



City of Palo Alto

City Council Staff Report

(ID # 6553)

Report Type: Consent Calendar

Meeting Date: 3/14/2016

Summary Title: Renewal of Agreement Between the City of Palo Alto and The Palo Alto Art Center Foundation

Title: Approval for Renewal of the Agreement Between the City of Palo Alto and the Palo Alto Art Center Foundation for Mutual Cooperation and Support to Facilitate the Foundation's Financial and Administrative Support of the Art Center

From: City Manager

Lead Department: Community Services

Recommendation

Staff recommends that Council approve the renewal of a mutual cooperation and support memorandum of understanding (MOU) with the Palo Alto Art Center Foundation (Attachment A) that extends the previous agreement for another five years.

Executive Summary

This MOU Between the City of Palo Alto and the Palo Alto Art Center Foundation for Mutual Cooperation and Support (Attachment A) continues the partnership agreement approved by Council on October 10, 2010 (CMR 350:10). This w MOU outlines overall responsibilities, procedures, and processes for decision making, use of funds, property, and facilities and staff management.

Background

The Palo Alto Art Center Foundation (Foundation) has played an integral role in the support and operation of the Palo Alto Art Center (PAAC) since its inception in 1973. (Note that from 1973 to 2000 the organization was identified as the Palo Alto Cultural Center Guild). The mission of the Foundation, a 501(c)(3) nonprofit organization, is to expand the reach and impact of the Palo Alto Art Center through fundraising and advocacy.

This MOU represents a five-year renewal of the first mutual cooperation and support agreement between the City of Palo Alto and the Palo Alto Art Center Foundation in 2010 (CMR: 350:10). In addition, previous agreements between the City of Palo Alto and the Palo Alto Art Center Foundation were created to facilitate improvements of the

Center facility (CMR 288:07, 107:08, 465:08, 168:09). The \$9.1M renovation of the Palo Alto Art Center building (the former City Hall building) represented one of the largest public/private partnerships in the City's history and relied upon \$4.7M in contributions from the Palo Alto Art Center Foundation and community members.

Similar public/private partnership agreements have been developed for the Friends of the Junior Museum & Zoo, Friends of the Children's Theatre, and Palo Alto Recreation Foundation and Friends of Palo Alto Parks..

As outlined in the August 2007 Public/Private Partnerships Policy Statement (Attachment B), the relationship between the Foundation and the PAAC is that of an alliance: "This type of public/private partnership involves organizations that have been created for the sole purpose of supporting a City program or array of City programs."

Discussion

This MOU is identical to the previous agreement developed in 2010. In order to enhance their efforts as a support organization, in 2010 City staff and the Foundation proposed a concept in which the partnership between the City and the Foundation would be strengthened through a written agreement that outlines overall responsibilities, procedures, and processes for decision making, use of funds, property, and facilities and staff management. The previous agreement (CMR 350:10), approved by Council on October 10, 2010, clarified the roles and responsibilities of both parties. In addition, the agreement helped the City to leverage resources and work in collaboration with the community through its relationship with the Foundation. This renewal agreement will continue the important policies and processes outlined in the previous foundational agreement.

Timeline

The previous agreement between the City of Palo Alto and the Foundation expired in October of 2015. The new MOU will also have a five-year duration and will expire in February of 2021.

Resource Impact

This written agreement does not have an explicit implication financially however, it includes language that outlines overall responsibilities, procedures, and processes around the use of funding.

Policy Implications

This partnership would be categorized as an Alliance under the City's Public/Private Partnership Policy.

This MOU is consistent with and furthers the intention of Comprehensive Plan Policy C-1; Encourage the creation of partnerships within the Mid-Peninsula or the greater Bay

Area to seek effective solutions to shared problems and community service needs and Program B-3: On an ongoing basis, evaluate opportunities for City involvement in public/private partnerships including public investment in infrastructure and other improvements, siting of public art, and modification of land use regulations and other development controls.

