

STAFF REPORT



ITEM NO. 14
CITY OF OCEANSIDE

DATE: June 20, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Neighborhood Services Department

SUBJECT: **APPROVAL OF AMENDMENT 1 IN THE AMOUNT OF \$83,821 TO THE MEMORANDUM OF UNDERSTANDING WITH THE VISTA COMMUNITY CLINIC FOR THE OPERATION OF THE Jr. REACH PROGRAM, AND TO ADD THE OPERATION OF THE REACH PROGRAM**

SYNOPSIS

Staff recommends that the City Council approve Amendment 1 in the amount of \$83,821 to the Memorandum of Understanding between the City of Oceanside and the Vista Community Clinic for the operation of the Jr. REACH program, to add the operation of the REACH program at the Libby Lake Community Center, and authorize the City Manager to execute the amendment.

BACKGROUND

The Vista Community Clinic has provided youth and teen programming for the past five years in City facilities. Currently Vista Community Clinic operates REACH and Jr. REACH in Oceanside City facilities. REACH is run through the Libby Lake Resource Center and Jr. REACH operates out of the John Landes Recreation Center and the Joe Balderrama Recreation Center. The programs are well established within the community, serving an estimated 200 Oceanside youth and teens annually. The programs provide a safe space to recreate after school. Both programs provide homework assistance, sports and educational speakers, as well as exposure to cultural arts.

In September of 2006 the City and Vista Community Clinic entered into a Memorandum of Understanding to define the terms of the services. (Attachment 1, MOU). All three sites have experienced a gap in program funding due to recent Federal funding cuts. They are no longer able to cover programmatic and personnel costs beginning on July 1, 2007. Federal funds are not estimated to be appropriated until late fall of 2007. This will substantially limit the service that the programs will be able to provide during the summer months and in the first semester of the 2007-08 school-year. The City is not

able to provide the services in the absence of the Clinic programming; therefore, staff recommends amending the Memorandum of Understanding to include the REACH program and to issue a one-time payment to sustain programming through September 30, 2007. (Attachment 2, amendment).

ANALYSIS

In the 2006-08 budget, \$175,000 of Recreation Programs funding was allocated for a Youth Development Initiative project. The intent was to use the money to provide preventive recreational activities for youth school-age through high school to reduce their participation in gang-related activities. The Jr. REACH and REACH programs are designed with a curriculum that promotes positive alternatives to gang and gang-related involvement. Staff recommends a one-time payment of \$83,821 from the Recreation Programs fund to Vista Community Clinic to cover the costs of the Jr. REACH and REACH programs.

FISCAL IMPACT

Vista Community Clinic estimates that the gap in funding need is \$83,821. There is no impact to the General Fund. The funds will be allocated out of Fund 108, Recreation Programs, as approved in the FY 2006-08 budget process.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve Amendment 1 in the amount of \$83,821 to the Memorandum of Understanding between the City of Oceanside and the Vista Community Clinic for the operation of the Jr. REACH program, to add the operation of the REACH program at the Libby Lake Community Center, and authorize the City Manager to execute the amendment.

PREPARED BY:



Shannon Sellinger
Senior Management Analyst

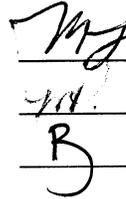
SUBMITTED BY:



Peter A. Weiss
Interim City Manager

REVIEWED BY:

Michelle Skaggs-Lawrence, Deputy City Manager
Margery Pierce, Neighborhood Services Director
Paul Bussey, Interim Financial Services Director



Attachments:

- 1 – Memorandum of Understanding
- 2- Amendment 1 to the Memorandum of Understanding

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE CITY OF OCEANSIDE
AND
THE VISTA COMMUNITY CLINIC**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into this _____ day of _____, 2006, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY" and the VISTA COMMUNITY CLINIC, A 501(C) (3) corporation, hereinafter designated as "CLINIC."

