

APPROVED 7-0



CITY OF HUNTINGTON BEACH REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: 4/16/2018
SUBMITTED TO: Honorable Mayor and City Council Members
SUBMITTED BY: Fred A. Wilson, City Manager
PREPARED BY: Robert Handy, Chief of Police
SUBJECT: Approve and authorize execution of a Memorandum of Understanding (MOU) between the City of Huntington Beach and Huntington Beach Police and Community Foundation (HBPCF)

Statement of Issue:

In 2015, the Huntington Beach Police and Community Foundation (HBPCF) was formed as an independent 501.c.(3) corporation to foster support for the Huntington Beach Police Department (HBPD), the employees of the HBPD, and the Huntington Beach community. As the purpose of the HBPCF is to support the police department and its mission, the attached operating agreement defines roles and responsibilities.

Financial Impact:

There is no direct financial impact to the City.

Recommended Action:

Approve and authorize the City Manager to execute the five-year "Memorandum of Understanding" between the City of Huntington Beach and Huntington Beach Police and Community Foundation (HBPCF).

Alternative Action(s):

Do not approve and direct staff accordingly.

Analysis:

In 2015, the HBPCF was created as an independent nonprofit to support the police department, police employees, and the mission of the police department in the community. The HBPCF was created after unsuccessful attempts to fund several activities such as an awards ceremony to honor employees and youth programs targeting at-risk children in Huntington Beach. The HBPCF raises money through corporate and individual donations to directly support the HBPD, HBPD employees, and programs in the community that help foster a safer Huntington Beach. The HBPCF is managed by a Board of Directors representing the greater Huntington Beach community. The HBPCF Board is governed by Articles of Incorporation and Bylaws which are registered with the State of California.

By approving the agreement, the City agrees to allow for minimal staff or resources not to exceed the benefit being provided to the Police Department by the HBPCF. The HBPCF agrees to maintain ex-officio board positions for the Police Chief and City Attorney, as well as other procedures, to ensure the City's interests are maintained.

Environmental Status:

Not applicable.

Strategic Plan Goal:

Enhance and maintain public safety

Attachment(s):

- 1) Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered, as of April 16, 2018, by and between HUNTINGTON BEACH POLICE AND COMMUNITY FOUNDATION (“HBPCF”), a California nonprofit corporation and the CITY OF HUNTINGTON BEACH, a municipal corporation, (“City”).

RECITALS

WHEREAS, HBPCF was incorporated for the purpose of assisting and promoting public safety in the City; and

Public safety in the City can be expanded with the assistance of private individuals and organizations; and

City and HBPCF desire to memorialize the terms and conditions whereby HBPCF proposes to provide minimal or limited resources to enhance the City’s public safety services; and

HBPCF is a duly incorporated California nonprofit corporation authorized by law to provide the services contemplated by this MOU,

NOW, THEREFORE, in consideration of the mutual terms and conditions in the MOU, City and HBPCF do hereby agree to the following:

1. TERM.

The term of this MOU shall commence on April 17, 2018 (the “Commencement Date”) and shall remain in effect unless and until terminated pursuant to the applicable terms hereof. This MOU shall automatically terminate five (5) years from the Commencement date, unless extended or sooner terminated as provided herein.

2. HBPCF’S RESPONSIBILITIES.

HBPCF shall solicit, receive, distribute and administer funds, donations or resources and grants of materials, services and funds, or assist in such efforts as directed by the City and with the prior approval of the HBPCF Board of Directors and the City Manager.

HBPCF will not solicit, receive, accept, or distribute any donations or grants in the name of the City and/or the Police Department, including utilizing official City or Departmental logos or images.

HBPCF shall administer funds provided to the HBPCF in accord with the grantee's intended future use, including enhancement of Police, Youth Programs, and Crime Prevention services.

3. CITY'S RESPONSIBILITIES.

- A. City at its sole discretion will provide limited City staff support to assist HBPCF in administering programs, including the temporary and occasional use of City office space, materials, equipment, postage and mail handling services. Use of City resources is on a limited basis and only to the extent that the resources are available. The City Manager shall determine the level of City resources to be allocated/utilized to the HBPCF.
- B. City shall have no duty or obligation of any kind to HBPCF, to HBPCF's employees, officers, agents, vendors or subcontractors, to provide compensation or funds resulting from or arising out of this MOU.

4. CONFLICT OF INTEREST.

HBPCF and its agents and employees shall comply with all applicable Federal, State, and City laws and regulations governing conflict of interest. HBPCF will make available to its agents and employees copies of all applicable Federal, State, and City laws and regulations governing financial disclosure and conflict of interest. HBPCF does not and will not perform services for any other entity which would create a conflict, whether monetary or otherwise.

5. RECORDS AND AUDIT.

- A. HBPCF shall keep in accordance with generally accepted accounting principles a full and complete record of all transactions in books of account and/or other records reflecting all transactions relating to the funds generated or transferred pursuant to this MOU.

- B. City shall have the right at all reasonable times during the term of this MOU and for a period of five (5) years after termination or expiration to examine, audit, inspect, review, extract information from, and copy all books, records, accounts, and other documents of HBPCF relating to the funds generated or transferred pursuant to this MOU. HBPCF shall make such books and records available for inspection by the City during regular business hours and HBPCF shall cooperate fully with the City and its representatives in any audit.

6. TERMINATION.

The City or HBPCF may terminate this MOU for any reason upon thirty (30) days' written notice. All operations under this MOU shall cease on and after the thirtieth (30th) day following written notice of termination, and City's obligations under this MOU shall cease on that date.