Attachments:

- 00710143 AGMT Art Center Foundation Supplement to PPP with ep edits_2.10.2016KK(v2)(clean)(DOCX)
- public private partnerships (PDF)

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF PALO ALTO AND
THE PALO ALTO ART CENTER FOUNDATION
FOR MUTUAL COOPERATION AND SUPPORT**

This Memorandum of Understanding (the “MOU”), dated as of _____, 2016 (the “Effective Date”), is entered into by and between the CITY OF PALO ALTO, a California chartered municipal corporation (the "City"), and the PALO ALTO ART CENTER FOUNDATION, a California public benefit corporation organized under the California Nonprofit Public Benefit Corporation Law (the "Foundation") (individually, a “Party” and, collectively, the “Parties”), in reference to the following facts and circumstances:

RECITALS:

A. The City owns and operates the Palo Alto Art Center (the “Art Center”), located at 1313 Newell Road, Palo Alto. The Art Center serves the community through a diverse and accessible range of art programs with the mission of fostering creative process and thought by forging a greater appreciation and understanding of the visual arts through exhibitions, studio experiences, and related educational programs. The Art Center is a program of the City’s Division of Arts and Sciences, Community Services Department.

B. The Foundation is a § 501(c)(3) public benefit corporation, which was founded in 1973 with the mission of supporting the mission and goals of the Art Center, promoting unique experiences and education for people of all ages, and serving as the Art Center’s advocates and ambassadors in the community. By its operations- and education-related programs, activities and opportunities, the Foundation has assisted the CSD’s Art Center manager (the “Manager”) and other staff in supporting and advocating on behalf of the Art Center’s operations, programs and activities over the past thirty-seven years.

C. The Parties wish to more closely collaborate and mutually cooperate and support each other in the future, to improve, enhance, and sustain the capacity of the Art Center to develop and provide educational opportunities and related services to the Palo Alto community.

AGREEMENT:

NOW, THEREFORE, in consideration of Recitals A, B, and C the following covenants, terms, conditions and provisions of this MOU, the Parties agree:

SECTION 1. TERM; TERMINATION

1.1 The term of this MOU will commence as of the Effective Date, and shall continue for five (5) years (the "Term"), unless it is earlier terminated by a Party as herein provided.

1.2 This MOU is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code (the "PAMC"). This MOU will terminate without penalty: (A) at the end of the fiscal year in the event that funds are not appropriated by the City for the Art Center's programs for the following fiscal year or (B) at any time within a fiscal year in the event that funds are appropriated for a portion of the fiscal year and funds for this MOU are no longer available. This Section 1.2 will take precedence in the event of a conflict with any other covenant, term, condition, or provision of this MOU. Nothing in this Section 1.2 is intended to affect the Foundation's rights and remedies as may be available under applicable laws.

SECTION 2. RESPONSIBILITIES OF THE PARTIES

2.1 Responsibilities of the City

A. The management of the Art Center's facilities, programs and the CSD staff employees assigned to the Art Center, including, without limitation, the Manager, and any and all independent contractors, subcontractors, consultants and volunteers hired by the City. The City will hire, supervise, evaluate and otherwise exercise supervision and control of its employees at the Art Center; provided, however, the City may invite the Foundation to assist the City in the selection of key CSD employees, who are or may be directly involved in the Art Center's management, operations and programs;

B. The construction, alterations, repairs and maintenance of the Art Center building facilities and open air spaces;

C. The provision of furnishings, fixtures and improvements, the performance of landscaping at the Art Center, and the provision of utility services to the Art Center;

D. The selection of one or more individuals to serve as the City's liaison to the Foundation's board of directors and/or any board committee or subcommittee (the "Board") meetings, including (1) a Council Member, if any, who will serve as the official liaison of the City to the Board, and (2) the Manager, whose duties may include providing assistance directly to the Foundation, including the Board, in selected fundraising activities, as may be directed or approved by the City Manager, or designee;

E. The review of all community-related activities that the Foundation may propose for inclusion in the Art Center's programs. All activities of the Foundation will be pre-approved by the Manager, or designee;

F. Develop and provide educational programs relating to the Art Center's programs and activities and supervise community volunteers in connection therewith;

