

DUPLICATE  
COPY

**AGREEMENT BETWEEN THE CITY OF BERKELEY  
AND BERKELEY PARTNERS FOR PARKS**

**THIS AGREEMENT** is entered into on August 13, 1997, between the CITY OF BERKELEY ("City"), a Charter City organized and existing under the laws of the State of California, and BERKELEY PARTNERS FOR PARKS ("BPPF"), a non-profit corporation organized and existing under the laws of the State of California, doing business at P.O. Box 13673, Berkeley, CA 94712.

**WITNESSETH**

WHEREAS, the City of Berkeley and Berkeley Partners for Parks desire to achieve the design and installation of playground equipment and related site improvements at various public parks throughout the City of Berkeley where playground equipment is lacking or where existing playground equipment does not meet current safety standards; and

WHEREAS, the City Council has budgeted \$125,000 for said improvements with the understanding that these funds be matched, dollar-for-dollar, by BPPF; and

WHEREAS, BPPF is committed to raising funds from private sources to match the sum budgeted by the Council; and

WHEREAS, after close meeting and consultation with BPPF, City staff, and the City's Parks & Recreation Commission have recommended specific playground improvement projects to be completed using the \$125,000 matching funds from the City ("Projects"); and

WHEREAS, by Resolution No. 59.072 - N.S., attached hereto and incorporated by this reference as Exhibit A, the Council has authorized work to proceed on these Projects until the full amount of the \$125,000 matching funds has been committed; and

WHEREAS, the Projects will benefit the Berkeley community at large.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements set forth below, the parties agree as follows:

**1. ESTABLISHMENT OF PLAN FOR EACH PROJECT**

At a time BPPF deems appropriate, BPPF shall initiate discussions with City staff regarding the parties' respective roles on a particular Project. At a minimum, the parties will discuss and agree upon 1) whether the design for a Project will be done by City staff or a third party; and 2) whether BPPF or the City will administer the Contract/s for the Project. These decisions shall be memorialized in a writing signed by both parties. Projects subject to the competitive bidding restrictions of the Berkeley City Charter and implementing ordinances shall be let by the City as provided in the Charter and such ordinances and shall not be subject to any of the provisions of this agreement.

CONTRACT NO. 3925  
VENDGR COPY SENT 9/24/97

2. **CITY'S OBLIGATIONS – ALL PROJECTS**

The City shall perform the following services and shall not be obligated to expend any resources other than those specifically set forth below:

- a. Collect existing data pertaining to the Project sites, including plans and information regarding site conditions.
- b. Participate in meetings with BFPF and the community, play equipment manufacturers, design consultants, and/or design-build firms, as necessary and appropriate.
- c. As agreed between the parties, for each Project, either:
  - i. Prepare plans and specifications for the design, acquisition and installation of playground equipment and related site improvements; or
  - ii. Review such plans and specifications as prepared by a third party. The City reserves the right to require any revisions to the plans and specifications which the City deems necessary, and shall have final approval over the plans and specifications before bids or proposals are sought. All plans and specifications shall be in conformity with all applicable Federal, State and local laws and regulations.
- d. Issue Invitations for Bids (IFBs) or Requests for Proposals (RFPs), as appropriate, for the Projects to qualified individuals and firms, in conformance with City policy regarding the advertisement and acceptance of IFBs and RFPs.
- e. Give final approval to those individuals or firms selected by BFPF through the IFB or RFP process (hereafter CONTRACTORS).
- f. During the performance by CONTRACTORS, conduct periodic site observations, and provide clarifications of plans and specifications to CONTRACTORS upon request.
- g. Inspect all phases of each Project, including that necessary for final closeout and acceptance.
- h. When BFPF administers a Contract, approve all payments made by BFPF and provide general assistance in administering Contracts when requested by BFPF.

