



Memorandum

TO: NEIGHBORHOOD SERVICES
AND EDUCATION COMMITTEE

FROM: Albert Balagso

SUBJECT: SEE BELOW

DATE: March 26, 2008

Approved

Date

3-26-08

COUNCIL DISTRICT: City-wide

**SUBJECT: ADOPTION OF COUNCIL REUSE POLICY AND STATUS OF
COMMUNITY CENTER REUSE**

RECOMMENDATION

It is recommended that the Neighborhood Services & Education Committee recommend to City Council (1) adoption of the Community Center Reuse Policy; (2) direction to the Department of Parks, Recreation, and Neighborhood Services to oversee review and negotiation of Community Center Reuse property agreements; and (3) acceptance of the status of Community Center Reuse.

OUTCOME

City Council approval of the Community Center Reuse Policy (Reuse Policy) and acceptance of the status of Community Center Reuse will:

1. Implement a Reuse Policy (**Attachment I**), which will establish the policy of the City of San José and guidelines for the free use of Community Center Reuse sites by Santa Clara County-based nonprofits, neighborhood associations, school districts, and other government agencies or community service providers (collectively referred to as Service Providers) in exchange for services that primarily benefit San José residents;
2. Authorize the Parks, Recreation, and Neighborhood Services Department (PRNS) to oversee the review and negotiation of Community Center Reuse property agreements;
3. Provide an update of Community Center Reuse efforts since the 2007-2008 Adopted Operating Budget; and
4. Authorize PRNS Staff to move forward with the Community Center Reuse effort.

EXECUTIVE SUMMARY

In the months since the City Council provided funding for a Community Center Reuse Property Management Team, staffing is in place, temporary users have been placed, an updated facility

conditions assessment was completed for the 17 sites on the Reuse list, and a Reuse Policy was drafted with input from internal and external stakeholders.

Staff has also completed the preliminary preparations to begin the solicitation, review, and selection of Service Providers and facility move-ins. However, Staff recommends that Council adopt a Reuse Policy that establishes clear rules before undertaking the selection and move-in process. Existing City policies address only the lease, rental, and surplus of City property or buildings. The City needs a new Reuse Policy to:

- ✓ Formalize the Council's direction of free Community Center Reuse programming space in return for services, and City assumes responsibility for routine facility maintenance, major systems repair, and normal utility use.
- ✓ Formalize existing and future Community Center Reuse property use agreements thereby reducing the City's exposure to liability, and define the criteria for use in those agreements.
- ✓ Establish a competitive and open Service Provider selection process.

This proposed Reuse Policy reflects the community and nonprofit perspectives, and focuses on the major themes and issues that most agree the City needs to take into consideration as it implements the Community Center Reuse Plan. There were many key components that the community and nonprofits sought in the Community Center Reuse Plan. The main themes, however, were the criteria of center usage and how to finance the center use (maintenance and operating costs). The recommended Reuse Policy addresses these issues.

BACKGROUND

For the past two years, PRNS Staff managed a Community Center Reuse process whose genesis was a budget proposal to reconcile the following three divergent realities:

1. An increased public demand and expectation for recreation services,
2. An approximate doubling of community center square footage resulting from the passage of the Measure P Bond in September 2000, and
3. Declining Community Services Division staffing levels (-49.7%) coupled with decreased operational revenues (-25%) since FY 2000-01.

In 2006, the City of San José found itself once more confronting the need for significant budget reductions after five consecutive years of structural deficits, both for existing programs and for new operating and maintenance costs that accompanied our *Decade of Investment* capital improvement program. On May 16, 2006, Staff submitted a cost-saving proposal to close older centers and concentrate reduced staff at newer facilities built with Measure P Bond funds. The community and nonprofit groups strongly opposed Staff's recommendation. The City Council directed Staff to conduct additional outreach to the community and nonprofit groups, and return with a recommendation that allows the City to maximize partnership opportunities with neighborhood associations and nonprofit groups that could competently provide needed services.

Staff conducted numerous citywide community Reuse meetings and focus groups. The Silicon Valley Council of Nonprofits also held a number of focus groups represented by over 85 nonprofit organizations. Subsequent City Council actions reduced the Reuse list to 17 from 35 original Reuse sites (**Attachment II**), and in the FY 2007-2008 Adopted Operating Budget, Council approved a funding solution that allowed the City to maintain operational lead and oversight of Reuse facilities, while community groups could individually provide services under contract with the City.