RECITALS

WHEREAS, CITY is a general law city organized under the laws of the State of California; and

WHEREAS, CLINIC is a non-profit organization qualified for exempt status under Section 501(c)(3) of the Internal Revenue Code in the preceding tax year; and

WHEREAS, the joint sponsorship of youth recreational and out-reach programs positively utilizes recreational areas; and

WHEREAS, it is the desire of the CITY and the CLINIC to provide an after-school program that will provide a safe, fun and healthy environment for youth; and

WHEREAS, in furtherance of the desires and intentions of the parties, the CITY and the CLINIC will collaborate in the implementation of the Jr. Recreation, Employment Readiness, Academic Achievement, Communication Skills, and Healthy Lifestyles (Jr. REACH) program; and

WHEREAS, it is the desire of the CITY and the CLINIC to enter into this MOU for the purpose of negotiating the parameters, terms and conditions for an agreement regarding the Jr. REACH program;

NOW THEREFORE, the CITY and the CLINIC agree to cooperate with each other as follows:

1. **Term of Agreement.** The term of this MOU for the Jr. REACH program shall be from the date of execution to June 30, 2011. The term may be extended for an additional period, not to exceed one year, provided that written notice from the CLINIC is received by CITY no later than ninety (90) days prior to the expiration of the term of this MOU. City understands that the Jr. REACH program operations are dependent on the receipt of grant funds on an annual basis. This agreement may be terminated by either party with thirty (30) days notice by written notice to the contacts designated below. This MOU may be re-opened for negotiation upon the written consent of both parties with thirty (30) days notice.

2. **Scope of Work.** The CITY and CLINIC agree to cooperate, negotiate and collaborate in good faith to implement a youth after-school and summer program called Jr. REACH. The CITY and CLINIC agree that this MOU overrides any and all previous agreements made between CITY and CLINIC, either written or verbal, related to the subject matter of this MOU.

- A. **Location and Duration.** The CITY will provide facility-dedicated space at no cost to CLINIC at the John Landes Recreation Center, 2855 Cedar Road and the Joe Balderrama Recreation Center, 709 San Diego Street as follows:

John Landes Recreation Center: The all-purpose room as shown in Exhibit A will be exclusive to CLINIC during program hours. Program hours from September through mid-June will be 2:00 pm to 5:30 pm daily. Program hours from mid-June through August will be 1:00 pm to 5:00 pm daily.

Joe Balderrama Recreation Center: The auditorium and stage as shown in Exhibit B will be exclusive to CLINIC during program hours. Additional auditorium space can be used by CLINIC if not already programmed by CITY and CITY will provide CLINIC a two-week program calendar for the space. Program hours from September through mid-June will be 2:00 pm to 5:30 pm on Tuesdays, Thursdays and Fridays and 1:00 pm to 5:30 pm on Mondays and Wednesdays. Program hours from mid-June through August will be 12:00 pm to 4:00 pm daily.

City will provide both facilities with a lockable closet space for CLINIC storage at all times. Additional facility space and/or schedule time beyond the above identified exclusive space and time can be utilized for purposes such as program preparation, family nights or parent conferences can be scheduled on an as-needed or regularly-scheduled basis, with a minimum of two weeks advance notice to the Recreation Supervisor of the respective facility.

- B. **Eligibility.** The program will be open to any youth regardless of race, ethnicity, color, gender, national origin, religion, disability or socio-economic background. Youth between the ages of nine (9) and twelve (12) years of age shall be permitted to participate in the program.
- C. **Cost.** The CITY and CLINIC agree that the services of the Jr. REACH program will be at no cost to the participants, except for a facility registration fee of fifteen dollars (\$15.00) per participant every six months, payable to the CITY. Scholarships funded by the CITY are available for any qualifying youth wishing to join the center. The CLINIC will cover program cost, including, but not limited to, program materials, instructors, a daily snack, and homework assistance.
- D. **Program Implementation.** The CLINIC will plan, develop, coordinate and implement all activities and programs that will occur at the John Landes and Joe Balderrama Recreation Centers for the Jr. Reach Program. Such activities will include, but are not limited to, homework assistance, arts and crafts, sports, goal setting, and decision-making skills. The CLINIC will provide the CITY with a roster of participants and proper program documentation. The CLINIC will ensure that all children are properly supervised with an adult to child ratio of 1:15. The CLINIC will meet monthly with the respective Recreation Supervisor to

discuss program progress on such issues such as recruitment, enrollment, participant behavior and/or facility use. The CITY and the CLINIC will work together to ensure that the Jr. REACH program operates in a safe, fun and healthy environment free of tobacco, alcohol, drugs, violence, and discrimination. The CLINIC will have all employees/volunteers associated with the Jr. Reach Program fingerprinted and run background checks on them. The CLINIC agrees to comply with all facility rules and regulations as well as all applicable Local, State and Federal laws.