3. **CITY'S OBLIGATIONS WHEN ADMINISTERING CONTRACTS**

If BFPF decides, for a specific project, that it will decline to administer the Contract/s for that project, the City shall:

- a. Through the IFB or RFP process, select qualified CONTRACTORS for each Project.
- b. Execute contracts for the design and/or acquisition and installation of the Projects with CONTRACTORS ("Contracts"), which Contracts shall be in a form used by the City for its construction projects generally.
- c. Administer all aspects of the Contracts, including making payments to CONTRACTORS.
- d. The City will make all reasonable efforts to have Projects completed in a timely manner. At the same time, BFPF understands and acknowledges that circumstances beyond the control of City staff may cause delays in the progress of Projects.

4. **BFPF'S OBLIGATIONS – ALL PROJECTS**

BFPF shall:

- a. Be responsible for initiating a "kick-off" meeting for each Project to be attended by the City and interested residents for the purposes of publicizing the proposed general scope of the Project and obtaining input from residents.
- b. Approve IFBs and/or RFPs with respect to the designs for each Project.

5. **BFPF'S OBLIGATIONS WHEN ADMINISTERING CONTRACTS**

If BFPF decides, for a specific project, that it will administer the Contract/s for that project, BFPF shall:

- a. Through the IFB or RFP process, select qualified CONTRACTORS for each Project.
- b. Execute contracts for the design and/or acquisition and installation of the Projects with CONTRACTORS ("Contracts"), which Contracts shall be in a form approved by the City and include the provisions specified in this Agreement below. Provide the City with copies of fully executed copies of the Contract for a Project before work begins on that Project.
- c. Administer all aspects of the Contracts, including making payments to CONTRACTORS (after obtaining written approval by the City) , and excluding those tasks specifically designated as the City's responsibility in Section 2 above.
- d. Changes in the scope of work under a Contract shall not be approved without the written approval of the City.

6. **MUTUAL OBLIGATIONS**

The City and BFPF shall, for each Project:

- a. Work together in the pre-qualification of play equipment manufacturers in order to narrow the field to several firms with proven records of providing high-quality equipment.
- b. Seek any required City Commission recommendations for a Project.
- c. Approve each phase of the CONTRACTOR'S work on each Project.

7. **FUNDING**

- a. BFPF shall solicit and receive monies from private parties for the purpose of funding at least half the cost of the Projects.
- b. For a Project for which BFPF has notified the City of its intent to administer the Contract/s, City funds shall be released as follows: within 15 days of receipt of a bank statement showing that it has raised enough funds for one-half of a Project's cost (or for the amount of a Contract, if a single Contract will be let for more than one Project) City shall disburse a like amount of funds to BFPF therefor.
- c. For a Project for which BFPF has notified the City of its intent not to administer the Contract/s, within 15 days of such notification, BFPF shall disburse to the City an amount equal to one-half of the Project's cost.
- d. Except as provided in Section 7.g. below, the amount of matching funds provided by the City shall not exceed half the amount of the Project cost listed in Exhibit A for each Project. The total amount contributed by the City under this Agreement shall not exceed \$125,000.

e. It is understood that 100% of the funds provided by the City hereunder shall be disbursed to the BPPF solely for the purpose of paying CONTRACTORS, and that BPPF shall not use any City funds provided hereunder for the purpose of paying or reimbursing BPPF, its directors, officers, or employees for any reason whatsoever.

f. A Project may be accomplished by the use of volunteer labor under the supervision of a CONTRACTOR or a playground equipment manufacturer's representative.

g. If, during the construction of a project, unforeseen circumstances arise that add to the total cost of a Project as stated in Exhibit A, the City and BPPF shall each fund one-half of the added costs. BPPF shall be solely responsible for any costs for a Project that exceed half the amount of the Project's cost as stated in Exhibit A, if such excess costs result from changes in the design or scope of work requested solely by BPPF.