G. Manage the Art Center exhibition and education programs in accordance with City, CSD, California and federal laws, museum procedures and applicable professional standards;

H. Provide mailing services and volunteer staffing and supervision for certain bulk mailings to the Foundation's members, and including any assistance deemed reasonably necessary arising in connection with annual fundraising activities;

I. Provide supervisory assistance in connection with cash handling and credit card transaction handling services relating to the Foundation's fundraising events, all in accordance with the City's cash handling policies and procedures, Policy and Procedures 1-3; and

J. Any other obligation that the City, the CSD or the Art Center may undertake in accordance with this MOU, upon reasonable notice to the Foundation; provided, however, any such undertaking will be memorialized, in writing, by an amendment to this MOU, in order that such undertaking will be binding upon the City.

2.2 Responsibilities of the Foundation

A. The supervision and management of its directors, officers, employees, volunteers, independent contractors, subcontractors and consultants, while they, and each of them, are exercising rights and/or performing obligations on behalf of the Foundation pursuant to this MOU; provided, however, the Parties acknowledge that, although certain Foundation employees, independent contractors, subcontractors, consultants and volunteers may be paid by the Foundation, to the extent such persons are also employees of the City and report to the Manager, the City and not the Foundation shall be primarily responsible for the management and supervision of such persons.

B. The rendering of assistance to the Manager (through the Board and/or staff), at the Manager's request, including voluntary attendance and contribution of recommendations and advice at staff meetings of the Manager;

C. Subject to the availability of adequate funding, the provision and staffing of activities to educate the public about the mission of the Art Center and its programs and amenities, and the mobilization of volunteers for the Art Center's projects and programs;

D. The development of a fundraising strategy to solicit cash and in-kind contributions from individuals, businesses and other similar entities (such as partnerships and corporations) and the implementation of a grants writing program to seek out funds for the support of the Art Center's programs and activities, which may include both capital and non-capital projects;

E. The acquisition and maintenance of charitable donations database management software for the purpose of recording and monitoring pertinent information relating to the Foundation's supporters and donors;

F. The purchase and maintenance of bulk mail privileges with the United States Postal Service for the purpose of facilitating the Foundation's fundraising activities;

G. At the Foundation's discretion, the acquisition as appropriate of personal property for the benefit of the City and the CSD, in particular, which the Foundation will endeavor to acquire for the purpose of donating the same to the City, and with respect to which the City will exercise all rights and obligations relating thereto; and

H. The rendering of any other service beyond those included in the annual Art Center Plan and related to the preservation, protection and enhancement of the Art Center and the artworks contained therein, as may be approved, in writing, by the Manager.

I. Subject to the availability of adequate funding and at the Foundation's discretion, the operation, management, staffing and implementation of the *Cultural Kaleidoscope* program, or any equivalent program, which is intended to match classrooms in neighboring communities and Palo Alto schools with artists whose residences will enable students to experience multicultural art activities; and

J. Subject to the availability of adequate funding and at the Foundation's discretion, the staffing, operation, and maintenance of the gallery shop in the Art Center, where unique handmade objects are sold.

2.2.1 Rendering assistance to the Manager and her successor, upon her request, as that assistance may relate to the integration of the Parties' programs.

2.3 The responsibilities of the Parties will include the following:

A. Under the direction of the Manager, develop a long-term strategic plan to enhance and improve the vision of the Art Center (the "Strategic Plan"); and

B. Under the direction of the Manager and consistent with the Strategic Plan, develop on an annual basis, effective as of July 1 of each year, a work plan that among other things establishes program, budget, fundraising, and administrative and operational priorities and activities for the applicable fiscal year of operations (each, an "Art Center Plan"). Each Art Center Plan will delineate the rights and obligations of the Parties and identify each Party's duly authorized representative who is responsible for executing such rights and duties in connection therewith.

2.4 Notwithstanding any provision of this MOU to the contrary and in consideration of the facts and circumstances described in Section 2, any and all funds received by the Foundation (through donations, grants, or otherwise) shall remain the property of and shall be solely under the control of the Foundation. To the extent that the Foundation conducts its own funding activities without the participation of the City at or in connection with the Art Center, the Foundation shall control the method and timing of such funding.

