



# REPORT

## THE CITY OF SAN DIEGO TO THE PARK AND RECREATION BOARD

DATE ISSUED: May 12, 2021

REPORT NO: 101

ATTENTION: Park and Recreation Board  
Agenda of May 20, 2021

SUBJECT: Proposed Draft Agreement for Botanical Building Naming  
Opportunities

### SUMMARY

Issue – Should the Park and Recreation Board recommend approval of the proposed Draft Agreement for Botanical Building Naming Opportunities (Draft Agreement) between the City of San Diego (City) and the Balboa Park Conservancy (Conservancy)?

Department Recommendation – Recommend approval of the proposed Draft Agreement between the City and the Conservancy.

Other Recommendations – The following advisory bodies have reviewed and considered the proposed project at various stages of development. Actions taken and recommendations made by these groups are listed under Discussion below.

Historical Resources Board's Design Assistance Subcommittee  
Balboa Park Committee  
Park and Recreation Board  
City Council Environment Committee

Fiscal Impact – There is no fiscal impact associated with this action. Final approval of the Agreement by City Council will allow the Conservancy to raise funds for Phase II of the Botanical Building and Gardens Restoration Project.

Water and Energy Conservation Status – Not Applicable.

Environmental – Pursuant to CEQA Section 15352(a), this action Requesting a Recommendation to the Director of the Parks and Recreation Department for the Draft Agreement for Botanical Building Naming Opportunities does not constitute approval of a “project” as defined in CEQA Guidelines Section 15378. Approval of the Balboa Park Botanical Building and Garden's Restoration project will occur once an application is submitted for review in accordance with the provisions of CEQA Section 15004 which provides

direction to lead agencies on the appropriate timing for environmental review, and the City's Land Development Code (LDC). Therefore, the proposed action is exempt from CEQA review pursuant to the "common sense" exemption set forth in CEQA Guidelines Section 15061(b)(3), which states the general rule that CEQA applies only to projects having the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment the activity is not subject to CEQA. This action will not foreclose review of alternatives or mitigation measures by the public as part of the future CEQA process.

## BACKGROUND

The Balboa Park Botanical Building was constructed for the 1915 Panama-California International Exposition and is one of three buildings intended to be a permanent addition to the Park. The Botanical Building is a contributing element to the National Historical Landmark District that encompasses much of the Central Mesa. The Botanical Building is also designated as a historical resource at both the State and Local levels. These historical designations require the building to be maintained and preserved in accordance with adopted preservation standards.

The Conservancy was formed in 2011 as a public benefit 501 (c)(3) non-profit organization to create a public/private partnership for the betterment of Balboa Park. One of the goals of the Conservancy is to raise funds to address the needs of Balboa Park. In 2016 the Conservancy undertook the project of restoration of the Botanical Building and adjacent Gardens. In partnership with the City, the Conservancy has identified the necessary scope of work for the project and has provided the City with partial construction plans (bridging documents) to be used in the solicitation of a design/build contract. The City is in the process of bidding and award of the design/build contract for Phase I improvements to the Botanical Building.

The Conservancy is in the process of raising funds for implementation of Phase II of the project. These improvements would include completion of any items unable to be accomplished as a part of Phase I Botanical Building restoration. Phase II will also include reconstruction of the original pergola located in the west garden by the Museum of Art, renovation of the east and west gardens, new walkways, re-planting of the horticultural exhibits inside the Botanical Building, re-landscaping the exterior gardens, and new irrigation systems.

The Conservancy is proposing naming opportunities for various spaces and elements associated with the Botanical Building and Gardens Restoration project. The details of the naming opportunities were recommended for approval by the Parks and Recreation Board at their January 21, 2021 meeting. Naming of City Assets is addressed in Council Policy 900-20 (see Attachment A). The Policy addresses the procedures and requirements of naming or re-naming City assets. Per Council

Policy 900-20 an Agreement between the City and the Conservancy is required for receipt of donations and naming opportunities associated with this project.

### DISCUSSION

The Conservancy has embarked on a capital campaign to raise funding for the implementation of Phase II of the Botanical Building and Gardens Restoration Project. As with any capital campaign, donor acknowledgement is a component. The Conservancy has prepared a donor acknowledgement and naming opportunities program to aid in their fundraising efforts. This program was created in collaboration with City of San Diego Historic Resources staff, the Botanical Building stakeholder steering committee and Parks & Recreation Staff. The goal of the program is to create consistent and unified opportunities for donor participation in this project without compromising the historical and visual integrity of this historic asset.