ANALYSIS

The proposed Reuse Policy establishes the City's policy and guidelines for the free use of programming space in return for services, the criteria used to manage free use of space, and outlines guidelines to help staff fulfill Council's direction to keep Community Center Reuse sites open and available to the community. The Reuse Policy builds on the key ingredients the community and nonprofit groups said they wanted in the City's Reuse plan, and ensures that Community Center Reuse property use agreements have reasonable terms and appropriate insurance language that serves Service Providers' interests while protecting the City.

Create New City Policy for Community Center Reuse

Existing City real estate, lease, and rental policies do not allow for the free use of City Reuse facilities in return for services offered to the community, nor do they provide for City financed building maintenance, major systems repair, and utility use costs.

City policies that govern the use of City-owned property or buildings provide for lease, rental, or disposition of surplus property. For example, Council Policy 7-1, the Below Market Rate Rental Lease Policy, provides for short and long-term leases and requires users to pay for all facility repairs, maintenance, and utilities. Other City policies, such as Council Policy 7-8, Long-Term Use of City Parklands for Private Enterprise Purposes and the Schedule of Fees for the Use of Parks and Recreational Facilities, provide for facility lease and rentals or establish fees and charges for specific types of uses and users.

The proposed Reuse Policy, in contrast to Policy 7-1, fulfills the City Council's direction to ensure community and nonprofit participation by paying for the cost of building maintenance, major systems repair, and utility use. The community clearly expressed the importance of City-funded maintenance and operating costs if the City expected nonprofit and community participation in the Community Center Reuse effort.

The proposed Reuse Policy also provides Council the option to add (or remove) a facility to the Reuse list, and authorizes the PRNS Director to remove a facility from the Reuse list, or require a different use of a facility in response to natural, technological, and human-caused disasters. This includes, for example, immediate use of a Community Center Reuse site to shelter displaced residents affected by such disasters.

Decrease City Liability Exposure & Service Provider Criteria

The proposed Reuse Policy formalizes property use agreements and defines the criteria for establishing agreements, including City liability and insurance protections.

When the Community Services Division began shifting staff and programs away from older, smaller neighborhood centers, the Division kept these older facilities open for existing users and other neighborhood organizations consistent with Council's direction not to let these sites "go dark." The short-term facility use form used to book these facilities is insufficient for Reuse. The proposed Reuse Policy would compel Service Providers to obtain insurance coverage required by the City, and meet their duty to indemnify and defend the City from its activities, employees, and independent contractors.

Reuse Policy Guidelines and Service Provider Criteria

The proposed Reuse Policy establishes clear rules for the free use of Community Center Reuse programming space in return for services offered to the community, City responsibility for maintenance, utility, and major system repair costs of Community Center Reuse facilities, and outlines Service Provider and property use criteria.

Subject to the availability of facility space, the proposed Reuse Policy assigns precedence to service proposals that support PRNS services, and secondary precedence to other health and human services, arts, cultural, and recreation uses. Staff can also consider needs defined during past community input sessions, and other factors such as special needs in the surrounding community, changing circumstances, and additional community services identified through future community input and City Staff review.

The proposed Reuse Policy authorizes the PRNS Director to enter into property use agreements for Community Center Reuse facilities with Service Providers who demonstrate to the Director that they will provide a minimum of needed free, low-cost, fee-for-service, sliding scale, or cost reimbursement programs, services, and activities that primarily benefit San José residents. This provision recognizes that nonprofit groups have various alternatives for providing free or low-cost services.

Initially, the term of each property use agreement will not be more than three (3) years, renewable thereafter. Since six existing Reuse sites are located on public parks, this three-year period is consistent with Article XVII, Section 1700 of the City Charter, which allows leases, permits, or licenses for buildings or structures situated on a park if the term of each use does not exceed three (3) years.

The proposed Reuse Policy authorizes the PRNS Director to extend property use agreements and to terminate property use agreements without requiring City Council approval. The Director, however, will provide administrative reports of Service Provider use to the City Council as appropriate.

Staff anticipates that Service Provider proposals will cover a wide range of uses from single meetings to requests for long-term and entire facility use. The *Service Provider Criteria* section in the proposed Reuse Policy specifies that the expected level of financial capability and expertise will increase with the Provider's proposed scope of services, activities, and the potential liability assumed by the Service Provider. Conversely, the expected level of information expected from Service Providers would decrease, for example, for single meeting type uses. The submission of key Service Provider background information will be required upon initial request of free use of space.

The proposed Reuse Policy further dictates that a Service Provider should have proof of federal nonprofit status as a 501(c)(3) corporation; adequate insurance coverage; demonstrated experience in providing the proposed services; and adequate financial resources before the City would consider awarding rights to program an entire Reuse facility.