- E. **Publicity.** The CLINIC as a non-profit agency, will name the CITY as a co-sponsor for the Jr. REACH program in all promotions, marketing and publicity that it creates on behalf of the Jr. REACH program. The CITY will list the Jr. REACH program in the Oceanside quarterly magazine. All additional publicity for the program will be the responsibility of the CLINIC.
- F. **Maintenance and Condition of Premises.**
Maintenance by City: City shall be responsible for the general maintenance and repair of the Premises arising out of normal wear and tear, including the daily custodial cleaning as well as the structural components of the building (e.g. roof, walls, electrical, plumbing, lighting), unless the need for such maintenance or repair arises out of CLINIC's operations on the Premises.
Maintenance by Clinic: In respect to CLINIC's operations on Premises, CLINIC shall maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with all applicable laws. CLINIC shall be responsible to report immediately to CITY any damage or dangerous conditions arising out of such operations as well as make appropriate repairs satisfactory to CITY. In addition, if at any time the CITY determines the facility is not in a decent, safe, healthy, and sanitary condition, CITY at its discretion may provide the necessary maintenance and/or repair work at the expense of CLINIC. CLINIC shall make payment no later than thirty – (30) days upon receipt of invoice to CITY.
- G. **Accident Reports.** The CLINIC shall, within twenty-four (24) hours after occurrence, report to CITY any accident causing property damage or any serious injury to persons at the facility. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour of the incident, the names and addresses of any witnesses and other pertinent information.
3. **Workers' Compensation.** Pursuant to Labor Code section 1361, the CLINIC hereby certifies that CLINIC is aware of the provisions of section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CLINIC will comply with such provisions and will provide certification of such compliance as a part of this MOU.
4. **Liability Insurance.**
 A. CLINIC shall, throughout the duration of this MOU maintain comprehensive general liability and property damage insurance, or commercial general liability

insurance, covering all operations of CLINIC, its agents and employees, performed in connection with this MOU including but not limited to premises, automobile, and workers' compensation.

CLINIC shall maintain liability insurance in the following minimum limits:

COMMERCIAL GENERAL LIABILITY

General Aggregate Limit	\$3,000,000*
Products and Completed Operations	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence Limit	\$1,000,000

AUTOMOBILE LIABILITY INSURANCE \$1,000,000

*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CLINIC under this MOU.

- B. If coverage is provided through a Commercial General Liability Insurance policy, a minimum of fifty percent (50%) of each of the aggregate limits shall remain available at all times. If over fifty percent (50%) of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by CLINIC to restore the required limits. CLINIC shall also notify the CITY within thirty (30) days of receiving notice of all losses or claims over twenty five thousand dollars (\$25,000.00) resulting from actions performed under this contract, or any loss or claim against CLINIC resulting from any CLINIC's activities.
- C. All insurance companies affording coverage to CLINIC for the purposes of this section shall add the CITY as "additional insured" under the designated insurance policy. Insurance coverage provided to the CITY as additional insured shall be primary insurance and other insurance maintained by the CITY, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this section.
- D. All insurance companies affording coverage to CLINIC pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A+ or higher by A.M. Best.
- E. CLINIC shall provide evidence of compliance with the insurance requirements listed above by providing Certificates of Insurance and applicable endorsements, in a form satisfactory to the City Attorney.
- F. All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- G. CLINIC shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CLINIC to provide such a

substitution and extend the policy expiration date shall be considered a default by CLINIC and may subject the CLINIC to a suspension or termination of work under the Agreement.

- H. Maintenance of insurance by the CLINIC as specified in this MOU shall in no way be interpreted as relieving the CLINIC of any responsibility whatsoever and the CLINIC may carry, at its own expense, such additional insurance as it deems necessary.

5. **No Agency Created.** CLINIC's relationship to the CITY shall be that of an independent agency. The CLINIC shall have no authority, expressed or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the City Manager. CLINIC shall be solely responsible for the performance of any of its employees, agents, and consultants under this MOU.

6. **Non-discrimination.** CLINIC shall not discriminate against any person, employee, volunteer, or participant on the basis of race, color, gender, creed, religion, sexual preference, marital status, ancestry, national origin, or physical or mental disability, in compliance with all federal, state and local laws and statutes.