Naming Opportunities were developed in accordance with Council Policy 900-20, Naming of City Assets. Each opportunity listed below would have only one naming opportunity. Naming Opportunities include:

- Welcome Gallery
- North Annex
- Multi-purpose Room (West)
- West Wing Gardens (Interior)
- West Patio
- West Fountain Plaza (Exterior)
- West Gardens (Exterior)
- Potting Shed Area
- Central Rotunda
- North Entrance Lobby
- Multi-purpose Room (East)
- East Wing Gardens (Interior)
- Historic Pergola (Reconstruction)
- East Fountain Plaza (Exterior)
- East Gardens (Exterior)

The Draft Agreement between the City and the Conservancy formalizes the process for implementation of the Naming Opportunities program in compliance with Council Policy 900-20. The Agreement identifies roles and responsibilities for approval of the potential donors, verbiage and gift levels. See Attachment 2 for the Draft Agreement.

The Naming Opportunities and Donor Acknowledgement program has already received recommendation of approval up to and including the City Council's Environment Committee. The proposed Draft Agreement is the final component required prior to final action by City Council.

### Other Recommendations

The Historical Resources Board's Design Assistance Subcommittee has reviewed the proposed donor acknowledgement program and naming opportunities program and advised they appear to be consistent with the Secretary of the Interior's Standards for historic preservation.

On January 20, 2021 the Balboa Park Committee voted unanimously (7-0-0) to recommend approval of the Naming Opportunities and Donor Acknowledgement program.

On January 21, 2021 the Park and Recreation Board voted unanimously (9-0-0) to recommend approval of the Naming Opportunities and Donor Acknowledgement program.

On March 18, 2021 the City Council's Environment Committee voted unanimously (4-0-0) to recommend City Council approve the Naming Opportunities and Donor Acknowledgement program.

ALTERNATIVES

1. Recommend approval of the proposed Draft Agreement with conditions; or
2. Do not recommend approval of the proposed Draft Agreement.

Respectfully submitted,



Andy Field  
Director

CC/cd

Attachments: A. Council Policy 900-20  
B. Draft Agreement  
C. Presentation

cc: Council District 3 Office

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**COUNCIL POLICY****CURRENT**

SUBJECT: NAMING OF CITY ASSETS

POLICY NO.: 900-20

EFFECTIVE DATE: April 13, 2017

BACKGROUND:

The City, through its departments, and advisory boards and commissions, has followed a number of processes/policies for *naming* or *renaming* its parks, libraries and other *City Assets*. Generally, these policies provide for the *naming* or *renaming* requests based on (1) the location of the *City Asset*, (2) the identity of an individual of historical significance to the local area, or (3) the identity of an individual or entity whose contributions to the City and/or the community supports the request. From time to time, the City has also named *City Assets* after a person or entity who has provided significant financial support for the *City Asset* being named.

The City wishes to replace any existing *naming* or *renaming* policies with one comprehensive citywide policy, as follows:

PURPOSE:

The purpose of this policy is to establish uniform guidelines for *naming* and *renaming* of *City Assets*.

This policy outlines the criteria, conditions, and procedures that govern *naming* and *renaming* of *City Assets* in order to maintain their integrity, to encourage philanthropic giving while acknowledging public investments, and to safeguard against unwanted commercialization of *City Assets*.

This policy does not apply to:

1. Marketing Partnerships entered into under Council Policy 000-40, except that consideration should be given to Guiding Principles, Section C (Funding Criteria) below in regards to them;
2. The *naming* of public streets addressed in Chapter 12, Article 5, Division 11 of the San Diego Municipal Code (SDMC);

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3. Artworks, which are exempt from this Council Policy. Artworks are defined and governed by San Diego Municipal Code 26.0701 et seq.;
4. Public safety-related *City Assets*;
5. Council Policy 100-02 (Donation Acceptance);
6. *Donor Acknowledgement*; and
7. Council Policy 200-10 (Honorary Street Names).

DEFINITIONS

For the purpose of this policy, the following definitions apply:

***Board:*** Board as recognized by the San Diego Municipal Code (SDMC) and/or City Charter.

***City Assets:*** Tangible or intangible items of value that are owned or created by the City, including but not limited to both *City facilities* and leaseholds that do not exceed 35 years and/or that confer ownership rights by agreement. This definition does not include Artworks, which are city assets under San Diego Municipal Code 26.0701 et seq.

***City Facility (included in City Assets):*** Any part of real property or structure owned by the City or for which *naming* rights are conferred by agreement, including, but not limited to parks, libraries, *Recreational Facilities* buildings, parking facilities, interior or ancillary features that are a part of, or within, a larger facility and other City facilities.

***City Sponsored or Recognized Support Group:*** May include, but is not limited to: recreation councils, “friends of” organizations, Community Planning Groups, town councils, or similar entities.

***Commission:*** Commission as recognized by the SDMC and/or City Charter;

***Department Director:*** Appointed director of the department that owns the *City Asset* eligible for *naming* or *renaming*. The director may assign this responsibility to other department staff within their delegation of authority.

