

Memorandum of Understanding

Between

CITY OF HAYWARD
(CITY)

And

COUNTY OF ALAMEDA
(COUNTY)

And

HAYWARD AREA RECREATION AND PARK DISTRICT
(HARD)

RECOGNITION

On the ___th day of _____, 2016, authorized representatives of City of Hayward (CITY), County of Alameda (COUNTY) and Hayward Area Recreation and Park District (HARD) (and collectively, "Parties") made and entered into this Memorandum of Understanding.

RECITALS

WHEREAS, the Parties mutually recognize the South Hayward community's need for a youth and family center; and

WHEREAS, the Parties desire to work together to plan, finance, construct, and operate a new youth and family center to be called the "South Hayward Youth and Family Services Center"; and

WHEREAS, the South Hayward Youth and Family Services Center development project (Project) is in need of multi-agency governance during ~~Phase I~~ all three phases of the Project's development; and

WHEREAS, the CITY, the COUNTY and HARD are committed to working together to determine jurisdictional authority of the project, the identification of immediate and long-term resources for the project, and how to ensure that the project enhances and integrates with existing services in the areas; and

WHEREAS, the areas being considered are within the boundaries of the CITY and as such the CITY maintains interest in ensuring effective and responsive services for the citizens; and

WHEREAS, the COUNTY is the deliverer and operator of similar centers elsewhere in Alameda County and as such brings expertise in the engagement of youth and families in decisions relevant to the Project; and

WHEREAS, the CITY is the owner of the Project property (“the Property”) and has primary jurisdictional authority over the site; and

WHEREAS, HARD is the partial owner of the Tennyson Park property adjacent to the Property and is the operator of the Matt Jimenez Community Center facility located on the Property; and

WHEREAS, the CITY, the COUNTY, and HARD recognize the need to partner and collaborate to oversee and direct the funding, design, and construction of a new South Hayward Youth and Family Services Center; and

WHEREAS, the CITY, the COUNTY, and HARD recognize that the formation of a Phase I Governance Group is of critical importance to the Project and to obtain the resources needed to complete and sustain it; and to ensure that the South Hayward Youth and Family Services Center successfully serves the Hayward community in conjunction with the existing Matt Jimenez Community Center, Tennyson Park, and Hayward Fire Station and Community Health Clinic; and

WHEREAS, the CITY, the COUNTY, and HARD have mutually agreed to form a Phase I Governance Group, comprised of authorized representatives from each agency, for the purposes of establishing and defining the aforesaid partnership and collaboration;

NOW THEREFORE, the CITY, the COUNTY, and HARD agree as follows:

AGREEMENT

(1) Term. This MOU shall become effective September 8, 2015, and shall remain in effect until the parties have negotiated and adopted a Phase II MOU or similar superseding agreement, or terminated in accordance with Article 6 of this MOU, ~~but in no case shall it continue any longer than the completion of the construction phase of the Project and/or after an operator for the Project has been selected, except by mutual agreement by all three partner agencies to continue the agreement beyond that benchmark.~~

(2) Governance: The ~~Phase I~~ Governing Group is required to maintain a high level of interagency coordination, expertise, focus, nimbleness, and commitment to intensive investment

of time and effort. To this end, the ~~Phase I~~ Governing Group will be comprised of one elected official and one senior staff member from each of the three primary stakeholder public agencies (the CITY, the COUNTY and HARD). Each agency will select its own representatives and shall notify the other partner agencies of its selections. These selections shall be made with the recognition that the ~~Governance~~ Governing Group thus formed could potentially evolve into a Joint Powers Authority (JPA) or similar governance agreement, if so needed and recommended by the Governance Governing Group ~~and to their the member~~ respective agencies for adoption, at a later date.

(3) Decision-making. It is the intent of the partnership to make decisions in a collaborative manner and by consensus, recognizing that support from each of the three jurisdictions is critical for the development of the project. ~~However, in the case of unresolvable disagreement, each of the three partner agencies shall have one vote and agrees to decision-making by a simple majority of votes cast. The decisions made by the Governing Group are advisory in nature, and shall not be binding on the parties unless and until approved by each party's governing body. It is the parties' intent that the decisions and recommendations of the Governing Group with respect to the scope of issues identified in Article 4 will be memorialized in an agreement or agreements to be presented for approval by each party's governing body after consensus is reached. To facilitate the continued work of the Governing Group, the parties may also elect to modify the terms of this MOU pursuant to Article 10, or execute a superseding MOU or similar agreement, as needed.~~

(4) Scope. The ~~Phase I~~ Governing Group shall be responsible for ~~for successfully guiding the overall Project and completing the Phase I scope as follows~~ deliberating, reaching agreement and making recommendations on the following issues during phases:

Phase I: Conceptual Program/Project Development

- a) Articulate the vision of the Project and ensure that all members of the Group are in alignment with the vision.
- b) Resolve fund development shortfalls and develop financing mechanisms for the construction phase of the Project.
- c) Clarify legal and legislative issues, formulate policy recommendations, and ~~initiate~~ identify governing actions needed to implement the Project.
- d) Define and finalize the Project requirements, including location, site footprint and ownership.
- e) Agree upon the types and scope of public services to be provided in the new facility.