2.5. To the extent that Section 2 does not specifically identify the Party who will be primarily responsible for any action or decision in regard to the Art Center, the Parties agree that the City will be the party to assume all rights and obligations in connection with such decision.

SECTION 3. INDEMNITY

3.1 Except as provided under Section 3.2, and except to the extent caused by the negligence, willful misconduct or breach of this MOU by the City or its agents, employees or contractors, the Foundation hereby waives all claims, liability and recourse against the City, including the right of contribution for loss or damage or injury to persons or damage to property arising from, growing out of, or in any way connected with or related to the Foundation's negligent acts or omissions arising under this MOU. Subject to the limitations on liability set forth in Section 4.3.D. of the MOU, the Foundation will protect, indemnify, hold harmless and defend the City, its officials, officers, employees, contractors, subcontractors, representatives and agents, from and against any and all claims, losses, liability, demands, damages, costs, expenses or attorneys' fees, caused by or arising out of the Foundation's negligent acts or omissions, or willful misconduct, in the performance or nonperformance of its obligations under the covenants, terms, conditions and provisions of this MOU. The preceding sentence notwithstanding, no personal liability will attach to any Foundation board member under the provisions of this Section 3 for any negligent action or inaction attributed to the Foundation. In the event the City is named as co-defendant in any action with the Foundation, the Foundation will notify, in writing, the City, by calling to the attention of the City's City Attorney, such facts, and it will represent the City in such legal action, unless the City undertakes to represent itself as a co-defendant in such legal action, in which event the Foundation will pay to the City its legal costs and expenses, including reasonable attorneys' fees.

3.2 The City will protect, indemnify, hold harmless and defend the Foundation, its directors, officers, employees and agents, against any and all claims, losses, liability, demands, damages, costs, expenses or attorneys' fees arising out of the City's negligent performance or nonperformance of its obligations arising under the covenants, terms, conditions and provisions of this MOU.

SECTION 4. INSURANCE

4.1 As of the Effective Date, the Foundation, at its sole cost and expense, will obtain and maintain the following insurance coverage, acceptable to the City's insurance risk manager (the "Risk Manager") in full force and effect during the Term, insuring not only the Foundation but, with the exception of worker's compensation and employer's liability insurance, naming the City as an additional insured, concerning the Foundation's participation under this MOU.

POLICY	MINIMUM LIMITS OF LIABILITY
Worker's Liability	Statutory
Commercial Automobile Liability	Bodily Injury: \$1,000,000 each person Property Damage: \$1,000,000 each person, including owned, hired, and non-owned automobiles
Comprehensive General Liability	Bodily Injury: \$1,000,000 each person \$1,000,000 each occurrence, \$1,000,000

	aggregate including products Property Damage: \$1,000,000 each occurrence and completed operations Personal Injury: \$1,000,000 each occurrence broad form contractual and personal injury.
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4.2 Any deductibles must be declared to and accepted by the Risk Manager. The Foundation's insurance will be carried in full force and effect on or before the Effective Date. The insurance provided by the Foundation shall satisfy the following requirements:

- A. The Foundation shall deliver a certificate of insurance in which the party issuing the certificate shall endeavor to provide thirty (30) days' prior written notice of any proposed cancellation of the policy to: City of Palo Alto/Palo Alto Art Center Manager, P.O. Box 10250, Palo Alto, CA 94303.
- B. The City of Palo Alto shall be added by endorsement or otherwise as an additional insured as respects operations of the named insured at or from the Art Center.
- C. Any insurance maintained by the City of Palo Alto will apply in excess of, and not contribute to, insurance provided by each policy provided by the Foundation.

