



GRANT AGREEMENT

This **Grant Agreement** (this “**Agreement**”) is made as of the Jan. 26 day of, 2023 by and between **SAN FRANCISCO PARKS ALLIANCE**, a California non-profit **corporation** (“**SFPA**”), and **THE CITY AND COUNTY OF SAN FRANCISCO OPERATING THROUGH THE PORT OF SAN FRANCISCO** (“**Grantee**”). SFPA and Grantee are each referred to herein as a “**Party**” and collectively as the “**Parties**.”

WITNESSETH:

WHEREAS, The Port recently opened Crane Cove Park, a new 7-acre park located in the Central Waterfront neighborhood; and

WHEREAS, SFPA has raised money to pay for unfunded park amenities, including a dog run and two children play areas (the “**Project**”) as further described in **Exhibit A** (Project Description/Budget & Preliminary Schedule) and agrees to provide such funds to Port through a grant on the terms and conditions set for in this Agreement (the “**Grant**”).

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **Grant.** SFPA agrees to disburse the Grant for the Project to the Grantee on the terms and conditions set forth in this Agreement.
2. **Term.** This Agreement shall become effective upon execution and delivery hereof by the Parties (the “**Effective Date**”) and shall terminate once the Grant has been expended and the Project is complete (the “**Term**”).
3. **Implementation of the Project.**
 - a. Grantee shall, in good faith and with diligence, implement the Project and the Grant on the terms set forth in this Agreement. Grantee shall not materially change the nature or scope of the Project during the Term without the prior written consent of SFPA.
 - b. The Project shall be implemented only by competent personnel or contractors or subcontractors of Grantee under the direction and supervision of Grantee.
 - c. This Agreement is subject to the budget and fiscal provisions of the City of San Francisco’s Charter. SFPA recognizes that the City of San Francisco has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements and that budget decisions of the City of San Francisco are subject to the discretion of the Mayor and the Board of Supervisors. SFPA’s assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

4. **Use and Disbursement of the Grant.**

- a. SFPA's obligations under this Agreement are subject to the budget and fiscal provisions of its charter and shall not at any time exceed Three Million Two Hundred Fifty Thousand dollars (\$3,250,000) ("**Maximum Grant Amount**"), unless otherwise approved by SFPA and the City, each in its sole discretion and this Agreement is amended in writing by the Parties to reflect such approved change.
- b. Grantee shall use the Grant only for expenses directly related to the Project (the "**Eligible Expenses**") and for no other purpose. Grantee shall expend the Grant in accordance with the budget attached hereto as **Exhibit A** which has been expressly approved by the Parties (the "**Budget**"). The Parties shall periodically review the Budget and may update it from time to time in writing by mutual agreement. No Party shall be obligated to make up any funding shortfall, unless expressly agreed to by such Party in writing. Port shall obtain the prior approval of SFPA before transferring expenditures from one line item to another within the Budget.
- c. Port shall retain full discretion and control over the selection of any contractors or other parties retained to perform the Project in accordance with standard City practices, and shall act completely independent of Grantor provided, however, that the Port shall provide reasonably detailed public information to SFPA regarding the bidding processes used to select any contractors or other parties retained to perform the Project, including the identity of any contractors selected and the terms of their engagement.
- d. Any unexpended Grant Funds that remain after completion of the Project shall be returned to Grantor unless Grantor agrees otherwise in writing.
- e. SFPA shall only be obligated to disburse the Grant upon the satisfaction of the following conditions:
 - i. Execution of Grant Agreement;
 - ii. No default under this Agreement by Grantee has occurred and is continuing;
 - iii. Grantee has delivered a reconciliation of the total Grant funds received to date against the Eligible Expenses incurred and paid as of the date thereof, and copies of all receipts, invoices or other evidence thereof, in a form and substance reasonably acceptable to SFPA;
 - iv. Grantee has delivered such invoices, purchase orders, or quotes for which the applicable disbursement of the Grant will be used; and
 - v. The Project shall have progressed in accordance with the project schedule to be mutually agreed between the parties.