The proposed Reuse Policy also clarifies that the PRNS Director can establish requirements for less formalized (smaller) organized groups that want to use facilities on an as-available basis for community meetings and similar activities. This less formalized process ensures the City doesn't burden smaller organized groups with overly cumbersome qualifying processes. The proposed Reuse Policy, however, requires less formalized groups have at least a minimal level of organization with adopted by-laws and governed by officers. The City may require an individual from the organization to be legally responsible before the City allows use of the facility. In such cases, because the legal liability could potentially be excessive for an individual, staff can provide information for obtaining routine meeting or special event commercial liability insurance coverage.

Competitive Selection Process

The proposed Reuse Policy authorizes the PRNS Director to solicit Service Providers through an open and competitive process. The competitive process will include a community evaluation panel to help Staff select Facility Reuse Service Providers. Several Community Reuse Advisory Task Force and SNI Project Advisory Committee (PAC) members have already volunteered to assist City Staff in the Service Provider selection process. With Council approval of the proposed Reuse Policy, Staff can proceed with the Service Provider selection process and target move-ins by September 1, 2008.

To ensure an open and fair process, staff anticipates that interested Service Providers will be afforded the opportunity to submit requests for facilities at regular intervals in alignment with Service Provider community panel evaluations. Initially, Service Provider community panel evaluations will occur on a quarterly basis. Staff will use the panel's evaluations to develop a pre-qualified list of Service Providers. The pre-qualified list will be used to assign Service Providers to facilities based on the type of space desired, space available, time availability, and services proposed.

COMMUNITY CENTER REUSE UPDATE

Since Council's Community Center Reuse budget appropriation, Staff began to carry out Council's Reuse direction as follows:

- ✓ The Community Center Reuse Property Management Team staff is in place.
- ✓ The Property Management Team finalized a Reuse Policy and completed the work needed for the Service Provider solicitation, review, and selection process.
- ✓ Staff matched nonprofit/neighborhood associations with appropriate reuse sites, and has facilitated their temporary use of space consistent with Council's direction not to let these sites "go dark." Approximately 20 organizations are now in place, on a temporary basis. These groups will be provided opportunities for continued use through an open proposal process.
- ✓ The Old Berryessa Library and Shirakawa Community Center were taken off the Reuse list and are available consistent with Council Policy 7-1. The Shirakawa Community Center will become available in 2010 after completion of the joint Library/Solari Community Center. A Request for Proposal process seeking a Provider for the Old Berryessa Library is currently underway

Next Steps

With approval of the Community Center Reuse Policy, staff will forge ahead with the proposed Reuse timeline as follows:

- ✓ **May-August, 2008**
Work together with a community panel to solicit, review, and select Community Center Reuse Site Service Providers.
- ✓ **September-December, 2008**
Develop, negotiate, and execute formal property use agreements, and hasten Community Center Reuse facility move-ins.
- ✓ **Fall 2008**
Provide a Staff report on the results of the Community Center Reuse selection process to the Neighborhood Services & Education Committee.

ALTERNATIVES

Alternative #1: Leave Community Center Reuse Sites as Operated Now – Not Recommended

The City Council could decide to leave Reuse sites operating as they are now. This alternative does not guarantee that nonprofit and neighborhood groups will continue to have access to Community Center Reuse facilities.

Alternative #2: Amend Council Policy 7-1 to Include Community Center Reuse – Not Recommended

City Council may choose to amend Council Policy 7-1 to include free use of space in return for services. Staff chose not to recommend this alternative because Policy 7-1, which is administered by the Department of Public Works, involves lease and rental of facilities and requires Service Providers to be responsible for all facility repairs and maintenance. The community and nonprofit groups indicated in past Council and community meetings that this provision was a major obstacle to their participation.

Alternative #3: Close Community Center Reuse Facilities – Not Recommended

Staff also considered closing the 17 Community Center Reuse facilities. The City Council and the community have clearly indicated they would like to see these Community Center Reuse facilities remain open, and for services to be provided out of these facilities.

EVALUATION AND FOLLOW-UP

Upon approval of the recommended Reuse Policy, PRNS Staff will undertake the solicitation, review, and selection of Service Providers. Staff will return to the Neighborhood Services & Education Committee in the fall of 2008 with a Staff report on the results of the Community Center Reuse selection process.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: Email and Website Posting)
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by Staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

The Public Outreach for this action included review and discussion of the Reuse Policy with the Community Center Reuse Advisory Task Force; Parks and Recreations Commission; Senior Advisory Commission; Senior Advisory Commission Housing Subcommittee; and meetings with representatives from the Silicon Valley Council of Nonprofits, Santa Clara County United Neighborhoods, SNI PAC, and school district representatives.