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***Donation or gift:*** A monetary (cash) contribution, endowments, personal property, real property, financial securities, equipment, in-kind goods or services, or any other *City Asset* that the City has accepted and for which the *donor* has not received any goods or services in return. For purposes of this Council Policy, the terms “donation” and “gift” shall be synonymous.

***Donor:*** A person or other legal entity that proposes or provides a *donation* to the City.

***Donor Acknowledgement:*** Excluding *naming*, donor acknowledgement is permanent writing on plaques, walls, stone carvings, pavers, bricks, electronic display, or interpretive signs that are temporary or permanent and are used to recognize the financial contribution of a *donor*.

***Funding:*** Financial or in-kind resource to provide funding that might result in *naming* or *renaming*.

***Funding Source:*** The source of *funding* which can include individuals, nonprofit organizations, and for-profit entities.

***Naming:*** The selection and approval by the City for the initial *naming* of a *City Asset* other than streets within the public right of way.

***Non-profit Organization:*** A corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive.

***Recreational Facility (included in City Assets):*** Major structures such as community centers, aquatic facilities, picnic shelters/pavilions, athletic courts, and fields.

***Renaming:*** The selection and approval by the City for a new name of an existing *City Asset* other than streets within the public right of way.

***Sign Ordinance:*** The City’s sign regulations contained in SDMC §§ 142.1201 – 142.1292.

POLICY:

The policy of the City is to reserve *naming* or *renaming* of *City Assets* for circumstances that will best serve the City’s interests and ensure a worthy and enduring legacy for the City. To this end, the City supports *naming* or *renaming* requests within the following broad categories:

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1. Location. As a general policy, a name should assist the public in identifying its location. The City shall first consider the name of the community area, the names of nearby geographic features, and the names of adjacent schools and streets when it is considering a *naming/renaming* request.
2. Significant Events, People, and Places. The history of a major event, place, or person may play an important role to preserve and honor a community's history, landmarks, or prominent geographical features. The City may name a *City Asset* for a major event, place, or person of social, cultural or historical significance to the local area when the *City Asset* is associated with or located near the events, people, or places of social, cultural or historical significance. The relationship of the event, person, or place to the *City Asset* must be demonstrated through research and documentation.
3. Outstanding Individuals. This category is designed to acknowledge individuals who have made substantial contributions to benefit the City, local community, park and recreation system, or public library. Naming or renaming a *City Asset* for an outstanding individual is encouraged for those person's whose significance and good reputation have been accepted in the community, City and/or State/National history. If it is not appropriate to name the larger *City Asset* after an individual, then naming or renaming can be subordinate to the name of the larger *City Asset* or the City may name an area or portion of the *City Asset* after an individual, including but not limited to a meeting room, structure, fountain, or garden.

In considering the *naming* or *renaming* of a *City Asset* after an individual, priority will be given to those who made a sustained and lasting contribution to:

- a. The City of San Diego
- b. The State of California
- c. The United States of America

4. Major Donations. The City has benefited from the generosity of residents, organizations, and businesses. The significance of *funding* may warrant acknowledging the *funding source* through *naming* or *renaming*.
  - a. The threshold for *naming* or *renaming* a *City Asset* for an individual, organization, or business when *funding* is involved should include a *donation* agreement and one or more of the following:



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- i. A significant contribution towards the capital construction costs of the structure;
  - ii. A deed to the City of land for the majority of the *City Asset* by the *donor*; and/or
  - iii. A twenty-year endowment for the continued maintenance and operations of the *City Asset*.
- b. *Donors* seeking *naming* or *renaming* rights for major *donations* with respect to an individual should use the guidelines for Outstanding Individuals above.

**GUIDING PRINCIPLES**

## A. General Provisions

1. In considering proposals for the *naming* or *renaming* of a *City Asset*, the City will consider whether the proposed name will:
  - a. Engender a strong positive image consistent with the City's goals and values;
  - b. Be appropriate relative to the *City Asset*'s location and/or history;
  - c. Incorporate the assigned historic name if the *City Asset* is a designated historical resource listed on the local, State, or National Register of historic resources;
  - d. Have historical, cultural, or social significance for future generations;
  - e. Commemorate places, people, or events that are of continued importance to the City, community, region, or state;
  - f. Have symbolic value that transcends its ordinary meaning or use and enhances the character and identity of the *City Asset*;
  - g. Have broad public support; and
  - h. Not result in the excessive commercialization of the *City Asset*.