- f. The Grant shall be disbursed to Grantee according to the Disbursement Schedule attached hereto as **Exhibit B** in accordance with the following procedure:
- i. An “**Authorized Signatory**” shall mean such person which the Executive Director of the Port of San Francisco has authorized to submit funding requests.
 - ii. Grantee shall submit to SFPA a funding request (a “**Funding Request**”) substantially in the form attached as **Exhibit C** signed by an Authorized Signatory, together with any required deliverables, by mail or email to SFPA, Attn: Sonia Gonzalez Banks, 1074 Folsom Street, San Francisco, CA 94103 or soniab@sfparksalliance.org. Any Funding Request that is submitted and is not approved by SFPA shall be returned by the SFPA to Grantee with a brief statement of the reason for SFPA’s rejection of such Funding Request. If any such rejection relates only to a portion of Eligible Expenses (as defined below) itemized in such Funding Request.
 - iii. Subject to compliance with this Section, SFPA will make the disbursement of the Grant within thirty (30) business days after the Funding Request is delivered to and accepted by SFPA.
 - iv. Grantee shall provide such supporting documentation with its Funding Request as may be reasonably requested by SFPA.

5. **Reporting, Audits, & Review.**

- a. Grantee understands and agrees that SFPA has the right to review, in its sole discretion, all aspects of the Project funded in whole or part with the Grant, whether those elements are written, oral or in any other medium. Neither review nor failure to review such materials shall constitute approval thereof or be deemed to waive or diminish SFPA’s rights under this Agreement. Grantee has the burden of demonstrating to SFPA that each element of the Project funded in whole or part with the Grant is directly and integrally related to the Project and furnished in accordance with this Agreement. SFPA shall have the sole and final discretion to determine whether Grantee has met this burden.
- b. Grantee shall provide in a prompt and timely manner quarterly progress reports which detail the use of the Grant to date against the Budget and shall provide, in a prompt and timely manner any other progress, financial, operational and other reports with respect to the Project, as requested by SFPA, in form and substance satisfactory to SFPA.
- c. SFPA shall have the right to monitor from time to time the administration by Grantee or any of its contractors of any programs or other work with respect to the Project funded in whole or in part by the Grant to ensure that Grantee is performing consistent with the Agreement.

- d. Grantee shall maintain files and records including contracts, financial books and accounting records, invoices, documents, payrolls, time records and other related data for the Project and the matters funded in whole or in part with the Grant in accordance with standard City requirements and practices. Grantee shall maintain files and records at Pier 1.
 - e. With reasonable advance notice, Grantee shall permit SFPA, its employees and authorized representatives to inspect, audit, examine and make copies of files and records for the Project.
6. **Assignment.** Neither Party may assign rights or delegate duties under this Agreement without the prior written consent of this other Party. Subject to the terms of Section 6, the terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns.

7. **Notices.**

Grantee: The Port of San Francisco, Pier 1 The Embarcadero, San Francisco, CA, 94111
Attn: Deputy Director of Planning with a copy to Port General Counsel

SFPA: San Francisco Parks Alliance, 1074 Folsom Street SF, CA Attn: Drew Becher
Chief Executive Officer, drew@sfparksalliance.org