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Subject: Adoption of Community Center Reuse Policy

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The public hearing for the review of this item was posted on the City's Brown Act Board and the PRNS Community Center Reuse website. In addition, emails and postcards were sent to individuals that attended public hearings or were on the citywide Community Center Reuse interest list.

COORDINATION

This memorandum and policy development has been coordinated with the Office of the City Manager; City Manager's Budget Office, Office of the City Attorney, General Services Department; Human Resources Risk Management; Finance Department, and Department of Public Works.

COST IMPLICATIONS

Ongoing Personnel (\$476,269) and Operations/Maintenance (\$453,316) costs of \$929,585, for the 17 Community Center Reuse sites, are included in the FY 2007-2008 Adopted Operating Budget.

Funding needs for Building Systems and Americans with Disabilities Act improvements for the 17 Community Center Reuse sites will be brought forward to City Council, as capital resources are identified. (**Attachment III** is a detailed description of ADA and Building Systems costs.)

CEQA

CEQA: Not a project.


ALBERT BALAGSO
Director, Parks, Recreation
and Neighborhood Services

Encl.

For questions, please contact: ANGEL RIOS, DEPUTY DIRECTOR, at (408) 535-3576.

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TITLE

FREE USE OF COMMUNITY CENTER REUSE SITES IN EXCHANGE FOR SERVICES THAT PRIMARILY BENEFIT SAN JOSÉ RESIDENTS

BACKGROUND

In November of 2000, the voters of San José approved a \$228 million General Obligation Bond issuance known as “Measure P” to acquire property and construct improvements for parks, trails, and recreation facilities in San José. This bond measure which funds the renovation of various recreation amenities including nine community centers by 2010 will almost double the amount of community center square footage the Department of Parks, Recreation, and Neighborhood Services (PRNS) must manage with limited increases in Staff.

Consequently, the San Jose City Council approved a Community Center Reuse Plan that allows PRNS to vacate older, less-used community center facilities and centralize services, programs, and Staff at the newer, larger, more efficient centers built with Measure P funds, while maintaining community service priorities in vacated facilities.

This Community Center Reuse Policy allows Santa Clara County-based nonprofit, neighborhood associations, school districts, and other government agencies or community service providers (collectively referred to as Service Providers) to use PRNS recreation facilities designated as Community Center Reuse sites at no cost in exchange for services that primarily benefit San José residents.

PURPOSE

To establish the policy of the City of San José and communicate guidelines for the use of Community Center Reuse sites by Santa Clara County-based Service Providers at no charge in exchange for services that primarily benefit San José residents.

POLICY

Through this Community Center Reuse Policy, the City Council authorizes the PRNS Director to enter into property use agreements for Reuse Facilities with Service Providers who demonstrate to the Director that they will provide a minimum of needed free, low-cost, fee-for-service, sliding scale, or cost reimbursement programs, services, and activities that primarily benefit San José residents.

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In exchange for providing a minimum level of these services, the property use agreement shall not require the Service Provider to pay facility use fees (such as hourly room fees), and shall also provide that the City shall pay for the cost of routine building maintenance, major systems repair, and normal utility use for the facility.

The PRNS Director, through a Community Center Reuse Property Management Team or other such designated Staff, will manage community and Service Provider outreach for Community Center Reuse sites, the selection of Service Providers, enforcement of property use agreements, and facility operations management.

Before Staff makes a Community Center Reuse site available for use under this Community Center Reuse Policy, the City shall evaluate and approve the condition of the facility and shall make any initial repairs deemed appropriate prior to use, in the City’s sole discretion. If the PRNS Director determines the cost of repair or operation to be prohibitive, the Director may recommend to City Council the removal of a facility from the list of Community Center Reuse sites.

Service providers shall be selected through an open and competitive process with the goal to maximize the benefit to San José residents. Service Providers shall be selected on criteria evaluating the activities, programs, and services in a Community Center Reuse site that accomplish one or more of the following objectives and priorities:

- Services that support the PRNS Vision, Mission, and Core Services. The focus of the Department of Parks, Recreation, and Neighborhood Services is to provide City services, programs, and activities that include, but are not limited to, recreation, therapeutic, youth, and senior programs and services; programs, services, or activities that promote healthy lifestyles; early recreation childhood classes; after school activities; summer camps; meals for seniors; and youth intervention
- Provide quality low-cost, fee-for-service, sliding scale, or cost reimbursement programs, services, and activities that are complementary or in addition to services provided by City Staff
- Build relations between the public sector and the community
- Address emerging needs and improve programs to meet existing needs
- Foster and leverage support from volunteers and active communities

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Subject to the availability of facility space, the City Council hereby intends to support Service Providers without payment of facility use fees in exchange for community services that primarily benefit San José residents, in the following order of service priority:

- First Priority
Service Provider uses that directly support the Vision, Mission, and Core Services of Parks, Recreation, and Neighborhood Services or are complementary or in addition to services provided by City Staff.