8. **TERM**

a. This Agreement shall begin on August 13, 1997, and end upon the occurrence of any one of the following events:

1. If two years have passed from the date of this Agreement without a written plan for a Project having been signed by the City and BPPF.

2. If two years have passed from the date of acceptance by the City of a Project listed on Exhibit A and no written plan for a Project has been signed by the City and BPPF.

3. When final payment is made to the CONTRACTOR that fully utilizes the \$125,000 in funds provided by the City and BPPF submits its final progress report to the City.

4. If the Council fails to appropriate matching funds for the Projects hereunder in any fiscal year.

b. Either party may terminate this Agreement upon 10 days' written notice to the other if the other party has substantially failed to fulfill any of its obligations under this Agreement in a timely manner through no fault of the terminating party. In such event, BPPF shall have no rights to any amounts not disbursed by the City as of the effective date of the termination, and BPPF shall return to the City, within 15 days of termination, all funds received from the City and not disbursed to a CONTRACTOR as of the effective date of the termination.

9. **NOTICES**

A written notice is deemed served when a party sends the notice in an envelope addressed to the other party to this Agreement and deposits it with the U.S. Postal Service, first class mail, postage prepaid. For purposes of this Agreement, all notices to City shall be addressed as follows:

City Manager  
City of Berkeley, Fifth Floor  
2180 Milvia Street  
Berkeley, CA 94704

For purposes of this Agreement, all notices to BPPF shall be addressed as follows:

Berkeley Partners for Parks  
Attention President  
P.O. Box 13673  
Berkeley, CA 94712

10. **PROGRESS REPORTS**

BFPF shall provide the City at a minimum with quarterly written progress reports which will include financial information in the format specified by the City.

10. **NON-PROFIT STATUS**

BFPF must remain, for the duration of this Agreement, a non-profit corporation in good standing with the California Secretary of State. Upon execution of this Agreement, BFPF shall furnish the City with a copy of its articles of incorporation and by-laws, and a list of its Board of Directors. BFPF shall report any changes in its articles of incorporation, by-laws, Board membership, or non-profit status to the City within 7 days of the effective date of the change. Loss of non-profit status or failure to maintain status in good standing with the Secretary of State is cause for termination of this Agreement.

11. **ACCOUNTING REQUIREMENTS**

a. BFPF shall be accountable to the City for all funds requested by and released to BFPF and for the disbursement thereof. The City and BFPF will work together to determine acceptable forms of such accountings. At a minimum, BFPF shall maintain books on a double entry basis, and all disbursements shall be supported by invoices, progress payment requests, or other documentation evidencing the nature and propriety of the disbursement.

b. The City's Auditor's Office may conduct an audit of BFPF's financial and compliance records maintained in connection with the operations and services performed under this Agreement. In the event of such audit, BFPF agrees to make all such financial and compliance records available to the Auditor's Office. City agrees to provide BFPF an opportunity to discuss and respond to any findings before a final audit report is filed.

12. **CONTRACT REQUIREMENTS**

BFPF shall comply with the provisions, set forth below and in all Contracts with CONTRACTORS, require that CONTRACTORS shall also be subject to these provisions. In addition BFPF shall be subject to any other limits on contracting to which the City itself is subject provided that City gives BFPF advance written notice of any such restrictions.

a. **NON-DISCRIMINATION**

BFPF hereby agrees to comply with the provisions of Berkeley Municipal Code ("B.M.C.") Ch. 13.26 as amended from time to time. In the performance of this Agreement, BFPF agrees as follows:

i. BFPF shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age (over 40), sex, pregnancy, marital status, disability, sexual orientation or AIDS.

ii. BFPF shall permit the City access to records of employment, employment advertisements, application forms, EEO-1 forms, affirmative action plans and any other documents which, in the opinion of the City, are necessary to monitor compliance with this non-discrimination provision. In addition, BFPF shall fill-out, in a timely fashion, forms supplied by the City to monitor this non-discrimination provision.