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2. The City will not permit corporate logos, insignias, or advertising slogans in a permanent naming or renaming of a City facility.
  3. A park or library's official documented name should not include the name of a corporation or business. If an organization or foundation's name consists of one or more individuals' names, then the guidelines for Outstanding Individual *naming* should be utilized.
  4. When considering the *naming* or *renaming* of a *City Asset* (excluding official documented names of parks and libraries) that includes a business name, *naming* or *renaming* must be for a defined contractual period of time with regard to the life of the *City Asset*.
  5. All related signage shall comply with the *Sign Ordinance*.
  6. The City shall retain full editorial control over all related signage subject to the *Sign Ordinance* and adhere to the below criteria.
    - a. Any physical form of on-site recognition shall not interfere with visitor use or routine operations.
    - b. The form of any on-site recognition shall:
      - i. Be of appropriate size and color within the design scheme of the facility;
      - ii. Not dominate the sign in terms of scale or color;
      - iii. Not detract from surroundings or any interpretive messages; and
      - iv. Be subject to review and approval by the *Department Director*.
- B. Funding Acceptance Criteria.* The City may not accept *funding* as part of a *naming* or *renaming* proposal that would create any conflict of interest, as set forth in the City's Ethics Ordinance (Chapter 2, Article 7, Division 35 of the SDMC) and the Fair Political Practices Commission regulations (Title 2 of the California Code of Regulations, sections 18110 – 18997). The following principles form the basis of the City's consideration of *naming* or *renaming* proposals based on *funding* of a *City Asset*:

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1. The mission of a *Funding Source* must not compete, impair or conflict with the policies, goals or operations of the City;
2. The *funding source* must provide a desirable association according to the Guiding Principles under this Policy; and
3. *Naming* or *renaming* rights offered are commensurate with the relative value of the *funding*.

**PROCEDURES***A. Naming or Renaming Application Process*

1. Applicants and proposers (including *City Sponsored* and/or *City Recognized Support Groups*) shall submit their *naming* or *renaming* proposal to the *Department Director* depending on asset type.
2. If applicant's proposal follows the intent of this Council Policy, the *Department Director* shall make a proposal in writing for *naming* or *renaming* of a *City Asset* as follows:
  - a. For library facilities, the *Department Director* will make the proposal to the Board of Library Commissioners.
  - b. For parks and *recreational facilities*, the *Department Director* will make the proposal to the Park and Recreation Board.
  - c. For other *City Assets*, the *Department Director* will make the proposal to the appropriate Deputy Chief Operating Officer for the City Facility for which the *naming* or *renaming* is proposed.
  - d. Other City staff may review and provide input on the proposal for *naming* or *renaming*.
3. Written proposals must, at a minimum, include the following information:
  - a. The proposed name;
  - b. Reasons for the proposed name, including a discussion of the criteria identified in this policy;

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- c. The amount of the *donation* or *funding* provided for the *City Asset*, if applicable;
- d. Written documentation outlining community support for the proposed name; and
- e. If proposing to *rename* a *City Asset*, justification for changing an established name.

*B. Naming and Renaming Review Process*

1. Upon receipt of a *naming* or *renaming* proposal for any *City Asset*, the *Department Director* reviewing the *naming* or *renaming* proposal shall consider the following items in the review, including but not limited to, the following:
  - a. Submit the proposal to appropriate City historical staff to review the California Historic Resources Inventory Database (CHRID) to determine if the *City Asset* is a Designated Historical Resources with an assigned historic name;
  - b. Ensure that supporting information has been authenticated;
  - c. If the *City Asset* is a Designated Historical resource listed on the local, State or National Register of Historic Places, any on-site recognition shall comply with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties and shall be reviewed and approved by the City's Historical Resources staff according to those standards;
  - d. Ensure compliance with Charter section 225 (Mandatory Disclosure of Business Interests);
  - e. Consider the impact of the *naming* or *renaming* to the community; and
  - f. Consider the cost of implementation and signage, and identify the *funding* to cover such costs.
2. The *Department Director* will submit the proposal to the City Attorney's Office for legal review of the following issues that include, but are not limited to:
  - a. Ownership rights, by agreement or by law; and

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- b. Adherence to City policies, such as the San Diego Charter and SDMC, as well as any local, state, or federal regulation.
3. For all *City Assets* other than a library or park that do not involve *funding*, the *Department Director* will submit a recommendation to the Assistant Chief Operating Officer, Chief Financial Officer, or Deputy Chief Operating Officer as appropriate for review. The *Department Director* will submit the proposal for final approval of *naming* or *renaming* to the Chief Operating Officer. Prior to approval, City staff will notify the applicable Council District(s) and publish a notice with 30 days for comments by the public that will be taken into consideration by the Department Director following the process outlined herein.

If a *naming* or *renaming* request is for a library or park and does not involve *funding*, then the *Department Director* will advise the applicable board or commission who will invite comments from relevant community groups or associations.

- C. The City, in its sole discretion, may:
  1. Reject *naming* or *renaming* proposals or remove existing *naming* that portray or include depictions, words, or phrases that the City reasonably deems to be harmful, controversial or otherwise do not support the guiding principles stated in this policy; and
  2. Reserve the right to rename any *City Asset* for any reason, for instance if the resident, organization, or business for which it is named turns out to be disreputable, becomes disreputable or does not otherwise support the Guiding Principles set forth in this Policy.

