



CITY OF PALO ALTO OFFICE OF THE CITY ATTORNEY

December 12, 2016

The Honorable City Council
Palo Alto, California

Approval of Amendment Number Four to the Palo Alto-Stanford Fire Protection Agreement With the Board of Trustees of the Leland Stanford Junior University Extending the Term to June 30, 2017 for an Additional Fee of \$4,841,415, and Approval of a Budget Amendment in the General Fund

Recommendation

Staff recommends the City Council

- 1) Approve the attached Fourth Amendment to the Palo Alto-Stanford Fire Protection Agreement with the Board of Trustees of the Leland Stanford Junior University (“Stanford”) in the amount of \$4,841,415 for the extended term of nine months through June 30, 2017; and
- 2) Amend the Fiscal Year 2017 Budget Appropriation Ordinance for the General Fund by:
 - a. Decreasing the Fire Department revenue estimate for Charges for Services by \$1,856,110; and
 - b. Decreasing the Non-Departmental Budget Uncertainty Reserve appropriation in the amount of \$1,856,110.

Background

The City of Palo Alto has provided fire protection services to Stanford University since 1976, when the City’s fire department and Stanford’s private fire protection company were consolidated. The City and Stanford entered into a fire services Agreement for a term of 50 years, providing however that either party may terminate the Agreement by providing written notice to the other party. The Agreement was amended in 1981 and restated in 2006 related to services provided to the Stanford Linear Accelerator (SLAC). In 2012, fire protection services to SLAC were transitioned from the City of Palo Alto to the Menlo Park Fire Protection District.

On October 8, 2013, Stanford notified the City that it was exercising its option to terminate the Agreement effective at least one year, and no more than two years, from the date of notice. Stanford subsequently solicited proposals from other fire protection service providers, but to date has not selected an alternative provider.

In January 2016, Stanford and Palo Alto agreed that Palo Alto would continue to provide fire services to Stanford through October 8, 2016, and would continue to negotiate for a new long term agreement to be effective thereafter.

Discussion

In 2016, representatives from the City and Stanford have met periodically to discuss alternative service and cost allocation models for current and future service requirements. While progress has been made, the parties have not yet reached agreement on a full set of terms and the proposed alternative service and cost models have not been implemented. The recommended Fourth Amendment (Exhibit A) will provide the time needed to complete negotiation of terms for a new Agreement. The amount recommended for this extension is based on this potential new cost allocation and staffing model.

Resource Impact

City and Stanford negotiators have agreed that the City will continue to provide fire protection services during the nine month extension for the fee of \$4,841,415. In agreeing to this fee, the parties have acknowledged that a new negotiated agreement could result in a different annual cost allocation to Stanford, and may involve reconciliation of payments made by Stanford since discontinuance of the City of Palo Alto providing fire protection services to SLAC.

The current fiscal year 2017 budget anticipates a higher revenue from Stanford equal to \$8.1 million. Since the contract extension is effective Oct. 9, 2016, the revenue loss for Fiscal Year 2017 is approximately \$1.9 million for a revised estimate of \$6.2 million. This estimate reflects the final quarter payment of the prior amendment #3 contract extension as well as this 9 month contract extension for the full July 1, 2016 through June 30, 2017 fiscal year.

In order to reflect the lower revenues during the nine months that the Fourth Amendment will be effective, the Fire Department is developing an alternative staffing strategy that is expected to maintain response performance while reducing expenses. The City is meeting and conferring with the International Association of Fire Fighters, Local 1319 regarding impacts of the alternative staffing strategy.

Staff anticipates bringing forward for City Council consideration staffing reductions to offset the revenue loss as part of the Fiscal Year 2018 budget process. In the meantime, the Fire Department will continue holding a number of sworn positions vacant. To address the revenue loss for Fiscal Year 2017, staff recommends a reduction in revenue of \$1,856,110 offset with a reduction to the Budget Uncertainty Reserve reducing the reserve from \$2.0 million to \$143,890. This one-time reserve was set aside to provide transition time for known uncertainties during the development of the FY2017 budget in the anticipation that ongoing solutions be identified and brought forward during the FY 2018 budget process as noted above.

Policy Implications

The recommended Fourth Amendment will provide time for the City and Stanford to reach mutually agreeable terms for the continued provision of fire protection services into the future. The current Agreement has demonstrated the efficiency and mutual benefit to both agencies gained by integrated services on campus and throughout the City; therefore, approval of the Amendment is in the City's best interest to complete negotiations and establish a new long term agreement.

ATTACHMENTS:

- Exhibit A: Fire Contract Amendment No 4 (PDF)

Department Head: Molly Stump, City Attorney

**FOURTH AMENDMENT TO PALO ALTO-STANFORD FIRE
PROTECTION AGREEMENT**

This Fourth Amendment to the Palo Alto-Stanford Fire Protection Agreement is entered into this _____, 2016, between the BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY ("Stanford"), a body having corporate powers under the laws of the State of California, and the CITY OF PALO ALTO ("Palo Alto"), a municipal corporation duly organized and existing under and by virtue of the laws of the State of California.