- Second Priority
Service Provider uses that support the delivery of children and youth programs, health and human services, arts and cultural activities, and other areas.

See **Attachment I(a)** for a detailed description of community service uses.

MAJOR CONSIDERATIONS IN EVALUATING AND SELECTING SERVICE PROVIDERS

1. Initially, the term of each property use agreement will be not more than three (3) years, renewable thereafter, subject to the approval of the PRNS Director which may be withheld in the Director’s discretion. Since a number of Community Center Reuse sites are located on public parks, this three-year period is consistent with Article XVII, Section 1700 of the City Charter, which allows leases, permits, or licenses without a vote of the electorate for any building or structure situated on a park if the term of each such lease or permit does not exceed three (3) years.

2. The Service Provider must demonstrate that it can provide its own operational materials.

3. The Service Provider must demonstrate that it can maintain and replace all furniture, equipment, and fixtures that it supplies.

4. Service Providers who bring non-City resources for capital investment, operating funds, or both, used to further the public’s interest will be given greater consideration.

5. The PRNS Director, or his/her designee, is authorized to (i) competitively solicit potential Community Center Reuse Service Providers; (ii) to evaluate and select responses to the competitive process; to (iii) negotiate, execute, and extend property use agreements on the City’s behalf on terms consistent with this policy; and (iv) to terminate any property use agreement on the City’s behalf.

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6. The Service Provider shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government, including the Departments of Parks, Recreation and Neighborhood Services requirements for Background Check/ Fingerprinting for Employees/Volunteers and Tuberculosis (TB) testing.

7. The PRNS Director may request from City Council the removal of a facility from the Community Center Reuse list. The PRNS Director is authorized to require a different use of a facility in response to natural, technological, and human-caused disasters. This includes, for example, immediate use of a Community Center Reuse site to shelter displaced residents affected by such disasters.

8. The City Council, at any time, may add a facility or may remove a facility from the Community Center Reuse list if the Council determines such action is in the best interest of the City. Community Center Reuse site occupants shall be provided no less than a 90-day written notice to vacate the property. Such requests to add a facility to the Reuse list shall be referred to the City Manager, and it is the responsibility of the City Manager, as a first step, to obtain input, feedback, and report to the Neighborhood Services & Education Committee of the policy issues, workload impacts, cost implications, and other pertinent information associated with completing/addressing the addition of a facility to the Community Center Reuse list, before obtaining City Council approval.

Without limitation of any other policy, three City Council policies apply to facility use:

- Policy 7-1, Below Market Rate Rental Policy
- Policy 7-8, Long-Term Use of City Parklands for Private Enterprise Purposes
- Schedule of Fees for the Use of Parks and Recreational Facilities

The terms of use of Community Center Reuse sites pursuant to the Reuse Policy shall be the responsibility of the PRNS Director, shall supercede Council Policy 7-1, which directs the Public Works Department to provide oversight for review and negotiations of City-owned leases and or property use agreements; Policy 7-8, Long-Term Use of City Parklands for Private Enterprise Purposes, which establishes guidelines for City parklands use involving commercial or non-profit recreation and commercial or non-profit non-recreation; and shall also supercede any explicitly inconsistent provisions in the fees and charges established by the Schedule of Fees for the Use of Parks and Recreational Facilities.

PROPERTY CRITERIA

The Community Center Reuse sites considered to be used by qualified Service Providers will meet the following criteria:

1. The City Council has designated the recreation facility a Community Center Reuse site.

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2. The facility usage is significantly below capacity because the City does not intend to provide staffing and/or to fully program activities in the building in the immediate future, but the facility will be retained for a future public purpose.
3. It is anticipated that the date that future City programming of the facility would occur at or near full capacity is far enough into the future to justify an interim use.
4. An existing lease or sublease agreement, the source of funding used for the original acquisition, or any construction work on the facility or any financing related to the facility, does not preclude the facility or property from legally being occupied for the desired use.
5. The property or facilities are not scheduled to be surplus.

SERVICE PROVIDER CRITERIA

The expected level of financial capability and expertise of a Service Provider increases with that Provider’s proposed scope of services, activities, and the potential liability assumed by the Service Provider. A Service Provider should be incorporated or have other formal legal status; comply with the City’s insurance requirements as determined by the Risk Manager; demonstrated experience in providing the proposed services; and adequate financial resources before the City would consider awarding rights to program an entire Community Center Reuse site.

