

DRAFT TERM SHEET
November 28, 2018
License and Cooperation Agreement Between
San Francisco Recreation and Parks Department
and
Outward Bound California
Relating to John McLaren Park

Type of Agreement: License and Cooperation Agreement

Parties: San Francisco Recreation and Parks Department (the "Department") and Outward Bound California (OBCA) ("Licensee").

Use: Installation, operation and maintenance of a challenge course at the Watchtower area at the southeast corner of Visitacion Avenue and Mansell Street in John McLaren Park (the "Park") located in San Francisco, California, owned by City and under the jurisdiction of its Recreation and Park Department in the area identified in Exhibit A (which includes both the challenge course and the surrounding area) (the "License Area"). Licensee will use the License Area for recreational programming services and other community based programs for public and private youth and young adult programs and corporate events. Licensee's installation will also include one 8' by 20' container storage facility to hold the Licensee's equipment. The Department will also install a container to hold its separate equipment.

Term: 5-year initial term, with an option to renew with the consent of both the Department and Licensee for 4 additional years as long as Licensee is not in default of the License and Cooperation Agreement.

Notwithstanding the foregoing, the Department may terminate the License and Cooperation Agreement at any time for any default (which will include a failure to operate the challenge course for more than 120 days) that is not timely cured.

Operational Requirements: Licensee will operate the challenge course (and secure it during periods of non-operation) in compliance with all applicable rules, regulations and codes including the Association for Challenge Course Technology and the American National Standards Institute's ANSI/ACCT 03-2016 Challenge Course and Canopy/Zip Line Tour Standards.

Hours of Operations: Licensee will operate the challenge course as follows:

- Monday through Friday from 9 am to 3 pm.
- Saturday from 7 am to 2 pm
- One Saturday per month the course will be open from 9 am to 2 pm for free use by the Community who can sign up in advance to reserve the space
- There will be no limitation on additional business hours if the operation is during the hours that the Park is open to the public and does not conflict with Department use as described below.

Department Use: Licensee will provide the following access to the Department:

- Programs Conducted by Licensee Staff (using Licensee equipment):
 - Department programs may hold field trips for its summer camp and after school programs to experience the ropes course by prior arrangement. The Department will be guaranteed a minimum of:
 - 3 times per month during the school year from 3 pm to 5 pm
 - 10 sessions in the summer from 9 am to 3 pm
 - Each program will accommodate up to 50 kids
 - Department or other City Department Staff Team building events to be offered at a discounted rate
 - During the hours of 9 am to 3 p.m.
- Programs Conducted by Trained Department staff (using Department equipment)
 - Department staff may conduct their own programs on the challenge course using their own equipment which will be stored in a separate storage facility. Department programs may be offered as follows:
 - 2 weeks over the summer (9 am to 5 pm)
 - E.g. one week in July and one week in August
 - Weekdays after 3 pm throughout the year
 - Saturdays from 2 pm to 5 pm throughout the year
 - Sundays from 9 am to 5 pm throughout the year
 - Department is responsible for providing qualified staff to oversee programming.
- Coordination
 - Department and Licensee will set schedule for use in advance on a semi-annual basis.

Fees: Licensee intends to offer the programs primarily to school groups for a modest charge. There may be a fee approved in writing by the Department for private school groups. Fees for any other groups must be approved by the Department in advance. See Exhibit B for currently expected fees.

Rent: There will be a percentage rent of 10% of any fees charged users that is more than \$20 per user. Licensee will provide Department with monthly reports to document the number of participants, age groups, and number of participants who paid more than \$20 per user.

Improvements: Licensee will cause the challenge course to be installed in the Park in accordance with the plans and specifications approved in advance and in writing by the Department's General Manager. The challenge course must be installed by duly licensed and bonded contractors and pursuant to a written contract approved by the Department. Upon the expiration or termination of the License and Cooperation Agreement, the challenge course will become property of the Department, unless Department requires the challenge course to be removed.. See Exhibit C for planned improvements.

