

33482

AGREEMENT

BETWEEN THE CITY OF LONG BEACH  
AND THE LOS ANGELES CLIPPERS FOUNDATION  
FOR OUTDOOR BASKETBALL AND PARK IMPROVEMENTS  
AT COOLIDGE PARK

THIS AGREEMENT is entered into this 26<sup>th</sup> day of June, 2014, by and between the CITY OF LONG BEACH, a municipal corporation ("CITY") and the LOS ANGELES CLIPPERS FOUNDATION, a California 501 (c) 3 non-profit corporation ("CLIPPERS"), for the installation of outdoor basketball and park improvements at COOLIDGE PARK. CITY and CLIPPERS may be referred to collectively herein as PARTIES.

WHEREAS, CITY owns certain park property commonly known as Coolidge Park, located 352 East Neece Street ("COOLIDGE"); and,

WHEREAS, CLIPPERS support communities through various programs and services designed to motivate, educate, and provide recreational opportunities for the benefit of Los Angeles area youth; and,

WHEREAS, the outdoor basketball court and adjacent areas at COOLIDGE are in need of refurbishment; and,

WHEREAS, CLIPPERS wish to contract with a licensed contractor, to refurbish the existing outdoor basketball court ("COURT") at COOLIDGE and repair the damaged asphalt and concrete within the immediate area around COURT (collectively referred to as "IMPROVEMENTS"); and,

WHEREAS, CLIPPERS wish to donate the IMPROVEMENTS to CITY, and CITY wishes to accept the IMPROVEMENTS ("GIFT"), as more fully described below and pursuant to the terms and conditions of this AGREEMENT.

NOW, THEREFORE in consideration of the forgoing and the terms and conditions contained herein, and the performance thereof, PARTIES to this AGREEMENT hereby mutually agree as follows:

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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Long Beach, CA 90802-4664

1 Pursuant to this AGREEMENT, CLIPPERS hereby agree to donate to  
2 CITY, and CITY hereby accepts the GIFT, on the terms and conditions set forth below.

3 1. PARTIES:

4 CLIPPERS:

5 Los Angeles Clippers Foundation  
6 6951 S. Centinela Avenue  
7 Playa Vista, CA 90094

8 CITY:

9 City of Long Beach  
10 Department of Parks, Recreation and Marine  
11 2760 Studebaker Road  
12 Long Beach, CA 90815

13 2. THE PROJECT. The total value of this GIFT shall not exceed One

14 Hundred Thirty Thousand Dollars (\$130,000.00) which is net of a Thirty Thousand Dollar  
15 (\$30,000.00) contribution by the City directly to the Clippers (the "CITY  
16 CONTRIBUTION"). CLIPPERS shall contract with Madrid Equipment Rentals, Inc. and  
17 Chris Kelly, Inc., dba Childs Play ("CONTRACTOR") for the performance of outdoor  
18 IMPROVEMENTS at COOLIDGE, located at 352 East Neece Street, Long Beach,  
19 California. The scope of work for this GIFT, as mutually agreed to by PARTIES, shall,  
20 subject to a cap of the GIFT amount, include but not be limited to, (i) the resurfacing  
21 (slurry coat), of the existing COURT and (ii) removal and installation of playground  
22 equipment (collectively referred to as "PROJECT"). The CITY shall make payment of the  
23 CITY CONTRIBUTION directly to the CLIPPERS upon notice that the CLIPPERS have  
24 advanced this payment to CONTRACTOR.

25 3. CONTRACT, PLANS, SPECIFICATIONS, AND APPROVALS.

26 Attached hereto and incorporated herein as Exhibit "A" is a Site Plan depicting the  
27 approved location of the IMPROVEMENTS. PROJECT Plans and Specifications shall be  
28 approved by CITY prior to the commencement of any work on site.