7. **Indemnification.** Insofar as it is legally authorized, CLINIC will at all times protect, indemnify, and defend CITY against any and all loss, cost damages, or expense arising from any accident or other occurrence to persons or property on or about CITY's property that occur while CLINIC has control of CITY's property. However, CLINIC shall not indemnify CITY where CITY's active negligence or willful misconduct is the sole cause of such claim, damage, cost, expense, property damage, bodily injury, personal injury, contract dispute, penalty, loss or liability.

Insofar as it is legally authorized, CLINIC shall hold free and harmless, CITY, members of the City Council, boards or commissions, its employees, officers and agents, and each of them while acting as such, from all claims, loss, damages, costs, expenses or liability imposed by law because of injury to property or injury or death of persons, received or suffered by reason of any defective or dangerous condition of any grounds, sites, buildings, equipment, play areas, recreational facilities or other improvements located on CITY property, or participation in any activity carried out or sponsored by CLINIC, and further, CLINIC shall be responsible for any and all damages to property caused as a direct result of any activity being conducted on CITY property by CLINIC.

8. **Financial Responsibility.** Each party shall carry adequate property damage and public liability insurance or be otherwise financially responsible in an amount sufficient to reasonably protect the property, facilities and activities set forth in this MOU against claims, demands, causes of action, damage, cost, expenses, property damage, bodily injury, personal injury, contract dispute, penalty, loss or liability. Each party shall furnish the other with proof of such financial responsibility.

9. **Entire Agreement.** This Agreement comprises the entire integrated understanding between the CITY and CLINIC concerning the scope of this MOU and supersedes all prior negotiations, representations, or agreements.

10. **Interpretation of the Agreement.** The interpretation, validity and enforcement of the MOU shall be governed by and construed under the laws of the State of California. The MOU does not limit any other rights or remedies available to CITY.

The CITY and CLINIC shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

11. **Notice.** Any notice required or permitted under this MOU shall be deemed given when actually delivered or when deposited in the mail, certified or registered, postage prepaid, addressed as follows:

Barry E. Martin, Interim City Manager
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

Barbara Mannino, Executive Director
Vista Community Clinic
1000 Vale Terrace
Vista, CA 92084

12. **Agreement Modification.** This MOU may not be modified orally or in any manner other than by an agreement in writing, signed by the parties hereto.

13. **Signatures.** The individuals executing this MOU represent and warrant that they have the right, power, legal capacity and authorization to enter into and to execute this MOU on behalf of the respective legal entities of the CLINIC and the CITY.

This Memorandum of Understanding is executed by the duly authorized representatives of the CLINIC and the CITY on the date first herein above written.

CITY OF OCEANSIDE

VISTA COMMUNITY CLINIC

Barry E. Martin
Interim City Manager

Barbara Mannino
Executive Director

APPROVED AS TO FORM:

City Attorney

NOTARY ACKNOWLEDGMENTS OF AUTHORIZED SIGNATURE MUST BE ATTACHED

CITY OF OCEANSIDE, MEMORANDUM OF UNDERSTANDING

PROJECT: JR. REACH AFTERSCHOOL PROGRAMS, JOHN LANDES AND JOE BALDERRAMA RECREATION CENTERS

CITY OF OCEANSIDE
AMENDMENT NO. 1 TO THE MEMORANDUM OF UNDERSTANDING BY AND
BETWEEN THE CITY OF OCEANSIDE AND VISTA COMMUNITY CLINIC

THIS AMENDMENT NUMBER ONE (1) TO MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is made and entered into this 7th day of June, 2007, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter called "CITY", and the VISTA COMMUNITY CLINIC, a 501 (C) (3), hereinafter called "CLINIC".

RECITALS

WHEREAS, CITY and CLINIC are the parties to that certain Memorandum of Understanding dated September 20, 2006, hereinafter referred to as the "MOU", wherein CITY, as a municipal corporation, and the CLINIC, as a 501 (C) (3) Corporation duly created and established pursuant to the laws of the State of California, agreed to cooperate in coordinating after-school programs and activities that will provide a safe, fun and healthy environment for youth during the term of this MOU.

WHEREAS, CLINIC provides additional teen programming beyond the scope determined in this MOU.

WHEREAS, CITY and CLINIC agree that youth and teen programming are essential services, and programs provided under the terms of the MOU are needed to promote the health and wellness of Oceanside residents.

WHEREAS, CLINIC will experience a gap in funding that will jeopardize the sustainability of the youth programs rendered under the MOU.

AMENDMENT

NOW, THEREFORE, in consideration of which and other valuable consideration set forth herein the parties hereto do mutually agree that the MOU be amended as follows:

Section 1.