b. **INDEPENDENT CONTRACTOR**

For purposes of this Agreement and for the duration of this Agreement, BFPF and its agents and employees shall act in an independent capacity and not as employees of the City.

d. **NUCLEAR FREE BERKELEY**

BFPF agrees to comply with B.M.C. Ch. 12.90, the Nuclear Free Berkeley Act, as amended from time to time.

e. **BURMA CONTRACTING PROHIBITION**

1. In accordance with Resolution No. 57,881-N.S., BPPF stipulates that it has no contractual relations with, and agrees to forego future contractual relations to provide personal services to, the following entities:

- 1) The military regime in Burma.
- 2) Any business or corporation organized under the authority of the military regime of Burma.
- 3) Any individual, firm, partnership, corporation, association, or other organization or entity, however formed, including any parent, subsidiaries or franchisees of said organization or entity, for the express purpose of assisting in business operations or trading with any public or private entity located in Burma.

2. Immediately upon discovering a breach of this section, City may terminate this Agreement. Additionally, City may deem BPPF a non-responsible bidder for five (5) years from the date this Agreement is terminated.

f. **PROHIBITION ON USE OF VIRGIN REDWOOD-USE OF SUBSTITUTES**

1. No virgin redwood shall be used on any of the projects subject to this contract.
2. Where virgin redwood would otherwise be used substitute either a redwood which has been previously used or use a certified sustainably- harvested redwood as the preferred alternative to virgin redwood and not pressure treated lumber of other species.

g. **TIBET PROHIBITION**

Comply with Resolution Number 59,009 regarding contracting with those who do business in or with occupied Tibet.

13. **REQUIREMENTS OF CONTRACTOR**

Contracts between BPPF and CONTRACTORS shall be in a form approved by the City and shall include the following provisions in addition to those in section 13 set forth above:

a. **INSURANCE**

1. A requirement that CONTRACTOR maintain at all times during the performance of their work on a Project commercial general liability insurance policy with a minimum occurrence coverage in the amount of \$ 1,000,000.00, and an automobile liability insurance policy in the minimum amount of \$300,000.00. Such insurance shall name the City and BPPF, and their respective officers, board members, directors, agents, volunteers and employees as additional insureds and shall provide primary coverage with respect to the City and BPPF. If any licensed professional performs services under the contract, a professional liability insurance policy in the minimum amount of \$1,000,000.00.

2. All insurance policies shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said policies except upon thirty (30) days written notice to the City's Risk Manager; 2) be evidenced by the original Certificate of Insurance attached to the City's form endorsement; and 3) be approved as to form and sufficiency by the Risk Manager.

3. If the commercial general liability insurance referred to above is written on a Claims Made Form then, following termination of the contract, coverage shall survive for a period of not less than five years. Coverage shall also provide for a retroactive date of placement coinciding with the effective date of the contract.

4. If CONTRACTOR employs any person, it shall carry workers' compensation and employer's liability insurance and shall provide a certificate of insurance to the City. The workers' compensation insurance shall: 1) provide that the insurance carrier shall not cancel, terminate or otherwise modify the terms and conditions of said insurance except upon thirty (30) days written notice to the City's Risk Manager; 2) provide for a waiver of any right of subrogation against City to the extent permitted by law; and 3) shall be approved as to form and sufficiency by the Risk Manager.

5. Any exceptions to the above requirements must be approved in writing by the City's Risk Manager before work on a Project begins.

**b. PERFORMANCE AND PAYMENT BONDS**

A requirement that all CONTRACTORS provide performance and payment bonds, each in the amount of 50% amount of the total contract price.

**c. INDEMNITY**

A requirement that all CONTRACTORS release, defend, indemnify and hold harmless BFPF and the City, and their respective officers, agents, board members, directors, volunteers and employees from and against any and all claims, demands, liability, damages, lawsuits or other actions for personal injury or death or property damage arising out of the performance of contracts by CONTRACTOR or its officers, employees, partners, directors, subcontractors or agents.