A. The contract between CLIPPERS and CONTRACTOR shall  
expressly state the PROJECT scope of work as described in this AGREEMENT,

1 and IMPROVEMENTS shall be performed pursuant to the approved Plans and  
2 Specifications. CITY agrees and acknowledges that CLIPPERS' proposal with  
3 CONTRACTOR, attached hereto and incorporated herein as Exhibit "B", fully  
4 satisfies the terms and conditions of this Section

5 B. CLIPPERS' names, logos or other identifying marks may be  
6 incorporated into the design of the COURT, subject to CITY's prior approval, which  
7 is not to be unreasonably withheld or delayed. The dimensions of any logo placed  
8 on a backboard shall not exceed 12 inches x 12 inches square.

9 C. IMPROVEMENTS shall be performed at no cost to CITY other  
10 than the CITY CONTRIBUTION, with funds for the PROJECT being provided by  
11 CLIPPERS. CITY shall not be responsible for any expenses related to equipment,  
12 supplies, materials, or installation associated with the construction or installation of  
13 the IMPROVEMENTS.

14 D. Access to the PROJECT area shall be provided to  
15 CONTRACTOR through right-of-entry permits issued by CITY. Pursuant to the  
16 contract between CLIPPERS and CONTRACTOR, PROJECT shall be completed  
17 prior to November 19, 2014, provided, however, that CLIPPERS shall not be  
18 responsible for any delay caused by CITY and/or CONTRACTOR.

19 4. CITY'S COVENANTS. CITY hereby covenants the following in order  
20 to induce CLIPPERS to enter into this AGREEMENT and to provide the GIFT:

21 A. CITY will maintain the IMPROVEMENTS in a safe and  
22 attractive manner consistent with the terms and conditions of the product warranty  
23 and CITY standards;

24 B. CITY owns the land upon which the IMPROVEMENT is  
25 located and is free of any liens, encumbrances, or third-party claims that would be  
26 inconsistent with the CLIPPERS' intent that the IMPROVEMENTS be used for  
27 recreation and play activities;

28 ///

1 C. CITY shall obtain, or shall assist CONTRACTOR in obtaining,  
2 all necessary permits, authorizations, and consents, as well as right of entry to the  
3 PROJECT site to perform the necessary work;

4 D. CITY shall ensure that the IMPROVEMENTS shall be used  
5 exclusively for recreation and play activities during the term of this AGREEMENT;  
6 and,

7 E. CITY, upon completion of the IMPROVEMENTS and  
8 subsequent to the opening of the IMPROVEMENTS to the public, acknowledges  
9 that CLIPPERS shall have no subsequent involvement, whether financial or  
10 otherwise, with the use, operation, maintenance, landscaping, repair, insurance or  
11 modifications to the IMPROVEMENTS.

12 F. CITY is authorized to enter into this AGREEMENT.

13 5. CLIPPERS' COVENANTS. CLIPPERS hereby covenant the  
14 following in order to induce CITY to enter into this AGREEMENT and to accept the GIFT:

15 A. CLIPPERS shall contract with CONTRACTOR and make  
16 payments accordingly and directly to CONTRACTOR for the IMPROVEMENTS  
17 described in this AGREEMENT, at no cost or expense to CITY other than the  
18 CITY CONTRIBUTION;

19 B. CLIPPERS shall instruct CONTRACTOR to consult with CITY  
20 to facilitate compliance with all applicable local, state, and federal regulations and  
21 requirements, as related to the performance of the IMPROVEMENTS included  
22 under this AGREEMENT;

23 C. CLIPPERS shall instruct CONTRACTOR to adhere to the  
24 terms and conditions of this AGREEMENT; and,

25 D. CLIPPERS shall instruct CONTRACTOR that the  
26 IMPROVEMENTS are to be completed in accordance with the Site Plan attached  
27 hereto as Exhibit "A" and Plans and Specifications approved by CITY, pursuant to  
28 the terms and conditions of this Agreement.

1           6.     STATUS. CITY affirms that it is a tax-exempt municipal corporation.

2           7.     CITY'S BOOKS AND RECORDS. CITY agrees to maintain  
3 operating and financial books, records and related documentation regarding the GIFT,  
4 the IMPROVEMENTS, and the activities of CITY at the site, and to allow CLIPPERS  
5 reasonable access to such books and records as they relate to the implementation of this  
6 AGREEMENT.