**FUNDRAISING GUIDELINES**

From time to time, the City may receive offers for outside support groups to identify donors to fundraise for specific *City Assets* in exchange for *naming* rights. *City Sponsored or Recognized Support Groups* intending to fundraise (excluding *Donor Acknowledgement* programs) for multiple *naming* rights or major projects must take the following steps:

1. Develop recommendations for *naming* opportunities with gift levels prior to receiving gifts and offering *naming* rights to prospective donors.

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2. Draft and submit recommended *naming* opportunities with gift levels to the *Department Director* for review.
3. Upon receipt of recommended naming opportunities with gift levels, the *Department Director* reviewing the *recommendation* will consider the following items in the review, including, but not limited to, the following:
  - a. Submit the request to appropriate City historical staff to review the City's CHRID to determine if the *City Asset* is a Designated Historical Resource with an assigned historic name;
  - b. Ensure that supporting information has been authenticated;
  - c. If the *City Asset* is a Designated Historical Resource listed on the local, State or National Register of Historic Places, any on-site recognition shall comply with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties and shall be reviewed and approved by the City's Historical Resources staff according to those standards;
  - d. Ensure compliance with Charter section 225 (Mandatory Disclosure of Business Interests);
  - e. Consider the community impact;
  - f. Consider the impact of the *donation* or *funding* to the completion of a project, if applicable; and
  - g. Consider the cost of implementation and signage, and identify the *funding* to cover such costs.
4. The *Department Director* will submit the proposal to the City Attorney's Office for legal review of the following issues that include, but are not limited to:
  - a. Ownership rights, by agreement or by law; and
  - b. Adherence to City policies, such as the San Diego Charter and SDMC, as well as any local, state, or federal regulation.
5. Upon completion of the above steps, the *Department Director* will work with the City Attorney to prepare a draft agreement with the *City Sponsored or Recognized Support Group*.

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6. Upon approval by the *Department Director*, the *City Sponsored or Recognized Support Group* will submit the recommended *naming* or *renaming* opportunities with gift levels and draft agreement to the corresponding board or commission.
7. Upon approval by the board or commission, the *Department Director* will submit the final draft recommendation on the *naming* or *renaming* opportunities with gift levels along with the draft agreement to the City Council for final approval. Only after City Council approval may the *City Sponsored or Recognized Support Groups* begin soliciting and accepting donations for *naming* or *renaming* rights.
8. No final commitment to name a *City Asset* or portion thereof shall be made to a potential donor without the final approval by the *Department Director* and Assistant Chief Operating Officer or Chief Operating Officer. *Naming* or *renaming* rights that include *funding* will have final approval by City Council.

HISTORY:

“Naming of City Assets”

Adopted by Resolution R-311043 – 04/13/2017

**[PROPOSED] AGREEMENT FOR NAMING RIGHT OPPORTUNITY  
FOR DONOR TO THE RESTORATION OF  
THE BALBOA PARK BOTANICAL BUILDING AND GARDENS PROJECT**

This Naming Right Opportunity for Donor to the Restoration of the Balboa Park Botanical Building and Gardens Project Agreement (Agreement), made and entered into by and between the City of San Diego (City), a municipal corporation, and the Balboa Park Conservancy (Conservancy), a nonprofit 501(c)(3) charitable organization, individually “Party” and collectively “Parties”, is effective upon execution by authorized representatives of both Parties and approval of the City Attorney, and acts as the Agreement referenced in Council Resolution number R-\_\_\_\_\_.

**RECITALS**

WHEREAS, the Conservancy is a nonprofit 501(c)(3) charitable organization, organized to accept, receive, hold, invest, reinvest, and administer donations, gifts, legacies, bequests, devises, funds, benefits of trust, and property of any sort or nature, and to use, apply, or expend the income or principal thereof to support the San Diego Parks & Recreation Department (Department); and

WHEREAS, the Department and the Conservancy are partnering with the Engineering and Capital Projects Department (ECP) in the restoration of the Balboa Park Botanical Building and Gardens (Project). ECP is currently working on Phase 1, funded by a State grant and the Conservancy, and the Conservancy is raising funds for Phase 2 implementation of the Project through philanthropic donations; and

WHEREAS, Phase 2 Project improvements will include completion of items unable to be accomplished in Phase 1. Phase 2 Project improvements will also include reconstruction of the original pergola located in the West Garden by the Museum of Art, renovation of the East and West Gardens, new walkways, re-planting of the horticultural exhibits inside the Botanical Building, re-landscaping the exterior gardens and new irrigation systems.