Phase II: Construction Services Procurement and Plan of Finance for Construction and Operations

- a) Review and participate in RFP processes for selection of Bridging Architect, and Design Build entity.
- b) Develop a plan to secure sustainable operating funding for the facility and establish the governance and administrative structures to support facility operations and maintenance.

Phase III: Ongoing Operations and Governance

- a) Agree upon changes, if any, to the structure of the Governing Group in Phase III
- ~~e)b) Identify issues to be resolved by the parties during Phase III.~~
- ~~f) Provide guidance and recommendations to the agency designated to construct the Project on architectural design and preliminary design, award of contract, and construction phases.~~
- ~~g) Develop a plan to secure sustainable operating funding for the facility and establish the governance and administrative structures to support facility operations and maintenance.~~
- ~~h)c) The Governance Group will use an open and transparent selection process to identify a qualified operator for the new facility through the use of an open and transparent selection process.~~

(5) Advisory Task Force. ~~The During~~ Phase I, ~~the Governance~~ Group shall organize and convene an Advisory Task Force within sixty (60) days of the execution of this MOU. The Advisory Task Force shall be comprised of key South Hayward community stakeholders including residents, service organizations, service recipients, and business representatives. The Advisory Task Force shall:

- a) Build upon, but not duplicate, the voluminous community engagement work that has already been done for the Project.
- b) Advise the ~~Phase I~~ Governing Group on the types and scope of services to potentially be provided in the new facility, as indicated by the community engagement work referenced above.
- c) Advise and make recommendations to the ~~Phase I~~ Governing Group on service-related issues pertaining to the proposed South Hayward Youth and Family Services Center and adjacent related facilities including Matt Jimenez Community Center and Tennyson Park.

The Advisory Task Force shall be comprised of no more than fifteen (15) total members. ~~The Phase I Governance Group agencies (CITY, COUNTY, and HARD) shall~~ Each party may appoint up to five (5) members each to serve on the Advisory Task Force.

(6) Termination. Each party to this MOU can terminate its involvement- upon thirty (30) days' written notification to the other parties. In the event only one party terminates its involvement in accordance with this provision, the MOU shall remain in force and effect as

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between the remaining two parties. The MOU shall terminate upon two parties' exercise of the right to terminate in accordance with this provision or upon mutual agreement of all parties in writing. In no case shall this agreement continue any longer than the completion of the construction phase of the Project and/or after an operator for the new center has been selected, whichever comes later, except by mutual written agreement by all three parties to renew the MOU beyond that benchmark.

(7) Indemnification. The CITY, the COUNTY, and HARD agree to mutual indemnification as follows:

- a) CITY will indemnify, defend, protect and hold harmless COUNTY and HARD, their respective officers, agents, and employees, from and against any and all liability, damage, expense cause of action, suits claims, and judgments arising from injury to or death of persons or loss of or damage to personal property based on performance pursuant to this MOU, unless such liabilities and obligations have arisen by reason of the negligence of willful misconduct of COUNTY or HARD, their officers, agents and employees.
- b) COUNTY will indemnify, defend, protect and hold harmless the CITY and HARD, their respective officers, agents, and employees, from and against any and all liability, damage, expenses, causes of action, suits claims, and judgments arising from injury to or death of persons or loss of or damage to personal property based on performance pursuant to this MOU, unless such liabilities and obligations have arisen by reason of the negligence of willful misconduct of the CITY or HARD, their officers, agents and employees.
- c) HARD will indemnify, defend, protect and hold harmless the COUNTY and the CITY, their respective officers, agents, and employees, from and against any and all liability, damage, expense causes of action, suits claims, and judgments arising from injury to or death of persons or loss of or damage to personal property based on performance pursuant to this MOU, unless such liabilities and obligations have arisen by reason of the negligence of willful misconduct of the COUNTY or the CITY, their officers, agents and employees.

(9) Accountability. The CITY, the COUNTY, and HARD shall collaboratively evaluate the success of the partnership and the facility on a regular schedule to be determined; and shall regularly and timely provide reports of the Project's progress to the governing bodies of their respective agencies.

(10) Amendments. This MOU may be amended and/or modified only by mutual agreement of all three parties, and any such amendments or modifications must be in writing and signed by duly authorized representatives of all three parties.

(11) Whole Agreement. This agreement-MOU has six (6) pages including the signature pages. This agreement-MOU constitutes the entire understanding and agreement of the parties. This agreement-MOU integrates all of the terms and conditions mentioned herein or incidental hereto with respect to all or part of the subject matter hereof.

(12) Counterparts. This MOU may be executed in counterpart.

IN WITNESS HEREOF, the parties hereto have entered into this agreement to be executed the day and year herein above first written.

CITY OF HAYWARD

By: _____ Date: _____
E. Frances David
City Manager

HAYWARD AREA RECREATION AND PARK DISTRICT

By: _____ Date: _____
John Gouveia
General Manager

COUNTY OF ALAMEDA

By: _____ Date: _____
Scott Haggerty
President, Board of Supervisors

Approved as to Form:

CITY OF HAYWARD

By: _____ Date: _____
Michael Lawson,
City Attorney

Attest:

CITY OF HAYWARD

By: _____ Date: _____
Miriam Lens,
City Clerk

Approved as to form:

COUNTY OF ALAMEDA

Donna R. Ziegler
County Counsel

By: _____ Date: _____
Deputy