4.3 Evidence of Insurance Coverage and/or Changes will be, as follows:

- A. Certificate of Insurance. The Foundation agrees to deposit with the Manager before the Effective Date, certificates of insurance necessary to satisfy the City that the insurance provisions of this MOU have been complied with, and to ensure that such insurance is kept in effect, with the certificates of deposit with the City, during the Term.
- B. Review of Coverage. The City will retain the right, at any time, to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of the Risk Manager, the insurance provisions in this MOU do not provide adequate protection for the City and for members of the public using the Art Center in connection with City-Foundation events and Foundation-only events, the City Manager, or designee, may require, and the City will endeavor to give the Foundation at least sixty (60) days' prior written notice, an amount to provide adequate protection as determined by the Risk Manager. The City's requirements shall be reasonable and shall be designed to assure protection from and against the kind and extent of risk which exists at the time a change in insurance is required. The Foundation may terminate this MOU upon thirty (30) days' prior written notice if the Foundation will not agree to pay for additional insurance coverage as required by the Risk Manager.

- C. Reserved.
- D. Limit of Liability. As long as the Foundation obtains and maintains the policy or policies of insurance required by this Section 4, the Foundation's obligation under Section 3.1 will be limited to the coverage(s) afforded by such policy or policies of insurance.
- E. Acceptability of Insurers. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-VII.

SECTION 5. GENERAL LICENSE TO THE FOUNDATION

5.1 The City hereby grants the Foundation, its directors, officers, employees, contractors, subcontractors and consultants a nonexclusive license to enter upon and use the Art Center facilities in connection with the Foundation's execution of its individual and/or joint responsibilities established by the Art Center Plan, including, but not limited to, organizing small group meetings and large group/community meetings and events, such as fundraising events, programs, and tours of the Art Center facilities, and using the office space provided to the Foundation, at no cost to the Foundation, under a license to use the Art Center's facilities in connection with the exercise of its rights and responsibilities under this MOU. The City will not revoke this license while this MOU remains in effect. Any use of the Art Center facilities by the Foundation will be approved by the Manager in regards to program scheduling, space availability, and the functionality of shared Art Center spaces for staff use. The City will provide to the employees of the Foundation security card access to the Art Center premises as licenses. These licenses may be revoked only for cause by the City; any additional cards will be approved by the Manager, upon request, in writing.

SECTION 6. WAIVER

6.1 The waiver by either Party of any breach or violation of any covenant, term, or condition of this MOU or of the provisions of the Palo Alto Municipal Code or other City law, rule or regulation, will not be deemed to be a waiver of any such covenant, term, condition, or provision or of any subsequent breach or violation of the same or any other covenant, term, condition, or provision. The subsequent acceptance by either Party of any consideration which may become due or payable hereunder will not be deemed to be a waiver of any preceding breach or violation by the other Party.

SECTION 7. ASSIGNMENT

7.1 Neither Party may assign, transfer, or convey this MOU or any interest that it may have in this MOU without the other Party's express consent or approval. Any attempted assignment by a Party without the required consent or approval of the other Party will be void and will confer no right, title, or interest in this MOU, or part thereof. In the event of an unauthorized assignment, at the option of the Party not making the assignment, this MOU may be terminated upon reasonable notice to the Party making the assignment.

SECTION 8. INDEPENDENT CONTRACTOR

8.1 In the exercise of its rights and responsibilities under this MOU, each Party acts at all times as an independent contractor and not as an employee of the other Party. Nothing in this MOU will be construed to establish a partnership, joint venture, group, pool, syndicate or agency between or among the Parties. No provision contained herein will be construed as authorizing or empowering any Party to assume or create any obligation or responsibility whatsoever, express or implied, on behalf, or in the name of, the other Party in any manner, or to make any representation, warranty or commitment on behalf of the other Party. In no event will either Party be liable for (a) any loss incurred by the other Party in the course of its performance hereunder, or (b) any debts, obligations or liabilities of the other Party, whether due or to become due.