7           8.     PUBLICITY, RECOGNITION AND PARTNERSHIP OPPORTUNITIES.

8           A.     CITY shall acknowledge CLIPPERS as donor in its written  
9 material, news releases, and related marketing.

10          B.     CITY agrees to assist and cooperate in a mutually acceptable  
11 dedication event at the COURT.

12          C.     CLIPPERS also shall have the right to publicize, show  
13 photographs of, and otherwise promote, its contribution.

14          D.     CLIPPERS shall be given usage of the COURT for sports and  
15 special events upon reasonable notice and subject to CITY's reasonable approval.  
16 CITY shall not charge CLIPPERS a fee for use of the COURT for these events,  
17 but may charge CLIPPERS for CITY's personnel expenses for staff supervision  
18 during the event(s), if applicable and/or necessary.

19          E.     CLIPPERS shall have the right (but not the obligation) to  
20 place and remove its logos or trademarks on or around the COURT, subject to the  
21 prior approval of CITY and pursuant to CITY policy and procedures. The use of  
22 any name for the COURT shall be subject to the prior approval of CLIPPERS and  
23 CITY, pursuant to CITY's naming policy and with prior notice to CLIPPERS.

24          F.     CLIPPERS shall have the right, at CLIPPERS held events at  
25 the COURT (e.g., events as described in 8(b) or 8(d) above), to operate a booth or  
26 similar area for promotional purposes. The size and location of the booth or similar  
27 area shall be subject to CITY's reasonable approval and comply with CITY's  
28 applicable regulations.

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9. INDEMNIFICATION.

A. After completion of construction of IMPROVEMENTS by CLIPPERS and/or CONTRACTOR and subcontractors of any tier, and except for the active negligence or willful misconduct of CLIPPERS, or any of CLIPPERS' officers, directors, trustees, employees, accountants, attorneys, agents, affiliates, subsidiaries, successors, insurers and assigns, CITY agrees to indemnify, defend and hold harmless CLIPPERS, and CLIPPERS' officers, directors, trustees, employees, accountants, attorneys, agents, affiliates, subsidiaries, successors contractors and sub-contractors of any tier, insurers and assigns from and against any and all third party claims, demands, losses, damages, liabilities, costs and expenses (including reasonable legal/attorneys' fees and expenses arising out of or related to any legal proceeding and any legal appeal) related to the GIFT, the IMPROVEMENTS, or this AGREEMENT and liabilities of any kind or nature whatsoever, whether in contract, tort, or otherwise, resulting from any claim (including, without limitation, personal injury, death, or property damage) actually or allegedly arising out of or in connection with the negligent acts, errors, omissions or willful misconduct, including the maintenance, location, or condition of the IMPROVEMENTS, or any person's use of the IMPROVEMENTS, whether authorized or unauthorized, proper or improper.

B. Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, CLIPPERS, during CLIPPERS-sponsored special events (including the operation of booths or similar area for promotional purposes) undertakes and agrees to defend, indemnify and hold harmless the CITY and any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, reasonable attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including

1 CLIPPERS' employees and agents, or damage or destruction of any property of  
2 either party hereto or of third parties, arising in any manner by reason of the  
3 negligent acts, errors, omissions or willful misconduct incident to the CLIPPERS'  
4 use of the COURT.

5 10. INSURANCE REQUIREMENTS.

6 CLIPPERS, at their own expense, shall obtain and keep in effect for the  
7 period of time during which CLIPPERS are using the COURT, the following insurance  
8 coverage:

<u>Type of Insurance</u>	<u>Limits of Liability</u>
<b>Commercial General Liability</b> (including bodily injury, property damage, products/completed operations, personal injury, participants' bodily injury liability and contractual liability coverages)	\$1,000,000
<b>Auto Liability</b>	\$1,000,000

16 A. The coverage limits above may be through a self-insurance  
17 program or a combination of self-insurance and excess coverage from a  
18 commercial insurer. In the event that commercial insurance is purchased,  
19 coverage shall be written by insurance companies that are satisfactory to CITY  
20 and that are licensed to do business in the state or country in which the COURT  
21 are located. The policies, including self-insurance, shall be endorsed to name  
22 CITY, and its directors, officers, agents, and affiliates as additional insureds and  
23 shall be written on an occurrence basis.