WHEREAS, the Conservancy desires to raise funding for the implementation of Phase 2 of the Project and has embarked on a capital campaign to raise this funding. As with any capital campaign, donor acknowledgement is a key component. The Conservancy has partnered with RSM Design to prepare a Donor Acknowledgement and Naming Program (Naming Program) to aid in their fundraising efforts. This Naming Program was created in collaboration with City Historic Resources staff, the Botanical Building stakeholder steering committee, Parks and Recreation staff and the Balboa Park Committee. The Naming Program adheres to all City policies, including the San Diego Charter and San Diego Municipal Code, as well as any local, state, or federal regulation. The Naming Program has been designed to be as unobtrusive as possible and meet aesthetic and historical preservation concerns. The goal of this program is to create consistent and unified opportunities for donor participation in this Project without compromising the historical and visual integrity of this historic asset; and

WHEREAS, Council Policy 900-20 (Policy) requires that the Conservancy must have an agreement with the CITY, identifying appropriate fundraising naming opportunities with gift levels for



each naming opportunity, that is approved by the San Diego City Council (Council). [Approval of this sample Agreement will constitute evidence of the approval of the agreement by the Department of Parks and Recreation and Council, pursuant to the Policy].

WHEREAS, Naming Program fundraising for this Project includes two components. The first component is Donor Acknowledgement, which includes donations to the Project and acknowledgement in the form of small plaques or engraving. The Donor Acknowledgment program was developed in accordance with Council Policy 100-02, Receipt of Donations, and includes the following elements:

- Concrete or stone pavers with donor names engraved
- Engraving on donor benches
- Engraving on donor interior water features
- Bronze plaques
- Cast plaster engraved plaques
- Brass lettering in pavement

WHEREAS, the second component of Naming Program fundraising is in naming right opportunities. Naming right opportunities of City-owned assets are reserved for larger donations and were developed in accordance with Council Policy 900-20, Naming of City Assets. Each opportunity listed below would have only one naming opportunity.

Naming Opportunities include:

- Welcome Gallery
- North Annex
- Multi-purpose Room (West)
- West Wing Gardens (Interior)
- West Patio
- West Fountain Plaza (Exterior)
- West Gardens (Exterior)
- Potting Shed Area
- Central Rotunda
- North Entrance Lobby
- Multi-purpose Room (East)
- East Wing Gardens (Interior)
- Historic Pergola (Reconstruction)
- East Fountain Plaza (Exterior)
- East Gardens (Exterior)

Each of the above fifteen (15) identified City assets will be considered as naming opportunities with a gift value between \$225,000 and \$8,000,000.

WHEREAS, the City requires additional funding to complete the Project; and

WHEREAS, the City accepted the Naming Program and authorized the negotiation and execution of this Agreement through Council Resolution number R-\_\_\_\_\_; and

WHEREAS, without this Naming Program, the City would be unable to complete this Project; and

WHEREAS, [Council shall have final approval of all proposed naming or renaming rights that include funding.][all proposed donor names for the naming or renaming rights that include funding shall require final written approval of the Parks and Recreation Department Director and Assistant Chief Operating Officer or Chief Operating Officer.]

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

**Section 1. Donation and Naming Opportunity**

1.1 The Conservancy agrees and confirms that consistent with the Naming Program and this Agreement [NAME OF DONOR] donated [ENTER DOLLAR AMOUNT OR "GIFT LEVEL" OF DONATION] toward implementation of Phase 2 of the restoration of the Balboa Park Botanical Building and Gardens (Project) in exchange for the naming right opportunity to name [ENTER CITY OWNED ASSET] the [ENTER PROPOSED NAME OF THE CITY-OWNED ASSET]. [REPEAT THIS PARAGRAPH FOR EACH DONOR AND CITY ASSET TO BE NAMED.]

[1.1 The Conservancy agrees and confirms that consistent with the Naming Program and this Agreement each of the above fifteen (15) identified City assets will be considered as naming opportunities with a gift value between \$225,000 and \$8,000,000 toward implementation of Phase 2 of the restoration of the Balboa Park Botanical Building and Gardens (Project) in exchange for the naming right opportunity to name each of the above fifteen (15) identified City assets.]

1.2 The City agrees to submit this Agreement to the San Diego City Council (Council) for approval to name [ENTER CITY-OWNED ASSET] the [ENTER PROPOSED NAME OF CITY-OWNED ASSET]. [REPEAT THIS PARAGRAPH FOR EACH DONOR AND CITY ASSET TO BE NAMED.]

[1.2 The City agrees to submit this Agreement to the San Diego City Council (Council) for approval to name each of the above fifteen (15) identified City assets. No final commitment to name a City Asset or portion thereof shall be made to a potential donor without the final written approval by the Parks and Recreation Department Director (Director) and Assistant Chief Operating Officer or Chief Operating Officer.]

1.3 No fundraising based on naming opportunities may occur before the Agreement has been approved by the CITY Council.

1.4 Naming opportunities shall not create any conflict of interest, as set forth in the CITY's Ethics Ordinance (Chapter 2, Article 7, Division 35 of the San Diego Municipal Code) and the Fair Political Practices Commission regulations (Title 2 of the California Code of Regulations, sections 18110-18997).