SECTION 9. NOTICES

9.1 Any notice, request, consent or approval by a Party that is required to be furnished by this MOU, will be given, in writing, and delivered by personal service, the United States Postal Service, mailed, first class, postage prepaid, or by facsimile transmission, to the following:

To CITY: City Clerk
City of Palo Alto
P.O. Box 10250

Copy to: Manager, Art Center
City of Palo Alto
P.O. Box 10250
Palo Alto, CA 94303

TO FOUNDATION: President
Palo Alto Art Center Foundation
1313 Newell Road
Palo Alto, CA 94303

SECTION 10. MISCELLANEOUS

10.1 This MOU will be governed by and construed in accordance with the laws of the State of California, the Charter of the City of Palo Alto and the Palo Alto Municipal Code. The Parties will comply with all applicable federal, state and local laws in the exercise of their rights and the performance of their obligations under this MOU.

10.2 All covenants, terms, conditions, and provisions of this MOU, whether covenants or conditions, will be deemed to be both covenants and conditions.

10.3 This MOU represents the entire agreement between the Parties and supersedes all prior negotiations, representations and contracts, written or oral. This MOU may be amended by an instrument, in writing, signed by the Parties. This MOU may be executed in any number of

counterparts, each of which will be an original, but all of which together will constitute one and the same instrument.

10.4 The Parties agree that the normal rule of construction to the effect that any ambiguity is to be resolved against the drafting party will not be employed in the interpretation of this MOU or any exhibit or amendment thereto.

10.6 In the event that an action is brought, the Parties agree that trial of such action will be vested exclusively in the state courts of California or in the United States District Court for the Northern District of California in the County of Santa Clara, State of California.

10.7 The prevailing Party in any action brought to enforce the provisions of this MOU may recover its reasonable costs and attorneys' fees expended in connection with that action.

10.8 If a court of competent jurisdiction finds or rules that any provision of this MOU or any exhibit or amendment thereto is void or unenforceable, the unaffected provisions of this MOU and any exhibit or amendment thereto will remain in full force and effect.

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IN WITNESS WHEREOF, the Parties by their duly authorized representatives have executed this MOU as of the Effective Date.

APPROVED AS TO FORM:

CITY OF PALO ALTO

Senior Asst. City Attorney

City Manager

APPROVED:

PALO ALTO ART CENTER FOUNDATION

Director of Administrative Services

President

Director of Community Services

POLICY AND PROCEDURES 1-25/MGR

REVISED: AUGUST 2007

PUBLIC/PRIVATE PARTNERSHIPS

POLICY STATEMENT

The City of Palo Alto encourages the formation of public/private partnerships for the benefits the community receives. For the purposes of this policy, “public/private” also encompasses “public/nonprofit” partnerships.

Definitions

Public/private partnership: A public/private partnership is an agreement between the City and a nonprofit or private organization to provide services or to assist in funding of public facilities and programs. Such partnerships may take various forms, including:

- Acceptance of or solicitation of service or facility proposals
- Facilitation of such proposals through the City's regulatory process
- Waiver of City General Fund fees to help reduce project costs.
- Contributions of City matching funds for construction of facilities to be owned and controlled or operated by the City.
- Provision of facilities to the private partner at no charge or at a subsidized rent.

Public/private partnerships typically fall into one of three categories: co-sponsorship, alliances or joint ventures.

Co-Sponsorships: This is the most common type of public/private partnership. An organization furthers the mission of the City by supporting a City activity or program in conjunction with pursuit of that organization’s own mission or program. Co-sponsorships can take the form of one-time events or annual agreements. Some examples of co-sponsorships include the Palo Alto Tennis Club use of City courts to provide a youth tennis program and American Youth Soccer Organization’s use of space in a City facility to train referees. Co-sponsorships are entered into by staff and normally have no or minimal financial impact.

Alliances: This type of public/private partnership involves organizations that have been created for the sole purpose of supporting a City program or an array of City programs. The organization does not expect to receive any direct financial benefit or to alter City policy and/or operations, but undertakes to work closely and cooperatively with staff to implement City goals. Alliance organizations include the Recreation Foundation, the Art Center Foundation (Project Look or Cultural Kaleidoscope), the Friends of the Children’s Theatre (the Magic Castle), the Library Foundation and the Friends of the Palo Alto Library (financial assistance with the renovation and expansion of the Children’s Library). Alliances are approved by the Council if there are any staffing or budgetary implications to the partnership.