**d. CONFORMITY WITH LAW AND SAFETY**

1. A requirement that CONTRACTOR observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, and all other applicable federal, state, municipal and local safety regulations. All services performed by CONTRACTOR must be in accordance with these laws, ordinances, codes and regulations. CONTRACTOR shall release, defend, indemnify and hold harmless City, its officers, agents, volunteers and employees from any and all damages, liability, fines, penalties and consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

2. If a death, serious personal injury or substantial property damage occurs in connection with the performance of the Contract, CONTRACTOR shall immediately notify the City's Risk Manager by telephone. If any accident occurs in connection with the Contract, CONTRACTOR shall promptly submit a written report to City, in such form as the City may require. This report shall include the following information: 1) name and address of the injured or deceased person(s); 2) name and address of CONTRACTOR's subcontractor, if any; 3) name and address of CONTRACTOR's liability insurance carrier; and 4) a detailed description of the accident, including whether any of City's equipment, tools or materials were involved.

3. If a release of hazardous materials or hazardous waste that cannot be controlled occurs in connection with the performance of the contract, CONTRACTOR shall immediately notify the Berkeley Police Department and the City's Toxics Management Division.

**e. MATERIAL SAFETY DATA SHEETS**

To comply with the City's Hazard Communication Program, BFPF agrees to submit Material Safety Data Sheets (MSDS) for all "hazardous substances" BFPF intends to use in the performance of work under this Agreement in any City facility. "Hazardous substances" are defined as those substances so designated by the Director of Industrial Relations pursuant to the Hazardous Substances Information and Training Act (Labor Code sec. 6360 et seq.). The MSDS for all products must be submitted to the City before commencing work. The MSDS for a particular product must be reviewed and approved by the City's Risk Manager before BFPF may use that product.

f. **PREVAILING WAGES**

The CONTRACTOR and any subcontractors must comply with the prevailing wage requirements of the State of California, as set forth in Division 2, Part 7, Chapter 1, Article 2 of the Labor Code, as amended.

g. **TROPICAL HARDWOODS AND WOOD PRODUCTS PROHIBITION**

1. A requirement that except as expressly permitted by the application of Sections 3.B. and 4.B. of Resolution No. 58,291-N.S., CONTRACTOR shall not provide any items in performance of the Contracts which are tropical hardwoods or tropical wood products, as those terms are defined in said Resolution.

2. Upon discovering a breach of this section, the City may take action to ensure that the provisions of the Resolution are complied with, including without limitation: suspending the Contract; withholding funds due the Contractor under any contract with the City; and disqualifying the Contractor from eligibility for providing services or goods to the City for up to five (5) years.

3. Contractor is urged not to import, purchase, obtain, or use for any purposes, any tropical hardwood or tropical hardwood product. Contractor is urged to purchase wood that is certified "sustainably" produced lumber.

h. **CONSULTANTS TO SUBMIT STATEMENTS OF ECONOMIC INTEREST**

The City's Conflict of Interest Code, Resolution No. 51,425-N.S., as amended, requires every consultant to disclose conflicts of interest by filing a Statement of Economic Interest (Form 730). CONTRACTORS who provide architectural, engineering, or other consulting services must agree to file such statements with the City Clerk at the beginning of the Contract period and upon termination of the CONTRACTOR'S service.

i. **BERKELEY BUSINESS LICENSE**

CONTRACTORS shall be required to obtain a license to do business in the City of Berkeley pursuant to Berkeley Municipal Code Chapter 9.04.

j. **RETENTION**

For construction-related services, invoices submitted by CONTRACTORS for payment shall reflect a 10% reduction for a retention amount, and BFPF shall withhold 10% from all progress payments until the Project is completed and accepted, at which time the total retention amount may be paid. This retention does not apply to professional services.

k. **CITY AS THIRD-PARTY BENEFICIARY**

Contracts between the BFPF and CONTRACTOR shall include a provision that the City is a third-party beneficiary of any contract between BFPF and any CONTRACTORS, and that the City, in said contracts, has all of the rights that BFPF has.