8. **Termination.** Either Party may terminate this Agreement in the event of a material breach of this Agreement by the other Party if it provides the other Party written notice of that Party's failure to comply with a material term of this Agreement, and that Party does not cure the failure to the complaining Party's reasonable satisfaction within 30 days or such other reasonable timeframe mutually agreed to by the Parties in writing. In addition, if SFPA notifies the Port that it believes that Port's contractor(s) is not fulfilling its contractual obligations to the Port with respect to work funded by the Grant, or that the Project otherwise cannot be completed as contemplated by this Agreement, and, after having provided written notice to Port setting forth with specificity the bases on which SFPA relies to state that Port's contractor(s) is not fulfilling its contractual obligations to the Port with respect to work funded by the Grant, or that the Project otherwise cannot be completed as contemplated by this Agreement including details regarding SFPA's own funding agreements, Port has not resolved the issues to SFPA's reasonable satisfaction within 180 days or such other reasonable timeframe mutually agreed to by the Parties in writing of such notice (by terminating the contract and procuring a new contract, for example), then the dispute shall proceed to non-binding mediation, and, if the issue is not resolved within 30 days of the mediation, SFPA may terminate this Agreement upon written notice to Port (it being recognized and agreed that SFPA shall have no obligation to make disbursements of the Grant during such 210 day period; provided that SFPA shall continue to be obligated to make disbursements for work performed prior to the date of SFPA's notice).

9. **Dispute Resolution.** In the event of a dispute under this Agreement, the Party claiming default shall first provide the other Party a written notice of default and a 30-day opportunity to cure. If the dispute is not resolved within 30 days or if the parties otherwise agree to waive the 30-cure day period, the dispute shall proceed to non-binding mediation. If the dispute is not resolved within 30 days of the mediation, the complaining Party may declare the other party in default. The Party claiming default shall then be entitled to exercise any right or remedy available at law or in equity which it may have by reason of such default including, but not limited to the right to monetary damages and specific performance to prevent or eliminate such default.
10. **Attorneys' Fees.** Should any party to this Agreement institute any action or proceeding to enforce any provision of this Agreement, or for damages by reason of any alleged breach of any provision of this Agreement, or for a declaration of such party's rights or obligations under this Agreement, or for any other judicial remedy, the prevailing party in such action or proceeding shall be entitled to recover from the losing party all costs and expenses incurred in any such action or proceeding, including but not limited to its reasonable and documented attorneys' fees. For purposes of this Agreement, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.
11. **Miscellaneous Provisions.**
 - a. **Communications.** Port and SFPA shall use good faith efforts to cooperate on matters of public relations and media responses related to the Grant. To the fullest extent possible all print and electronic communications regarding the Project shall include the SFPA and Port logos. Port and SFPA shall use good faith efforts to cooperate with any inquiry by the other Party or by the public in regard to the Project. Neither Party shall contact the media for the purposes of promoting the Grant or Project without the agreement of both Parties. Neither the Port nor SFPA shall issue a press release in regard to this Grant or the Project without providing prior written notice to the other Party. Any response by either Party to an inquiry by a news or community organization in reference to the Project shall include a recommendation to contact the other Party. All media contacts to the Port will be directed to the Director of Policy and Public Affairs at the address provided for the Port. All media contacts to the SFPA will be directed to the Director of Marketing at the address provided for SFPA.

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

- b. **Donor Recognition.** If requested by SFPA in connection with the Grant or Project, the Parties will work together to develop a donor recognition program (which may include naming rights). Any donor recognition program will be subject to approval by the Port Commission and may be subject to approval by the Board of Supervisors, each in its sole discretion.
- c. **Sunshine Ordinance and Donor Disclosures.** SFPA understands and acknowledges that this Agreement, and any document between the Parties, shall be subject to the disclosure requirements of the City's Sunshine Ordinance and the California Public Records Act. In addition, SFPA agrees to disclose information regarding the amounts and sources of funding and donor financial interest information as set forth in Administrative Code Section 67.29-6, to provide a copy of all required reports and disclosures to Grantee, and to provide all information requested by Grantee to enable Grantee to comply with its disclosure obligations.
- d. **Conflicts of Interest.** By executing this Agreement, SFPA certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement. For example, SFPA will notify Grantee if it becomes aware that any Grantee employee or officer participates in a decision in which the employee or officer, or a member of their family, has a financial interest. In addition, the Parties agree and acknowledge that SFPA's support of Grantee, or lack thereof, shall have no bearing on and shall not be relevant towards any future contracting, leasing, or permitting decisions by Grantee.
- e. **Compliance with Laws and Regulations.** All actions described herein are subject to and must be conducted and accomplished in accordance with the City's charter, its municipal code, and all applicable state and federal laws, building codes and regulations. In furtherance and not in limitation of the foregoing, Grantee shall ensure that the Project is implemented in accordance with all applicable law.
- f. **Disclosure Obligations; Recordkeeping and Auditing.** Each Party must comply with their respective obligations for disclosure, recordkeeping and financial disclosures described in the attached **Exhibit D**.
- g. **Approvals.** Except as expressly provided to the contrary, all approvals, consents and determinations to be made by a Party hereunder may be made by such Party in its sole and absolute discretion.
- h. **Entire Agreement.** This Agreement (including the Exhibits hereto, which are incorporated herein by reference) contains the entire understanding between the Parties as of the date of this Agreement, and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.