24 B. The policies shall provide CITY with thirty (30) days' notice of  
25 cancellation.

26 11. USE OF MARKS. Notwithstanding any provision herein, neither party  
27 shall use the other's trademarks, tradenames or logos (each, a "MARK") without prior  
28 written approval. Each MARK shall remain the sole and exclusive intellectual property of

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 the pertinent party.

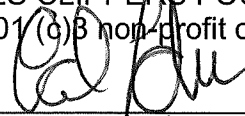
2 12. TERM. The term of this AGREEMENT shall commence on  
3 November 20, 2013 ("Effective Date") and shall expire one (1) year from this date.

4 13. RELATIONSHIP OF PARTIES. PARTIES agree that no other party  
5 shall have any right, power, or authority to assume, create, or incur any expense, liability,  
6 or obligation, expressed or implied, on behalf of any other party, except as expressly  
7 provided herein. PARTIES are independent contractors and this AGREEMENT is not  
8 intended to be nor shall it be construed as a joint venture, association, partnership, or  
9 other form of a business organization or agency relationship.

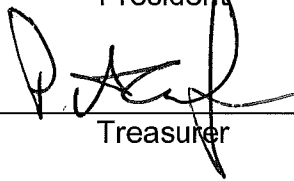
10 IN WITNESS WHEREOF, PARTIES have executed this AGREEMENT as  
11 of the date first above written.

12  
13  
14 June 26, 2014

LOS ANGELES CLIPPERS FOUNDATION,  
a California 501 (c)3 non-profit corporation


By   
President

15  
16 June 26, 2014

By   
Treasurer

17  
18  
19  
20 8.1, 2014

CITY OF LONG BEACH, a municipal  
corporation

By  Assistant City Manager  
Name PATRICK H. WEST EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.  
Title CITY MANAGER

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24 This Agreement is approved as to form on July 22, 2014.