14. **OWNERSHIP OF DOCUMENTS**

a. When this Agreement is terminated, BFPF agrees to return to City all documents, drawings, photographs and other written or graphic material, however produced, that it received from City, its contractors or agents, in connection with the performance of its services under this Agreement. All materials shall be returned in the same condition as received.

b. All internal work, papers, internal drawings, internal memoranda of any kind, photographs, and any written or graphic material, however produced, prepared by BFPF in connection with its performance of services under this

Agreement, shall be, and shall remain after termination of this Agreement, the property of BFPF. BFPF may use that material for any purpose whatsoever. However, if either party terminates this Agreement before BFPF completes all services required under Paragraph 1, the latest set of draft documents shall be and shall remain the property of the City.

c. Any and all documents pertaining to the Projects, including applicable "as-built" drawings, shall be created in accordance with generally accepted industry standards and shall be properly produced to give good reproductions. All development documents and drawings for a Project shall remain the property of the City and shall be promptly delivered by BFPF to the City within 15 days of the final acceptance of the Project.

15. **CONFLICT OF INTEREST PROHIBITED**

a. In accordance with Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Ch. 3.64, neither BFPF nor any employee, officer, director, partner or member of BFPF, or immediate family member of any of the preceding, shall have served as an elected officer, an employee, or a City board, committee or commission member, who has directly or indirectly influenced the making of this Agreement.

b. In accordance with Government Code section 1090 and the Political Reform Act, Government Code section 87100 *et seq.*, no person who is a director, officer, partner, trustee, employee or consultant of the BFPF, or immediate family member of any of the preceding, shall make or participate in a decision made by the City or a City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or BFPF.

c. Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 *et seq.*, its implementing regulations, manuals and codes, Government Code section 1090, Berkeley City Charter section 36 and B.M.C. Ch. 3.64.

16. **RECYCLED PAPER FOR WRITTEN REPORTS**

If BFPF is required by this Agreement to prepare a written report or study, BFPF shall use recycled paper for said report or study when such paper is available at a cost of not more than ten percent more than the cost of virgin paper, and when such paper is available at the time it is needed. For the purposes of this Agreement, recycled paper is paper that contains at least 50% recycled product. If recycled paper is not available, BFPF shall use white paper. Written reports or studies prepared under this Agreement shall be printed on both sides of the page whenever practical.

17. **SET OFF AGAINST DEBTS**

BFPF agrees that City may deduct from any payments due to BFPF under this Agreement any monies that contractor owes City under any ordinance, contract or resolution for any unpaid taxes, fees, licenses, unpaid checks or other amounts.

18. **GOVERNING LAW**

The laws of the State of California shall govern this Agreement.

19. **AMENDMENTS**

The terms and conditions of this Agreement shall not be altered or otherwise modified except by a written amendment to this Agreement executed by City and BFPF.

20. ENTIRE AGREEMENT

a. The terms and conditions of this Agreement, all exhibits attached and any documents expressly incorporated by reference represent the entire Agreement between the parties with respect to the subject matter of this Agreement. This Agreement shall supersede any and all prior contracts, oral or written, regarding the subject matter between City and BFPF. No other contract, statement, or promise relating to the subject matter of this Agreement shall be valid or binding except by a written amendment to this Agreement.

b. If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Agreement shall control.

21. SEVERABILITY

If any part of this Agreement or the application thereof is declared invalid for any reason, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.

22. WAIVER

Failure of City to insist on strict performance shall not constitute a waiver of any of the provisions of this Agreement or a waiver of any other default of Contractor.

23. ASSIGNMENT

Contractor may not assign this Agreement without the prior written consent of the City, except that Contractor may assign its right to any money due or to become due hereunder.