1.5 All donations and gifts, including any interest accrued, submitted to Conservancy by a donor to which naming opportunities on the Premises is agreed to by Conservancy shall be used by Conservancy solely and exclusively for design, construction and related costs of the Project and the Authorized Uses. Conservancy shall separately account for all donations and gifts for the Project and the Authorized Uses from Conservancy's other monies.

1.6 The Council reserves the right to rename any CITY asset for any reason, i.e. if the resident, organization, or business for which a City asset is named is determined to be disreputable, becomes disreputable or does not otherwise support the Guiding Principles set forth in Council Policy 900-20, etc.

**Section 3. Recognition**

3.1 With the approval of the Council, and in consideration of the donation, and after completion of the Project, the City will name [ENTER CITY-OWNED ASSET] the [ENTER PROPOSED NAME OF THE CITY-OWNED ASSET]. [REPEAT THIS PARAGRAPH FOR EACH DONOR AND CITY ASSET TO BE NAMED.]

3.2 The cost of all implementation and signage for the naming opportunities shall be born solely by the Conservancy, but ownership of the Premises shall remain at all times with the CITY.

3.2 The City and Conservancy further agree to acknowledge the Donors in a manner consistent with donor recognition pursuant to City Council Policy, all applicable local, state and federal policies, laws, rules, regulations, compatible with the architecture and design of the Project, and commensurate with the donation amount. Acknowledging that recognition serves an important role in the Conservancy's ongoing fundraising efforts, the City shall consult with and seek input from the Conservancy on recognition for this donation.

**Section 4. Miscellaneous**

4.1 Integration. This Agreement and the references cited in this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless agreed to in writing by both Parties in the form of an amendment to this Agreement. All prior negotiations and agreements concerning the subject matter hereof are merged into this Agreement.

4.2 No Waiver. No failure of either the City or Conservancy to insist upon the strict performance by the other of any covenant, term, or condition of this Agreement, nor any failure to exercise any right or remedy upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach or of such covenant, term, or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, term, and condition hereof shall continue in full force and effect to any existing or subsequent breach.

4.3 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

4.4 Successors in Interest. This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Party to this Agreement has been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

4.5 Compliance with Controlling Law. Both Parties shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. The laws of the State of California shall govern and control any dispute involving the terms and conditions of this Agreement.

4.6 Jurisdiction, Venue, and Attorneys' Fees. The venue for any suit or proceeding concerning this

Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California.

4.7 Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered City of the State of California.

4.8 Drafting Ambiguities. The Parties agree that they are aware they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which a Party participated in the drafting of this Agreement.

4.9 Signing Authority. The representative(s) signing, on behalf of a nonprofit organization, corporation, partnership, joint venture or governmental entity, for each Party, hereby declare(s) that authority has been obtained to sign on behalf of the nonprofit organization, corporation, partnership, joint venture, or governmental entity, for each Party, and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority did not exist on the date of signature.

4.10 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute the single signed original as though City and Conservancy had executed the same page.

*[Signatures on following page(s).]*

IN WITNESS WHEREOF, this Agreement is executed by the City and the Conservancy:

I hereby certify that I can legally bind the Conservancy; I understand all terms and conditions of this Agreement; and I agree to all terms and conditions of this Agreement.

**BALBOA PARK CONSERVANCY,**

By: \_\_\_\_\_  
[NAME]  
Balboa Park Conservancy

Date: \_\_\_\_\_

I hereby certify that I can legally bind the City; I understand all terms and conditions of this Agreement; and I agree to all terms and conditions of this Agreement.

**THE CITY OF SAN DIEGO**

By: \_\_\_\_\_  
Jay Goldstone, Chief Financial Operating  
Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Andy Field, Director  
Parks and Recreation  
Department

Date: \_\_\_\_\_

Approved as to form on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_;

MARA W. ELLIOTT, City Attorney

By: \_\_\_\_\_  
Jane M. Boardman  
Deputy City Attorney

Parks and Recreation Department

# Draft Agreement for Botanical Building Naming Opportunities

Park and Recreation Board

May 20, 2021

Agenda Item 101





- A Public/Private partnership between the City and the Balboa Park Conservancy
- Phase I: Building restoration and reconstruction
  - Funded by State grant
- Phase II: Botanical collection and gardens restoration
  - To be funded by National Parks Service grant and Balboa Park Conservancy philanthropy



## Should the Park and Recreation Board:

- Recommend approval of the proposed Draft Agreement for Botanical Building Naming Opportunities?