25  
26 CHARLES PARKIN, City Attorney

27 By   
Deputy

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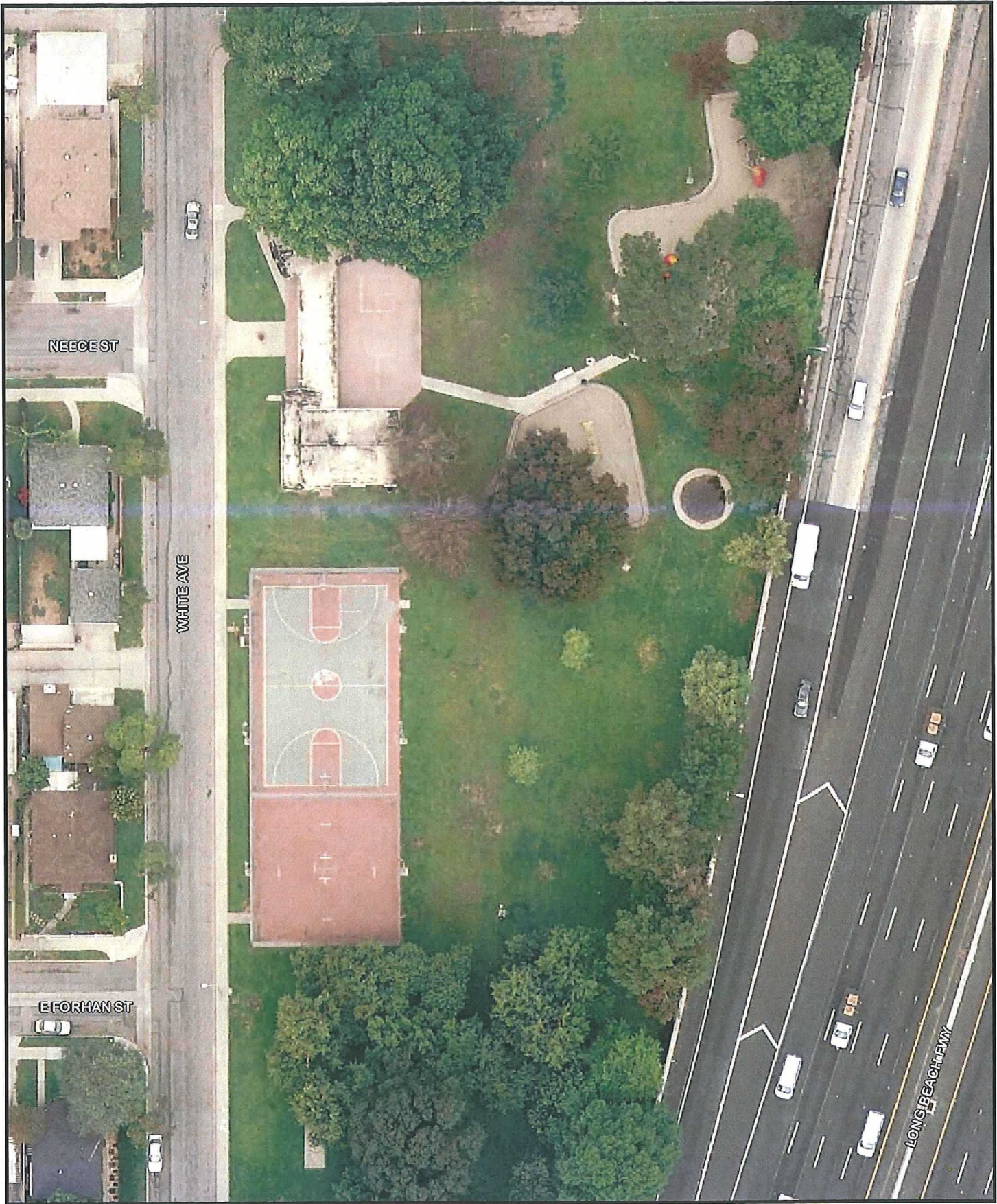


Exhibit A  
Coolidge Park - 352 East Neece Street





## Exhibit B



### **FIT CAMPUS PLAYGROUND & COURT REFURBISHMENT PROGRAM**

The Los Angeles Clippers and The California Endowment have partnered to deliver the Clippers FIT Campus Playground & Court Refurbishment Program. Three locations have been selected to receive a playground and basketball court refurbishment; Boyle Heights, South Los Angeles and Long Beach.

We have selected Coolidge Park located at 352 E. Neece Street to be the Long Beach location. The refurbishment of the playground would include replacement of the existing playground equipment, resurfacing the playground area surface per city guidelines and resurfacing the basketball court and replacing the backboards. In addition to the refurbishment of the playground and courts we would hold a special opening ceremony where we would bring members of the Clippers Team or Alumni players to host a clinic and play event for a select group of children. The project would result in a donation of approximately \$100,000 in equipment and labor.

We have a fairly strict timeline with our schedule and would like to have the project completed by November 30 hosting an event on December 2, 2013. We would request approval of the City of Long Beach. With that approval, we would also request a right of entry permit for Madrid Equipment Rental INC our contractor that would handle the refurbishment of the court. We have contacted GameTime Playground Sales to provide quotes for purchase and installation of the new equipment. We would work with Anna Mendiola in your Development Department to select suitable playground equipment per city guidelines.

Clippers FIT Campus is part of the NBA's health and wellness platform promoting healthy, active lifestyles for children and families. Children and teens need physical activity to maintain a healthy lifestyle. The goal of the Playground & Court Refurbishment Program is to get children moving and provide safe places for kids to play.

Please contact me with any questions. I can be reached at (310) 862 – 6030.

Denise Booth  
Director of Community Relations & Player Programs  
Los Angeles Clippers