- i. **Independent Relations.** Nothing herein contained shall be construed as creating the relationship of employer and employee between the City and Grantor or any of their respective agents or employees or contractors. Grantor 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. Grantor 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. Grantor will 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 Grantor's business, or a joint venture or member in any joint enterprise with Grantor.
- j. **No Third Party Beneficiaries.** Nothing contained in this Agreement shall create or justify any claim against the City or Grantor by any third person with respect to the performance of any duties or other projects being undertaken by Grantor or the City. The provisions of this Agreement are not intended to benefit any third party, and no third party may rely hereon.
- k. **Amendments.** This Agreement may be amended or modified only in writing by the Parties.
- l. **No Waiver.** No waiver, alteration or modification of any of the provisions of this Agreement shall be binding upon either SFPA or Grantee unless the same shall be in writing and signed by both SFPA and Grantee.
- m. **Choice of Law.** This Agreement is governed by, and shall be construed and interpreted in accordance with, the Laws of the State of California and City's Charter. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the Superior Court for the City and County of San Francisco, and each party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The Parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Agreement has been brought in an inconvenient forum. The Parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to federal court.
- n. **Interpretation.** The language in all parts of this Agreement shall be construed as a whole in accord with its fair meaning, not for or against any Party, and without regard to any statutes which provide for the language of an agreement to be construed against the drafter.

- o. **Severability**. If any provision of this Agreement is determined to be invalid or unenforceable, this Agreement shall remain in effect, and the offending provision shall be modified to the extent required to make the provision valid or enforceable and in accordance with the intent of the Parties at the time of contracting, or if that is not possible, then that provision shall be stricken and the remainder of the Agreement shall remain in full force and effect.
- p. **Headings**. Paragraph headings used herein are for convenience only and shall not affect the interpretation nor be deemed to be a part of this Agreement.
- q. **Authority**. Each person signing this Agreement on behalf of SFPA represents and warrants that such person has the authority to sign and bind SFPA. This Agreement may be signed in counterparts, which together shall constitute one contract. Faxed or scanned signatures shall be construed to be as valid as originals.

List of Exhibits

- Exhibit A Project Description/Budget & Preliminary Schedule**
- Exhibit B Disbursement Schedule**
- Exhibit C Form of Funding Request**
- Exhibit D Disclosure Obligations; Recordkeeping and Auditing**

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first set above.

FOR SAN FRANCISCO PARKS ALLIANCE

1/26/2023

Dated: DocuSigned by: Drew Becher
F33F21F2A100473...

Signature: _____

Drew Becher
Chief Executive Officer
San Francisco Parks Alliance
1074 Folsom Street
San Francisco, CA 94103
drew@sfparksalliance.org

FOR SAN FRANCISCO PORT COMMISSION

1/26/2023

Dated: DocuSigned by: Elaine Forbes
BD2F0B693FFE43F...