Maintenance: Licensee will maintain all aspects of the challenge course at all times. The Department will have no obligation to maintain or otherwise fix or repair any deficiencies with the challenge course. Maintenance will include cleanup of all trash and litter in the License area on the days of operation. (Need to discuss how refuse will be disposed of)

Personnel: Licensee will hire, employ and or assign experienced, qualified maintenance, repair, management and any other such persons necessary or advisable for the proper maintenance of the challenge course and performance of Licensee's obligations under the License and Cooperation Agreement.

Insurance:

- (1) Commercial General Liability with limits not less than \$2,000,000 per occurrence and \$4,000,000 General Aggregate
- (2) Workers Compensation Insurance with Employer's Liability limits not less than \$1,000,000 each accident
- (3) Waiver of Subrogation for Workers Compensation
- (4) Sexual Molestation and Abuse, with minimum limits of \$2,000,000 per occurrence and \$4,000,000 aggregate
- (5) Commercial Automobile Liability with \$1,000,000 combined single limit
- (6) Property Insurance sufficient to cover Lessee's Personal Property
- (7) Department must be named as 'additional insured' by Endorsement on the Commercial General Liability and Commercial Auto policies

Indemnity:

Department will indemnify Licensee for claims related to Department's active negligence or willful misconduct during Department's use of the facility, but such indemnity will not be extended to claims related to Licensee's negligence with respect to installation, maintenance, or defective products.

Licensee will indemnify Department for the (a) any injury, death or damage in, on or about the License Area relating to Licensee's installation or use, (b) any failure by Licensee to comply with the License and Cooperation Agreement, (c) any activities conducted on the License Area by Licensee or its agents, contractors, or invitees, or (d) release or threatened release of Hazardous Material by Licensee, or its agents, contractors, or invitees; except solely to the extent of losses resulting directly from the gross negligence or willful misconduct of City or City's authorized representatives.

Branding and Signage: Licensee will comply with the Department's branding guidelines.

Condition of License Area: Licensee must accept the License Area in its "as is" condition.

Termination of License: At termination of Licensee and Cooperation Agreement, the Department may elect whether to request rope course to remain in place or be removed and the License Area restored by Licensee at Licensee's expense.

This term sheet is a preliminary statement of Department's general intentions. This term sheet is not intended to be, and will not become, contractually binding on the parties and

no legal obligation will exist unless and until the parties have executed and delivered a final agreement, following environmental review and appropriate governmental approvals. Until a final written agreement is agreed upon by both parties, approved by all required boards and commissions, and properly executed, neither party will have any obligation to the other (whether under this term sheet or otherwise), including but not limited to any legal duty to continue negotiations or to reach such a definitive agreement, and either party may terminate negotiations for any time and for any reason.

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Exhibit A - The Proposed License Area (approximate)



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Exhibit B – Proposed Program Tuition

Outward Bound California strives to build strong and impactful partnerships with schools and organizations throughout California. We are dedicated to opening up access to our life-changing programs and can provide up to 75% in scholarship for our challenge course programming based on participants' income level.

Group Type	Group size	Cost	Cost with Max Scholarship Available
School and Non-Profit Groups	6-20 Participants	\$1,300.00	\$325.00
	Each Additional 10	\$700.00	\$175.00
Professional Groups		\$300/person	

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Exhibit C – Planned Improvements

Please see attached Design Proposal dated September 2018

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Exhibit D – Proposed Volunteer Hours

Service is a core element in all programs run by Outward Bound California (OBCA). Below is a projection of volunteer hours by OBCA in McLaren Park. This information is based on OBCA’s projected scaling in participant days on the course. Volunteering and service in McLaren Park would be coordinated with the established Volunteer Coordinator for the Department. We would strive to achieve these hours in the following ways:

- OBCA would offer 1-2 hour blocks to program partner
- OBCA would host OBCA Community Days for board, staff and partners for 2-4 hours of service
- Specific OBCA program groups (YLC, WUrban, etc.) could do longer, full day projects

	Year 1 (6 mos. of programming)	Year 2	Year 3/full capacity
Program Groups	150-250	300-450	Up to 800 hours

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