RECITALS

A. Stanford and Palo Alto agreed for Palo Alto to provide fire protection services for the Stanford Campus for a term of fifty years and entered into the "Palo Alto-Stanford Fire Protection Agreement" dated October 1, 1976, as amended on September 1, 1980 and June 26, 2006 ("Agreement").

B. In 2012, the parties agreed that Palo Alto would no longer provide fire protection service to the Stanford Linear Accelerator Center ("SLAC").

C. In 2013, Stanford notified Palo Alto that it intended to terminate the Agreement. Under the terms of the Agreement and the notice of termination, the effective termination date was October 8, 2015.

D. In January 2016, Stanford and Palo Alto further amended the Agreement to provide that Palo Alto would continue to provide fire services to Stanford continuously through and including October 8, 2016, for a fixed fee ("Third Amendment"). The parties acknowledged that "Section 2: Services" and Exhibit B of the Agreement contain terms that may be inconsistent with the parties' interpretation and performance of the contract, including but not limited to: Palo Alto does not operate and Stanford does not maintain a fire station at SLAC; staffing, equipment configurations, response times and response resources have been updated consistent with service levels provided within the City of Palo Alto; and fire prevention services are no longer provided. The parties acknowledged that they were negotiating for a new agreement to be effective beginning October 9, 2016, and intended to update these and other terms as part of that process. The parties confirmed their intention to maintain the status quo of services at Stanford that are substantially equivalent to those provided within the City of Palo Alto.

E. The parties now wish to further amend the Agreement through this Fourth Amendment to provide for an additional temporary extension of services under terms described herein. During the extension period, it is the parties intention to negotiate the terms of a long term agreement to provide fire services.

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Fourth Amendment, the parties agree to amend the Agreement, as modified by

the Third Amendment, as follows. Except as amended, the Agreement, as modified by the Third Amendment, shall remain in full force and effect:

SECTION 1. Article 1 is amended by adding Section 1.2.2 to read as follows:

“Article 1: Operative Date and Termination

1.2.2 October 9, 2016 through June 30, 2017.

Notwithstanding any notices of termination issued under the Agreement, the parties agree that the Agreement shall remain in force and effect through and including June 30, 2017. Unless extended by mutual agreement of the parties, the Agreement shall terminate at the close of business on June 30, 2017.

SECTION 2. Article 3 is amended by adding Section 3.13 to read as follows:

“Article 3: Funding

3.13 Fees for Fire Services from October 9, 2016 through June 30, 2017.

(a) Notwithstanding the terms of any other Section of this Article, including but not limited to Sections 3.2, 3.3, 3.4, 3.5, 3.6, and 3.8, the parties agree that Stanford will pay Palo Alto a fixed fee of \$4,841,415 (four million eight hundred forty-one thousand four hundred fifteen dollars) for the services described in this Agreement for the period October 9, 2016 through June 30, 2017, less revenue received for medical transport generated from calls for service on the Stanford campus. This fee includes all costs and revenues for the identified period, including but not limited to personnel, vehicles, capital costs, IT and revenue credits.

(b) For the extension period beginning October 9, 2016 and ending June 30, 2017, Stanford shall pay Palo Alto the fee for fire service in three equal installments, each installment to be paid by the 10th day following the payment date below or by the 10th day following Stanford's receipt of an invoice for the payment, whichever is later. The payment dates shall be as follows, unless revised in writing by Palo Alto and Stanford:

First payment	January 1, 2017
Second payment	March 31, 2017
Third payment	June 30, 2017

Payments shall be delivered to:
Administrative Services Director
250 Hamilton Avenue
Palo Alto, California 94301

(c) If Stanford shall fail to pay any sum to Palo Alto when due, then such late payment shall accrue interest on a daily basis at the rate equal to the current annualized yield earned by the City's investment Portfolio for the prior fiscal quarter, until fully paid.

(d) This Fourth Amendment is based on the actual cost of providing services under a staffing model designed and intended to reduce the costs of providing services while maintaining service standards. Stanford and Palo Alto have agreed that the reduced-cost staffing model is appropriate at Station 6. As of the date of approval of this Fourth Amendment, however, the proposed staffing model has not yet been implemented pending procedural prerequisites imposed by the Meyers Miliias Brown Act. Stanford and Palo Alto have agreed to the fixed fee in Section 3.13(a) for the period October 9, 2016 through June 30, 2017, provided that if the parties later agree or a judge or other adjudicative official orders that Palo Alto should pay Stanford money to resolve Stanford's claim for over charges in prior years, the parties agree to credit against any funds due the difference between Palo Alto's costs during the period of this Fourth Amendment, based on actual staffing and apparatus compliments, and the contract payments in Section 3.13(a). Palo Alto will track and report, on each invoice, the difference between its costs and the contract payments in Section 3.13(a).

SECTION 3. Except as herein modified, all other provisions of the Agreement, including any exhibits and the Third Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have by their duly authorized representatives executed this Amendment on the date first above written.

CITY OF PALO ALTO

THE BOARD OF TRUSTEES OF THE
LELAND STANFORD JR. UNIVERSITY

James R. Keene, Jr.
City Manager

By: _____
Debra Zumwalt
Vice President and General Counsel

Eric Nickel
Palo Alto Fire Chief

APPROVED AS TO FORM:

Molly S. Stump
City Attorney