However, the City also desires to make Reuse sites available for scheduled use by less formally organized groups for community meetings and similar activities. The Director, through the PRNS Property Management Team or such other designated Staff, shall establish a process for less formally organized groups to submit requests for time in a Community Center Reuse site, which shall be reserved on an as-available basis, and subject to reasonable terms and conditions as established by the Director. These uses can include, for example, daytime and evening meetings, monthly meetings, and community events. The Director may establish other requirements for longer term uses.

Santa Clara County-based nonprofits, neighborhood associations, school districts, other government agencies, and other community service providers may operate or provide services at Reuse sites at no charge if they are selected by the Director after an open and competitive selection process, and have been determined as the entity offering the most beneficial level and type of services at the facility based on criteria outlined in this policy, and further provided that they meet the following qualifying criteria approved by City Council.

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1. Service Providers shall provide community services, either singly or through a written agreement with another community service provider that primarily benefit San Jose residents. “Community services” are to be defined broadly to include programs, services, and activities that align to the PRNS Mission, Vision, and Core Services; those services identified in **Attachment I(a)**; services identified during past Community Center Reuse public input sessions; and other services that may be identified in the future.

The Service Provider Community Center Reuse solicitation materials developed may prioritize the service needs for facilities in a manner different than those set forth above, as determined by the Director, based upon factors such as special needs in the surrounding community, changing circumstances, and additional community services identified through future community input and City Staff review.

2. Proof of 501 (c) (3) nonprofit status from the Internal Revenue Service or the California State Franchise Tax Office. A nonprofit organization may provide a letter indicating they are exempt under Internal Revenue Code 501(c)(3) or State Franchise Tax Code 23701(d), 23701(f), or 23701(w). (If the tax letter is for the national or state organization, the City needs proof that the local chapter is an affiliate.)
3. A copy of federal income tax returns if the Service Provider is required to file them.
4. If the Service Provider is not registered with the State, the Service Provider must have a constitution or by-laws that clearly state that the objectives of the organization are of a non-profit, non-commercial nature. The City may require an individual to be legally responsible before the City allows access to the Community Center Reuse site. City Staff may provide information for obtaining routine meeting or special event commercial group liability insurance coverage.
5. A Neighborhood Association must be an organized body with adopted by-laws and governed by Officers. The City may require an individual to be legally responsible before the City allows access to the Community Center Reuse site. City Staff may provide information for obtaining routine meeting or special event commercial liability insurance coverage.
6. Demonstrated capacity and financial capability to perform or deliver the desired services in a format determined by the Community Center Reuse Property Management Team.

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7. To initially request free use of space, the Service Provider must submit the following information in a format prescribed by the Community Center Reuse Property Management Team. The Service Provider’s expected level of filing requirements would increase or decrease with the Provider’s proposed scope of services and activities, and the potential liability assumed by the Service Provider.
 - a. The program's objective and a time frame for implementation, if applicable.
 - b. A profile of the clients served, including client residency information.
 - c. An outline of the program and proposed service(s) to be offered.
 - d. A copy of organization’s IRS Form 990, to include a contact person for the use of the Community Center Reuse site, organization chart, Board of Directors or Officers, their contact information, their role in the organization, and management and key staff, including their length of service.
 - e. A current certified financial audit including sources of funding and any constraints applied to funds.
 - f. Evidence of adequate public liability and property damage insurance for the Service Provider’s contents and/or other insurance as determined by the City's Risk Manager.
 - g. The City may review the Service Provider’s past performance under any other City programs or contracts including, but not limited to: CAP Grants, CDBG, and San José BEST.

8. The free use provided for in this Community Center Reuse Policy is not available for Service Providers engaged in political activities (excluding nonpartisan use for polling sites, voter registration, or voter education) or to religious organizations that would use the City’s premises to promote sectarian or religious purposes.

SERVICE PROVIDER SELECTION PROCESS

The PRNS Director is authorized to administratively solicit Service Providers through an open and competitive process, to generate facility use proposals, to thereafter select Service Providers and to negotiate and execute property use agreements consistent with this Reuse Policy. The PRNS Director is also authorized to extend property use agreements and to terminate property use agreements when deemed by the Director to be appropriate, without requiring City Council approval. The Director, however, may provide administrative reports from time to time to the City Council and the City Manager concerning Service Provider use of Community Center Reuse sites.

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The Community Center Reuse Property Management Team or such other Staff appointed by the Director will work to provide community input and participation in the evaluation of Service Provider’s proposals.

Requests for facility use in response to the selection process will be evaluated periodically. Staff will place Service Providers who successfully meet the Community Center Reuse Policy criteria on a pre-qualified Service Provider list, and will use the list to assign facilities based on the type of space desired, space available, time availability, and services proposed.

