Parks Alliance

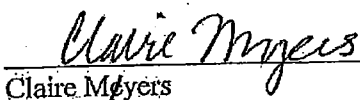
9/30/13
Date


Jeri Fetner
Friends of the Mountain Lake Park Playground

9-12-13
Date

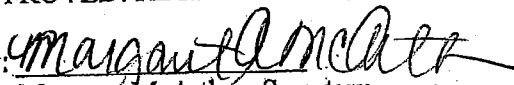

Kate Green
Friends of the Mountain Lake Park Playground

9/10/13
Date


Claire Meyers
Friends of the Mountain Lake Park Playground

9/10/13
Date

APPROVED: RECREATION AND PARK COMMISSION

By: 
Margaret McArthur, Secretary

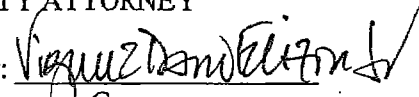
Date: 6/20/13

Resolution No. 1306-013

Approved by Rec Park Commission on 6/20/2013

APPROVED AS TO FORM:

DENNIS J. HERRERA
CITY ATTORNEY

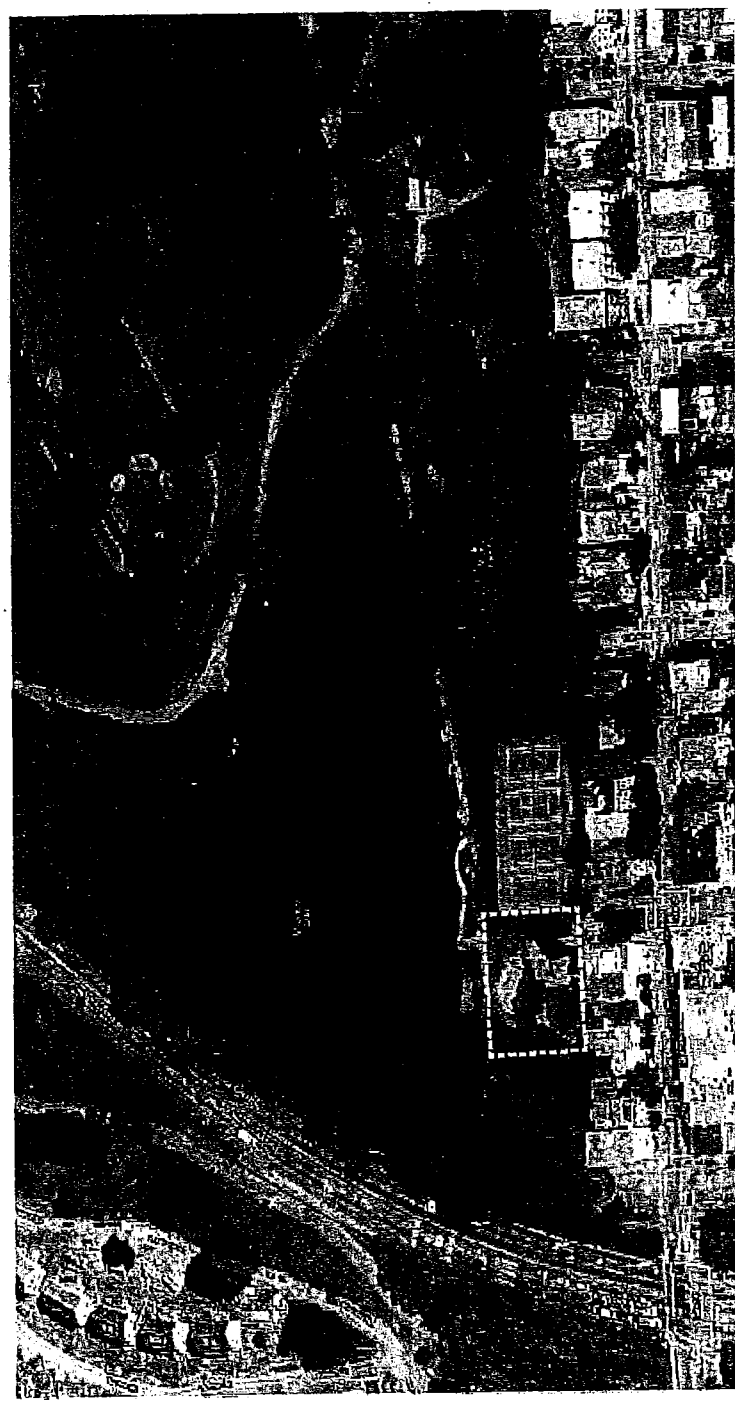
By: 
for Francesca Gessner
Deputy City Attorney

Attachments:

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

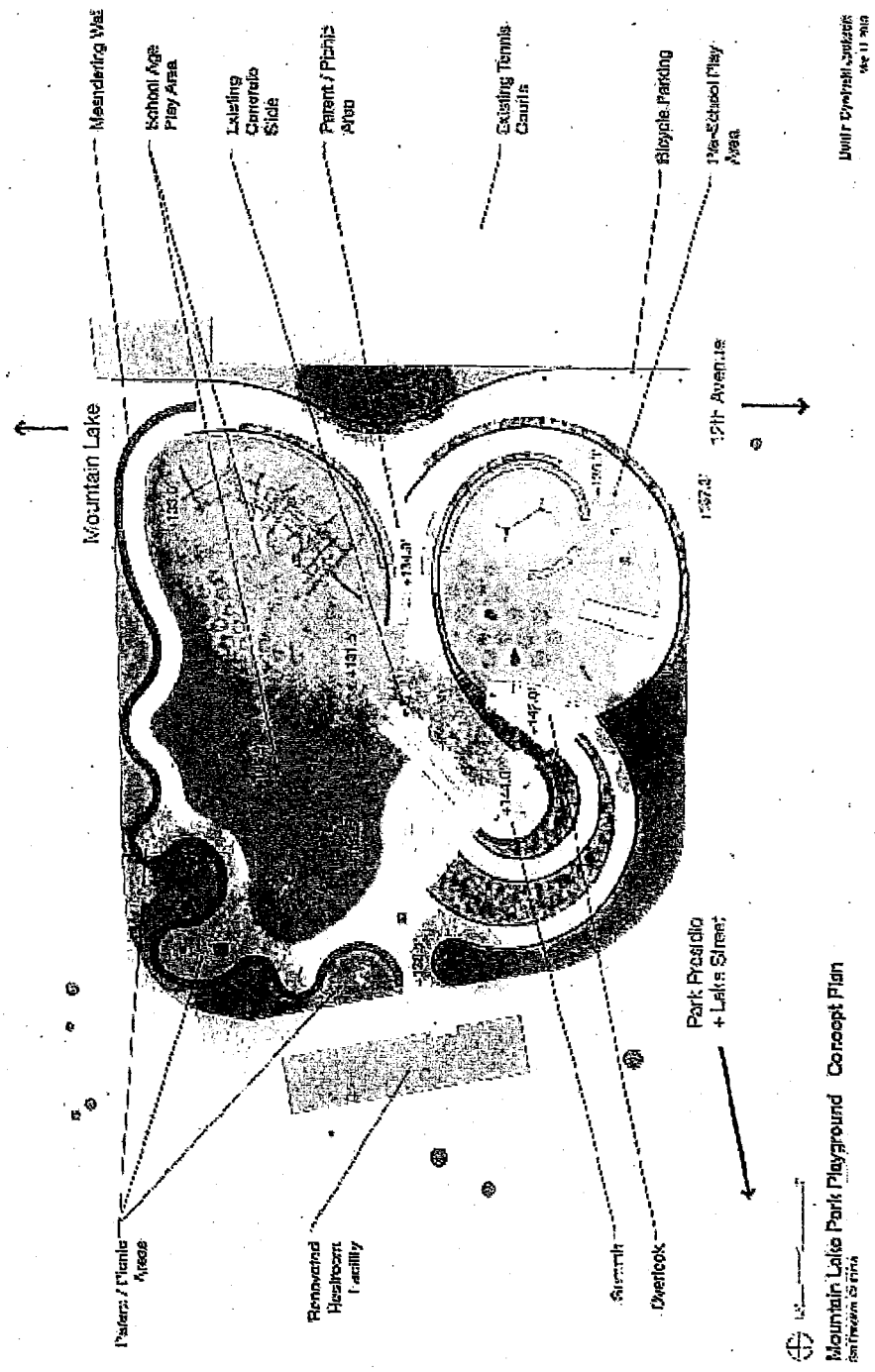
6/11/2013 Approved by Rec Park Commission
on 6/20/13

**EXHIBIT A:
MAP SHOWING PROJECT LOCATION**



6/4/2013 Approved by Rec Park Commission on 6/20/13

EXHIBIT B: CONCEPTUAL DESIGN



Approved by Rec Park Commission on 6/20/2013

**EXHIBIT C:
PRELIMINARY PROJECT SCHEDULE**

The Project Schedule is based on the 2012 Clean and Safe Neighborhood Park Bond Schedule and is intended to establish the maximum schedule for the Mountain Lake Park Playground project. If sufficient funds are in place, then the Project Schedule may be expedited

Phase	Target Start	Target Finish
Planning	March 2013	September 2013
Design	September 2013	September 2014
Bid/Award	September 2014	March 2015
Construction	March 2015	March 2016
Closeout	March 2015	June 2016

Approved by Rec Park Commission on 6/20/2013

**EXHIBIT D:
PRELIMINARY BUDGET**

		<u>Fund Source:</u>		
		<u>BUDGET</u>	<u>BONDS</u>	<u>GRANT</u>
<u>Construction, Purchase & Installation</u>		\$2,233,000	\$1,500,000	\$733,000
Primary Construction	\$2,023,000			
Construction Contingency	\$203,000			
<u>Project Controls</u>		\$814,000	\$414,000	\$400,000
Management & Administration	\$120,320			
Design & Engineering	\$470,380			
Construction Management	\$223,300			
<u>Project Contingency</u>		\$103,000	\$86,000	\$17,000
PROJECT BUDGET		\$3,150,000	\$2,000,000	\$1,150,000

**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

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.

EXHIBIT F
SFPA INSURANCE

SFPA will maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage:

A. Workers' Compensation, with Employer's Liability limits not less than \$1,000,000 each accident.

B. Comprehensive General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage.

C. Business Automobile Liability Insurance with not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage.

D. Comprehensive General Liability and Business Automobile Liability Insurance policies shall be endorsed to provide the following:

a. Name as Additional Insured (except with respect to the professional liability and workers' compensation coverage) the City and County of San Francisco, its Officers, Agents, and Employees.

b. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of the Contract, and that insurance applies separately to each insured against whom claim is made or suit is brought.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

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 []

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):

Supervisor Mark Farrell

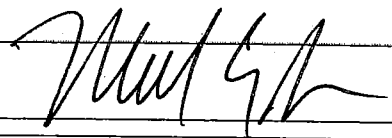
Subject:

[Accept and Expend Grant - San Francisco Parks Alliance - \$1,150,000.00]

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

131215