Signature: _____

Elaine Forbes
Executive Director
Port of San Francisco

Approved as to Form:

David Chiu, DocuSigned by: Rona H. Sandler
EFB2EA772764B4...

Signature: _____

Rona H. Sandler, Deputy City Attorney

^{DS}
DB

Agreement Prepared By: David Beaupre, Deputy Director _____

(initial)

Port Commission Resolution: 23-03
Board of Supervisors Resolution 280-22

Exhibit A**Project Description/Project Budget & Preliminary Schedule****Project Budget**

<u>Item #</u>	<u>Description</u>	<u>Budget</u>
<u>1</u>	Children's Play Areas	
	Tot Lot	\$1,120,000
	Riggers Yard	\$225,000
<u>2</u>	Dog Run	\$1,100,000
<u>3</u>	Project Management	\$75,000
<u>4</u>	Contingency	\$1,165,000
	Total	\$3,250,000

Note: Items 1 & 2 include design, construction management and construction cost.

Preliminary Schedule

Phase	Task	Children's Play Areas	Dog Run
		Duration/Weeks	
Design	Hire Consultants	4	4
	Design	15	19
Advertise/Award	Port Commission Authorization	4	4
	Advertise	4	4
	Port Commission Award	6	6
	Construction	16	16
<u>Total Weeks</u>		<u>49</u>	<u>53</u>

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Exhibit B

Disbursement Schedule

1. 30% of the Grant funds will be distributed to the Port upon execution of the Grant Agreement
2. 60% of the Grant funds will be distributed to the Port through quarterly invoices to the SFPA by the Port
3. 10% of the Grant funds will be distributed to the Port upon Project completion

Exhibit C

Form of Funding Request

FUNDING REQUEST

_____, 20__

San Francisco Parks Alliance
1074 Folsom Street
San Francisco, CA 94103
Attn: Drew Becher, CEO
Email: drew@sfparksalliance.org

Re: Grant for Crane Cove Park

Pursuant to Section xx of the Grant Agreement (the "Grant Agreement") dated as of _____, 20__, between the undersigned ("Grantee") and San Francisco Parks Alliance (all capitalized terms defined in the Grant Agreement shall have the same meaning when used herein), hereby requests a disbursement of the Grant as follows:

Total Amount Requested in this Request	\$ _____
Total Amount of the Grant Disbursed Prior to this Request	\$ _____
Maximum Grant Amount or Budget	\$ _____

Grantee certifies that:

1. After giving effect to the disbursement requested, the total amount of the Grant disbursed as of the date thereof will not exceed the Maximum Grant Amount or the Budget.
2. No default under this Agreement by Grantee has occurred and is continuing.
3. The total amount of the Grant requested pursuant to this Funding Request will be used to pay Eligible Expenses.
4. Grantee has delivered a reconciliation of the total amount of the Grant received to date against the Eligible Expenses incurred and paid as of the date thereof, and copies of all receipts, invoices or other evidence thereof, in a form and substance reasonably acceptable to SFPA.
5. Grantee has delivered such invoices, purchase orders, or quotes ("**Deliverables**") for which the applicable disbursement of the Grant will be used.

6. The Project shall have progressed in accordance with the project schedule to be mutually agreed between the parties.
7. The undersigned is authorized to execute this Funding Request on behalf of the Grantee.
8. All corresponding Deliverables are attached to the funding request.

Port of San Francisco

By: _____

Name: _____

Title: _____

Exhibit D

Disclosure Obligations; Recordkeeping And Auditing

A. Port Reporting & Disclosure Obligations: Acknowledgment of Disclosure Obligations under City Law. San Francisco Administrative Code Section 67.29-6 requires Port (referred to in this Exhibit as the “**Department**”) to disclose on its website the amount and source of all money, goods or services worth more than \$100 in the aggregate for the purpose of carrying out or assisting any City function. For all gifts, grants, and other donations received under this Agreement, the disclosure must identify SFPA as the contributor, the amounts contributed, and a statement as to any financial interest SFPA has involving the City, including a contract, grant, lease, or request for license, permit, or other entitlement for use. Under the Administrative Code, the Department must post this information on its website within 30 days of the date of any such donation. If required by City law, the Department must also disclose this or other information about donations from SFPA in any related resolution or ordinance submitted to the Board of Supervisors for approval.