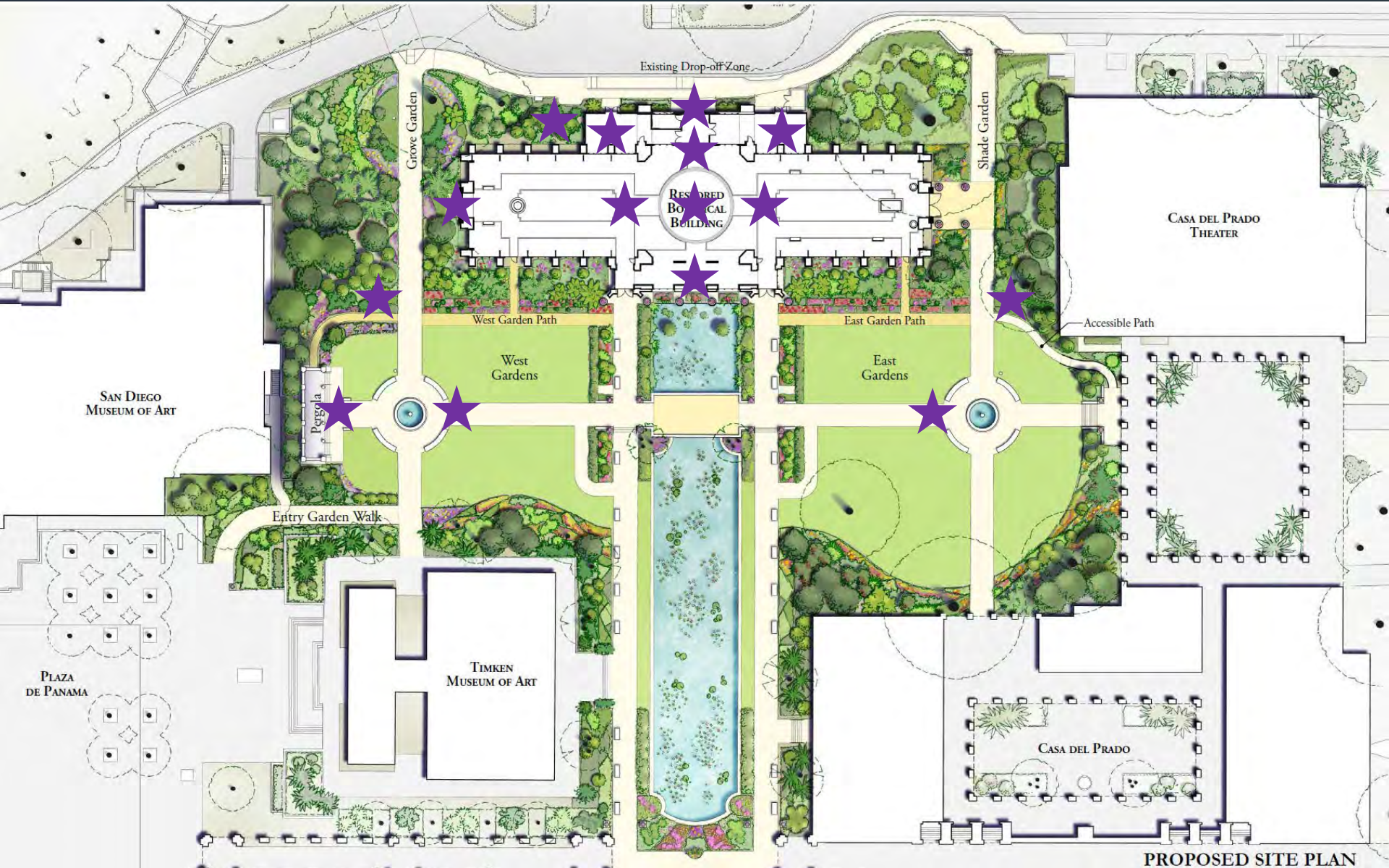
## Department Recommendation:

- Recommend approval of the proposed Draft Agreement for Botanical Building Naming Opportunities.

- The Naming Opportunities and Donor Acknowledgement Program has already received unanimous support
- The proposed Draft Agreement formalizes the relationship between the City and the Conservancy
- The Draft Agreement requires final approval by City Council

## Naming Opportunities:

- Welcome Gallery
- Central Rotunda
- North Annex
- North Entrance Lobby
- Multi-purpose Room (West)
- Multi-purpose Room (East)
- West Wing Gardens
- East Wing Gardens
- West Patio
- Pergola (Reconstruction)
- West Fountain Plaza
- East Fountain Plaza
- West Gardens
- East Gardens
- Potting Shed Area



PROPOSED SITE PLAN

## Other Recommendations:

The Naming Opportunities and Donor Acknowledgement Program has received unanimous support from the following:

- The Historic Resources Board's Design Assistance Subcommittee
- The Balboa Park Committee
- The Park and Recreation Board
- City Council's Environment Committee

## Letters of Support:

Letters of Support have been received from:

- The Balboa Park Cultural Partnership
- The Friends of Balboa Park
- The Committee of One Hundred
- The Old Globe Theatre
- The San Diego Foundation





Questions?