POLICY AND PROCEDURES 1-25/MGR

REVISED: AUGUST 2007

Joint Ventures: This type of partnership involves organizations which have programs or missions independent of the City and involve the City entering into a contractual relationship with the public or nonprofit organization with both parties contributing to the partnership for their mutual benefit. Each joint venture is uniquely negotiated by the staff and approved by the City Council. Examples of Joint Ventures include TheatreWorks, Palo Alto Players and West Bay Opera's use of the Community Theatre and use of the former police station by older adult service provider, Avenidas.

PROCEDURES

Initiation of partnerships: Public/private partnerships may be initiated in one of three ways:

- By staff: Staff identifies an opportunity for such a partnership and undertakes an informal or formal request for proposal process to identify partners.
- By Council: The City Council directs staff to work with a private or nonprofit organization to develop such a partnership.
- By a private or nonprofit organization: An organization makes a partnership proposal to the staff or City.

City Manager Review: If the partnership proposal involves more than one City department, the City Manager's Office will appoint a team with representatives of all City departments who are stakeholders in the partnership proposal. The team will analyze the proposal and inform the City Manager of the resource implications of the proposal, including staffing and monetary commitments. This would include proposed fee waivers. If the proposal will require a re-ordering of department priorities that have already been approved by the Council in setting its annual priorities or in the budget process, Council approval will be required prior to commitment to the partnership. Council approval will also be required if the partnership requires a new or adjusted allocation of operating or capital funding. Note: Co-sponsorships usually only involve a single department and do not necessitate the formation of an interdepartmental committee, the involvement of the City Manager's Office or the approval of the City Council.

City-Initiated Partnerships: Such partnerships will be guided by existing policies and procedures governing purchasing and outsourcing, using "requests for proposals" and/or bid processes as the method of initiating a partnership. A City-initiated partnership may incorporate incentives including naming rights, waiver of non-enterprise fund building and planning fees, reduced lease rates, free use of space, subsidies, and staff resources. All incentives may be negotiated on a case-by-case basis.

POLICY AND PROCEDURES 1-25/MGR

REVISED: AUGUST 2007

Evaluation of Viability of Partnering Organization: Staff will provide the City Manager and/or City Council with its assessment of the viability of the proposed partnership, based on the partnering organization's possession of sound organizational, administrative and fiscal management, and its demonstrated experience to achieve and sustain project tasks, such as fundraising and building community support. For proposed facility improvement or expansion initiatives, the nonprofit or private organization should have the ability and commitment to make a substantial pledge to the project's cost.

Facilities Proposals:

- If a City facility is to be renovated, expanded or otherwise be directly affected by the partnership, the Infrastructure Management Plan will have to be adjusted appropriately.
- Long-term staffing, operational and maintenance costs must be identified in the proposal. The project's applicable costs and funding sources for furnishings, fixtures and equipment will be identified.
- The parties will negotiate the joint or separate financial responsibility for any project cost overruns on a project-by-project basis.
- Staff may recommend that any standard City processing or use fee authorized under the Municipal Fee Schedule, excluding fees and charges levied by City of Palo Alto Utilities or other City enterprise fund programs, should be waived as a condition of the City's participation. Waiver of fees may be granted by the Council and limited to those fees associated with a construction or capital improvement project which, upon its completion, results in a new or improved public facility, building or park, or some portion thereof, that will be solely owned or controlled by the City. In the event that only a portion of a construction or capital improvement project will result in a new or improved City facility, building or park, or portion thereof, then the Council may waive only that portion of any associated fee directly relating to the construction, improvement or enhancement of the City facility, building or park. As appropriate, the summary and recommendation in the report to the Council will include a staff recommendation on waiving fees which the Council can approve or reject.
- The City will determine whether the nonprofit or private organization shall use or may forego a formal or informal competitive selection process in the hiring of professionals who will perform the management, design and/or construction phases of the project. The City shall review and approve the requirements for and the performance of all phases of design, planning and construction work for the project.