Term of Agreement to the MOU is hereby amended by adding subsection 1. A. Payment as follows:

1. A. Payment. CITY agrees to make a one-time sum payment to CLINIC in the amount of \$83,821.00 for services rendered from July 1, 2007 through June 30, 2008.

Section 2.

Scope of Work to the MOU is hereby amended by deleting the Scope of Work description and subsections A and B in its entirety and substituting therefor the new Scope of Work description and subsections A and B to include the addition of REACH, a teen program, as follows:

2. Scope of Work. The CITY and CLINIC agree to cooperate, negotiate and collaborate in good faith to implement a youth after-school and summer program called Jr. REACH and a teen program called REACH. The CITY and CLINIC agree that this amendment overrides any and all

previous agreements made between CITY and CLINIC, either written or oral, related to the subject matter of this MOU.

A. Location and Duration. The CITY will provide facility-dedicated space at no cost to CLINIC at the John Landes Recreation Center, 2855 Cedar Road, the Joe Balderrama Recreation Center, 709 San Diego Street and the Libby Lake Community Center, 4700 North River Road as follows:

John Landes Recreation Center: The all-purpose room as shown in Exhibit A will be exclusive to CLINIC during program hours. Program hours from September through mid-June will be 2:00 pm to 5:30 pm daily. Program hours from mid-June through August will be 1:00 pm to 5:00 pm daily.

Joe Balderrama Recreation Center: The auditorium and stage as shown in Exhibit B will be exclusive to CLINIC during program hours. Additional auditorium space can be used by CLINIC if not already programmed by CITY, and CITY will provide CLINIC a two-week program calendar for the space. Program hours from September through mid-June will be 2:00 pm to 5:30 pm on Tuesdays, Thursdays and Fridays and 1:00 pm to 5:30 pm on Mondays and Wednesdays. Program hours from mid-June through August will be 12:00 pm to 4:00 pm daily.

Libby Lake Community Center: The room as shown in Exhibit C will be exclusive to CLINIC during program hours. Additional Community Center space can be used by CLINIC as agreed upon an individual basis with CITY. Program hours from September through mid-June will be 2:00 pm to 6:00pm Monday through Friday. Program hours from mid-June through August will be 1:00 pm to 6:00 pm daily.

City will provide all facilities with a lockable closet space for CLINIC storage at all times. Additional facility space and/or schedule time beyond the above identified exclusive space and time can be utilized for purposes such as program preparation, family nights or parent conferences can be scheduled on an as-needed or regularly-scheduled basis, with a minimum of two weeks advance notice to the Supervisor of the respective facility.

B. Eligibility. The program will be open to any youth regardless of race, ethnicity, color, gender, national origin, religion, disability or socio-economic background. Youth between the ages of nine (9) and twelve (12) years of age shall be permitted to participate in the Jr. REACH program and youth between the ages of twelve (12) and eighteen (18) years of age shall be permitted to participate in the REACH program.

Section 3. Except as expressly set forth in this Amendment, the MOU shall remain in full force and effect and is hereby ratified and reaffirmed.

SIGNATURES. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the CLINIC and the CITY.

IN WITNESS WHEREOF the parties hereto being duly authorized on behalf of their respective entities to execute this Amendment, do hereby agree to the covenants contained in the

MOU, including this Amendment and have caused this Amendment to be executed by setting hereunto their signatures this 7th day of June, 2007.

VISTA COMMUNITY CLINIC

By: Barbara Mannino
Barbara Mannino
Executive Director

CITY OF OCEANSIDE

By: _____
Peter A. Weiss
Interim City Manager

APPROVED AS TO FORM:

Michael Hamilton, ABST
CITY Attorney

NOTARY ACKNOWLEDGMENTS MUST BE ATTACHED.

State of California }
County of San Diego } ss.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On June 7, 2007, before me, Rose Brennan,
Date Printed Name of Notary Public

personally appeared Barbara Mannino,
Printed Name(s) of Signer(s)

- personally known to me - or -
- proved to me on the basis of satisfactory evidence:
 - form(s) of identification _____
 - credible witness(es) _____

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Rose Brennan
Signature of Notary Public

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Mou between City of O'side and VCC, containing 3 pages, and dated June 7, 2007.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____
Title(s)
- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

- Additional Signer(s)
- Signer(s) Thumbprint(s)
- Other