24. EFFECT ON SUCCESSORS AND ASSIGNS

This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.

25. CITY BUSINESS LICENSE, PAYMENT OF TAXES, TAX I.D. NUMBER

BFPF has obtained a City business license as required by B.M.C. Ch. 9.04, and its license number is written below; or, BFPF is exempt from the provisions of B.M.C. Ch. 9.04 and has written below the specific B.M.C. section under which it is exempt. BFPF shall pay all state and federal income taxes and any other taxes due. **BFPF certifies under penalty of perjury that the taxpayer identification number written below is correct.**

IN WITNESS WHEREOF, City and BFPF have executed this Agreement as of the date written on the first paragraph of this Agreement.

CITY OF BERKELEY

By \_\_\_\_\_  
City Manager

Registered by:

\_\_\_\_\_  
City Auditor

Approved as to form:

Marcus Allegro  
City Attorney

Attest:

Asst. Clerk Cliff Horne  
City Clerk

BERKELEY PARTNERS FOR PARKS

By Nancy G. Carleton  
Signature

Nancy G. Carleton, President, BFPF

Tax Identification No. 94-3228356

Berkeley Business License No. 97-24737

Incorporated: Yes  No

Certified Woman Business Enterprise: Yes  No

Certified Minority Business Enterprise: Yes  No

If yes, state ethnicity: \_\_\_\_\_

Certified Disadvantaged Business Enterprise: Yes  No

ACCEPTING THE FINDINGS OF THE PLAYGROUND SAFETY REPORT; APPROVING THE DRAFT AGREEMENT BETWEEN THE CITY AND BERKELEY PARTNERS FOR PARKS; AND AUTHORIZING THE CITY MANAGER TO PROCEED WITH WORK ON PROJECTS AND EXECUTING CONTRACTS AND ANY AMENDMENTS

WHEREAS, the City of Berkeley and Berkeley Partners for Parks desire to achieve the design and installation of playground equipment and related site improvements at various public parks throughout the City of Berkeley where playground equipment is lacking or where existing playground equipment does not meet current safety standards; and

WHEREAS, in order to facilitate the completion of projects which promote playground safety, the Berkeley City Council increased the threshold for Council approval from \$25,000 to \$60,000 when a contract involves play area improvements and equipment; and

WHEREAS, after meeting and consulting with Berkeley Partners for Parks and City staff, the Parks and Recreation Commission has issued a Report on Playground Safety, attached hereto as Exhibit "A" and made a part hereof, recommending specific playground projects be completed using the \$125,000 matching funds from the City; and

WHEREAS, the Parks and Recreation Commission has accepted and forwarded the findings and recommendations of the Report on Playground Safety to Council for action.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley accepts the findings of the Report on Playground Safety, and approves the establishment of a joint committee to make recommendations to the City Manager on the sequence of projects and the acceptance and distribution of funds as they become available.

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute an agreement between the City of Berkeley and Berkeley Partners for Parks in substantially the form attached hereto as Exhibit "B".

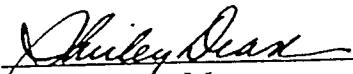
BE IT FURTHER RESOLVED, that the City Manager is authorized to proceed with work on playground projects until the full amount of \$125,000 in matching funds has been committed.

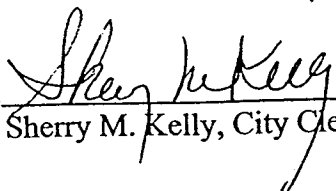
The foregoing Resolution was adopted by the Berkeley City Council on July 15, 1997, by the following vote:

Ayes: Councilmembers Armstrong, Breland, Maio, Olds, Shirek, Spring, Woolley, Worthington and Mayor Dean.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Shirley Dean, Mayor

Attest:   
\_\_\_\_\_  
Sherry M. Kelly, City Clerk