In the event that the City determines that the policies or programs of HBPCF conflict with the purposes of this MOU, City may immediately terminate this MOU, and HBPCF shall be entitled to no further services from City.

7. PROGRAM ADMINISTRATION.

This MOU will be administered by the HBPCF Board of Directors and the City Manager in consultation with the Police Department. HBPCF shall provide a representative to be available to City for consultation and assistance during the term of this MOU.

8. ASSIGNMENT.

This MOU, or any provision hereof or any right or obligation arising hereunder, is not assignable by either party in whole or in part, without the express written consent of the other party.

9. NONDISCRIMINATION AND CIVIL RIGHTS COMPLIANCE.

- A. HBPCF hereby certifies and agrees that it will comply with the Title VI of the Civil Rights Act of 1975, Title IX of the Education Amendments of 1972, where applicable, and Title 43, Part 17 of the Code of Federal Regulations, Subparts A and B, to the end that no persons shall, on the ground of race, creed, color, national origin, political affiliation, marital status, sex, age or handicap, be subjected to discrimination under the

privileges and use granted by this MOU or under any project, program or activity supported by this MOU.

- B. HBPCF certifies and agrees that all persons employed thereby, are and shall be treated equally without regard to or because of race, creed, color, national origin, political affiliation, marital status, sex, age or handicap and in compliance with all federal and state laws prohibiting discrimination in employment, including, but not limited to, the Federal Civil Rights Act of 1964; the Unruh Civil Rights Act; the Cartwright Act; and the State Fair Employment Practices Act.
- C. HBPCF certifies and agrees that subcontractors, bidders and vendors thereof are and shall be selected without regard to or because of race, creed, color, national origin, political affiliation, marital status, sex, sexual orientation, age or handicap.
- D. All employment records shall be open for inspection at any reasonable time during the term of this MOU for the purpose of verifying the practice of nondiscrimination by HBPCF in the areas heretofore described.
- E. If City finds that any of the above provisions have been violated, the same shall constitute a material breach of this MOU and the City may immediately terminate, or suspend this MOU.

10. POLITICAL ACTIVITIES.

Nothing contemplated in this MOU shall be for the purpose of promoting any political activities.

11. COMPLIANCE WITH LAWS.

HBPCF and City agree to be bound by all applicable Federal, State and City laws, ordinance, and directives insofar as they pertain to the performance of this MOU.

12. GOVERNING LAW.

This MOU shall be construed in accordance with the governed by the laws of the State of California.

13. SEVERABILITY.

The invalidity in whole or in part of any provision of this MOU shall not void or affect the validity of any other provision.

14. NOTICE.

Any notice or notices required or permitted to be given pursuant to this MOU may be personally served on the other party by the party giving such notice, or may be served by certified mail, postage prepaid, return receipt requested.

All notices to City shall be sent addressed to the following:

Chief of Police
Huntington Beach Police Department
2000 Main St., PO Box 70
Huntington Beach, California 92648

All notices to HBPCF shall be sent addressed to the following:

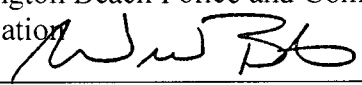
President of the Board
P.O. Box 4538
Huntington Beach, California 92648

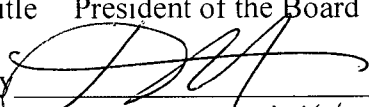
15. MISCELLANEOUS.

- A. This MOU shall not be amended nor any provision or default waived except in writing signed by the parties.
- B. This MOU constitutes the entire understanding between parties and supersedes all other MOUs, oral or written, with respect to the subject matter herein.
- C. This MOU is not intended to and shall not be construed to create a principal-agent relationship between the City and HBPCF and HBPCF shall not hold itself out as an agent of the City or its Police Department. This MOU is not intended to and shall not be construed to create a partnership, joint venture or any other relationship between the parties.

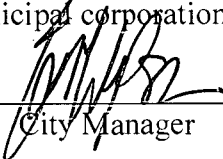
(SIGNATURES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, HBPCF hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

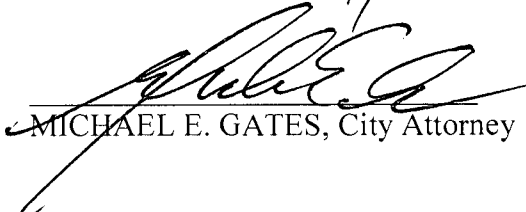
April 11, 2018
Huntington Beach Police and Community Foundation
By 
Name WILLIAM BLAIR

APRIL 11, 2018
Title President of the Board
By 
Name JOHN ETHERIDGE
Title Secretary

“Foundation”:
(SIGNATURES CONTINUED)
_____, 2018

“City”
CITY OF HUNTINGTON BEACH,
a municipal corporation
By 
City Manager

This MOU is approved as to form on
9/11, 2018.


MICHAEL E. GATES, City Attorney



City of Huntington Beach

2000 Main Street ♦ Huntington Beach, CA 92648

(714) 536-5227 ♦ www.huntingtonbeachca.gov

Office of the City Clerk
Robin Estanislau, City Clerk

April 18, 2018

President of the Board
Huntington Beach Police and Community Foundation
P.O. Box 4538
Huntington Beach, California 92648

Dear Mr./Ms. President:

Enclosed is a fully executed copy of the "Memorandum of Understanding Between the Huntington Beach Police and Community Foundation and the City of Huntington Beach."

Sincerely,

Robin Estanislau, CMC
City Clerk

RE:ds

Enclosure

Sister Cities: Anjo, Japan ♦ Waitakere, New Zealand