ANNUAL REPORTING REQUIREMENTS OF SERVICE PROVIDERS

The PRNS Director, through the Community Center Reuse Property Management Team or such other designated Staff, may request annual performance measurement data and/or program, service, or activity evaluation reports in a form and on such frequency as specified in the property use agreement. The Director may use the results of such annual performance reviews to determine a Service Provider’s continued occupancy.

TERMS OF OCCUPANCY

The PRNS Director will develop and modify from time to time, a property use agreement form for Community Center Reuse Service Providers in consultation with the City Attorney’s Office. The property use agreement will set forth the terms and conditions of the facility use for Community Center Reuse Service Providers. Nothing in these guidelines shall be construed to limit the terms specifically set forth in any agreement.

The terms and conditions of the property use agreement shall be determined by the PRNS Director but may include the following:

1. The provision of office supplies, operational materials, and the provision, maintenance, and replacement of furniture, equipment, and fixtures provided by the Service Provider shall be the responsibility of the Service Provider.
2. The provision, maintenance, and replacement of City-owned furniture, equipment, and fixtures based upon Normal Wear and Tear shall be the responsibility of the City.
3. Community Center Reuse sites shall be left in the same condition when vacated, as when the Service Provider moved in, allowing for Normal Wear and Tear. If improvements were made to the facility, the City may choose to keep the facility improvements. Normal Wear and Tear may include, but not be limited to faded paint; the natural wearing

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down of carpet or drapes because of normal use or aging; worn hinges on doors or locks; holes or dings in walls from missing door stops; broken plumbing pipes, unless damaged by the Service Provider; and central drain problems not caused by the Service Provider’s incorrect disposal of items.

4. If the Service Provider conducts a fee generating or fundraising event as defined by the City Fees and Charges Resolution, the Service Provider shall agree that all net proceeds from the event shall be used towards subsidizing or reducing costs of programs and services to the community from the facility, and may include acquiring equipment, supplies, and services that will enhance and/or expand services to the community.
5. Any changes in the type or level of services provided by the Service Provider may result in a re-evaluation of the property use terms.
6. The Service Provider shall provide all necessary proof of insurance coverages, which can be supplied by the provider and/or through an umbrella organization, as required by the City's Risk Manager prior to occupancy, during the term of property use agreement, and at renewal of the property use agreement.
7. The Service Provider shall not be entitled to relocation benefits as a result of its occupancy or removal from the Community Center Reuse site unless such benefits are required by law.
8. The Service Provider will be responsible for paying any possessory interest tax, which may be due because of the occupancy. Nonprofit groups may qualify for exemption from possessory interest taxes. For more information, please contact the Santa Clara County Assessor’s Office.
9. The PRNS Director, through the Community Center Reuse Property Management Team or such other designated Staff, shall reserve the right to establish and require a refundable cleaning/damage deposit not to exceed \$500 for the term of the property use agreement. The Director can establish the refundable cleaning deposit based upon the size of the facility, type of users and uses, past history of use, revised from time to time, and made available to the public.
10. Utilization of the Community Center Reuse site shall be for the exclusive use of the designated Service Provider(s). The Service Provider(s) shall not assign or transfer any interest in the Community Center Reuse site without the prior written consent of City.

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11. The Service Provider shall not be responsible for Community Center Reuse routine site building maintenance, major systems repair, and utilities including exterior grounds of the facility, except to provide building maintenance or to repair damage that is the result from the Service Provider’s excessive use or events.

The City will provide a minimum level of building maintenance service consisting of two days of custodial service per week. This includes servicing recycle stations, spot vacuuming and mopping, and restroom service. No direct custodial service will be applied to staff areas except recycle stations and restrooms. Routine repairs that are a result of normal wear and tear on the facility will also be completed.

Preventive maintenance consistent with the majority of other City facilities will also be included. Enhanced maintenance requested above the City’s minimum level of service may result in additional costs to the Service Provider. The Property Management Team may inspect the Community Center Reuse site from time to time to ensure that the facility is properly maintained.

The Service Provider shall hold the City harmless against claims if the City needs to temporarily shutdown the Community Center Reuse site to perform major system repairs, such as replacement of air conditioning systems.

12. No alterations or improvements, including capital improvements and installations of additional phone lines, T1 lines, and electrical lines shall be made to the Community Center Reuse site without the City’s prior written approval. If the City provides written approval, the Service Provider shall be responsible for obtaining all City permits through the City of San Jose, Public Works Department necessary for the construction of any alterations or improvements. Service Provider will be responsible for meeting all permit requirements at no cost to the City of San Jose.