B. SFPA’s Reporting & Disclosure Obligations.

1. Donor and Grant Information. SFPA agrees to comply with San Francisco Administrative Code Section 67.29-6 by posting on its website the names of all individuals or organizations that contribute \$100 or more to SFPA, by gift, grants, or other instruments, in the form of money, goods, or services, for the purpose of carrying out or assisting the Department’s performance of its City functions; the amounts contributed; and a statement as to any financial interest the donor contributing to the SFPA has involving the City, including any donor’s contract, grant, lease, or request for license, permit, or other entitlement for use. SFPA will post this information on its website within 30 days of receipt of any gift, grant or other instrument, and will also provide this information to the Department each year by no later than the first business day in July for the preceding fiscal year. SFPA will maintain this donor information on its website until at least the end of the fifth fiscal year after the donation. To ensure compliance with this requirement and to maximize public transparency, SFPA will not accept anonymous donations from a single source aggregating more than \$100 for purposes covered under this Agreement. These provisions shall also apply to any grants received by SFPA, if those grant funds are transferred to the City for the purpose of carrying out or assisting any City function.

2. Financial Reports. SFPA will provide to the Department and the Department is required to upload a PDF (searchable text) copy of the SFPA’s annual audited financial report and IRS Form 990 annual tax return into the City’s financial system as an attachment to the MOU Agreement. The annual audited financial report filings must include detailed information about the SFPA’s total sources and uses of funds and also the sources and uses of funds dedicated to support the Department covered under this Agreement, the names of the SFPA’s Board of Directors and Officers, and the names of any and all payees of Funds covered by this Agreement, including consultants, contractors and subcontractors and any current or past City employees paid and any

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

3. Links to SFPA Website. The Department will provide a link on its website to SFPA's website for the public to readily access the information required under this Agreement. SFPA will also post this Agreement on its website along with copies of any other copies of Grant Awards or other City Contracts and Agreements with any City Department including the Department covered by this Agreement.

4. SFPA's Supplier Registration. As part of the Agreement execution, the SFPA must register and submit an IRS Form W-9 through the SF City Partner portal, a complete copy of their most recent IRS Form 990 tax return and complete their Approved Supplier set up through the Controller's Supplier Management Unit.

5. SFPA's Invoices through SF City Partner Online (eSettlements) site. If the Agreement includes invoicing by SFPA to the City Department, all invoices must be submitted online with any/all required supporting documentation through the SF City Partner portal's Online eSettlements site.

C. Recordkeeping and Auditing.

1. Recordkeeping. SFPA will maintain books and records relating to this Agreement, in accordance with generally accepted accounting practices consistently applied, that contain all information required to allow the Department and/or the City's Controller, at their discretion, to audit SFPA's records and to verify contributions and expenditures in accordance with this Agreement.

2. Auditing. SFPA shall make such books and records relating to this Agreement available to the Department and/or the City's Controller (or their representatives) upon commercially reasonable prior written notice, but in no event more than ten (10) days after such notice is provided to conduct an audit. SFPA shall retain and shall allow the Department and/or the City's Controller to access such books and records for a period of the later of (i) five (5) years after the end of each year to which such books and records apply, (ii) five (5) years after the issuance date of the SFPA's audited financial statement or the IRS Form 990 annual tax return to which such books and records apply, or (iii) if an audit is commenced or if a controversy should arise between the parties hereto regarding the contributions or expenditures hereunder, until such audit or controversy is terminated.