13. The Service Provider will not be required to make any capital improvements. If capital improvements are required for the proposed use of a facility, the City, in its sole discretion, may elect to make such improvements, terminate further property use negotiations, or terminate the property use agreement.

If the Service Provider proposes to fund the capital improvements, the City may consider such requests. The City may review and consider all capital improvement requests pursuant to the City’s Capital Improvement Program process. Any obligation on the part of the City to expend funds shall be subject to appropriate City approvals and must be set forth in a written agreement and shall be subject to appropriation of funds by City Council, which shall be made in City’s sole discretion.

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14. Service Provider(s) shall cooperate if the City requires, prior to and during the term of the property use agreement, the submission of such additional information as may be reasonably requested by City.

TERMINATION

In addition to termination for cause, Community Center Reuse site property use agreements may be terminated by the PRNS Director or the Service Provider(s) at any time for any reason upon no less than a 90-day written notice. The PRNS Director is authorized to terminate a property use agreement sooner than 90 days in response to a declared City emergency.

Service Provider Guidelines

Service Providers shall be selected on criteria evaluating the activities, programs, and services in a Community Center Reuse site that accomplish one or more of the following priorities for meeting unmet needs in the City.

- First Priority

Service Provider uses that directly support the Vision, Mission, and Core Services of Parks, Recreation, and Neighborhood Services and provide quality, low-cost, fee-for-service, sliding scale, or cost reimbursement programs, services, and activities to the residents of San José that are complementary or in addition to services provided by City Staff.

- Second Priority

Service Provider uses that support the delivery children and youth programs, health and human services, arts and cultural activities, and other areas. The services listed below are not in order of priority.

- I. Developing Children and Youth

- Early Childhood and Preschool (School Readiness, Language, and Social Skills)
- Physical and Emotional Well Being
- Responsibility and Citizenship
- Career Aspirations and Support
- Promoting healthy lifestyles (tobacco prevention, health and fitness, and other activities)
- Building healthy social networks and cross generational connections (celebration of diversity and opportunities for cross-cultural connections within neighborhoods)
- Building the resiliency and protective assets of youth (help youth to develop the ability to recover quickly from setbacks and enable them to avoid risks to remain healthy and productive -- i.e., in school, home, and the community.)

- II. Assisting Seniors and Disabled

- Transportation
- Care Planning (Information and Referral)
- Recreation, Nutrition, and Fitness

- III. Counseling & Support

- Violence (Domestic Abuse and Gangs)
- Substance Abuse (Alcohol and Drugs)
- Immigration (Status, Language, Education, and Access)
- Grief (Trauma and Bereavement)

- IV. Access to Healthcare for Uninsured or Lower Income Individuals/Households

- Physical (Primary Care and Health Insurance)

- Mental (Adult and Family Mental Health)

Attachment I(a)

V. Enhancing Adult Living Skills

- Basic and Intermediate English
- Employment (Obtaining, Holding, and Advancement)
- Financial Management (Budgeting, Saving for Home, Education, and Retirement)
- Effective Parenting (Preschool, School Age, Preparing for Adulthood)
- Nutrition and Fitness (Diet, Exercise, Disease Prevention, Recreation)

VI. Neighborhood and Community Leadership and Capacity Building

- Nonprofit Organizations (Resident Representation in Governance, Planning and Delivery of Services, Capacity for Measuring Outcomes)
- Neighborhoods and Communities (Neighborhood Services Projects and Volunteer Opportunities)

VII. Neighborhood Appearance

- Anti -Litter
- Anti -Graffiti
- Neighborhood Beautification

VIII. Public Safety

- Community and Neighborhood Watch
- Gang Awareness, Prevention, Intervention

IX. Basic Human Needs for Lower Income Individuals or Households

- Shelter, both temporary and transitional
- Affordable Housing and Housing Assistance
- Food Meeting Basic Nutritional Needs
- Clothing To Meet Basic Needs for Clothing
- Dependent Care for Children, Elderly, Infirm, and Disabled

X. Environmental Benefit

- Environmental Awareness, Outreach and Education
- Recycling Programs and Sustainable Activities
- Watershed/Water Quality
- Air Quality and Urban Forest

XI. Arts, Culture, and Sports

- Arts, Culture, Sports, Entertainment, and Community Events
- Arts, Culture, and Sports Activities and Organizations
- Information Technology
- Multi-media (Text, Audio, Still Images, Animation, Video, Interactivity)
- Facilities Support

XII. Economic Development

- Local and Regional Economic Development Activities and Organizations
- Chambers of Commerce
- Workforce Training and Career Services
- Neighborhood Business Districts