TO:       HONORABLE CITY COUNCIL
FROM:      CITY MANAGER        DEPARTMENT: COMMUNITY SERVICES
DATE:       JUNE 18, 2007        CMR:230:07
SUBJECT:  AGREEMENT WITH THE FRIENDS OF HERITAGE PARK, L.L.C., FOR THE DESIGN, CONSTRUCTION AND INSTALLATION OF PLAYGROUND FACILITIES AND OTHER IMPROVEMENTS AT HERITAGE PARK – CAPITAL IMPROVEMENT PROGRAM PROJECT PG-07000

RECOMMENDATION
Staff recommends that Council authorize the City Manager to execute the attached agreement with the Friends of Heritage Park, L.L.C., for improvements located within Heritage Park, including the installation of playground equipment, site amenities and other improvements consistent with the Park Improvement Ordinance (#4947) approved by Council on April 16, 2007.

BACKGROUND
On August 7, 2006, Council approved the allocation of $75,000 from the Park Development Impact Fee Fund to Capital Improvement Project PG-07000 for this project. The project was reviewed by the Parks and Recreation Commission on January 30, 2007. A publicly-noticed meeting was held at City Hall on January 31, 2007 to receive comments and suggestions from the public on the project. A follow-up meeting was held on March 12, 2007, with representatives of the Palo Alto History Museum and Friends of the Palo Alto Parks and Heritage Park, LLC to resolve issues with the conceptual design. On April 16, 2007, Council approved a Park Improvement Ordinance and associated conceptual plan for a children’s playground and park improvements to the westerly portion of Heritage Park. Now that the plan for the playground improvements has been approved, the City is prepared to enter into a limited-term agreement with the Friends of Heritage Park, L.L.C. (Friends) to improve the park and construct the playground and associated amenities.

DISCUSSION
Staff has worked cooperatively with the Friends to develop an agreement and right-of-entry to provide the Heritage Park, LLC exclusive access to that portion of the park undergoing construction. The agreement specifies policy and procedural guidelines for the Heritage Park, LLC to follow regarding design, construction, safety, liability, and payment details. The agreement follows similar public/private partnership agreements that provide for authorized non-profits to manage the improvement of City facilities. Other examples of such partnerships
include the Friends of the Children’s Theatre for the construction of the Magic Castle, and an agreement with Perry-Arrillaga for the construction of a refreshment stand at the Baylands Athletic Center.

Under the terms of the agreement, the Friends will deposit accumulated donations for the project into a City-designated account. The Friends’ funds will be matched with the $75,000 in park development impact fees that Council approved for the project (CIP PG-07000). The Friends will solicit bids from qualified and State-licensed contractors. The selected contractor(s) will be responsible for providing performance bonds and insurance to indemnify the City and the Friends. The bonds and insurance required are similar to the levels of protection normally required for City public works construction projects.

The Friends have provided a timeline for the project (Exhibit B of the Agreement) that shows all phases and timing of the construction of the project, including staging, demolition, site preparation, construction, fencing and site clean-up. The Friends have also provided a detailed budget that corresponds to the phased construction plan, showing that all expenses for the project have been anticipated and adequately provided for (Exhibit C of the Agreement). The budget also includes a contingency amount to cover unforeseen construction or design expenses. The timeline and associated budget have been reviewed by staff to ensure that the project is viable and that the project can be successfully completed with minimal disruption to the park or neighbors.

Once the document is signed and approved and all requirements met, the Friends will obtain all necessary building permits from the City. Upon obtaining the necessary building permits, the Friends will then commence construction activities. The City’s Building Inspection Division will inspect the progress of the construction in order to ensure that the project is constructed safely and competently according to all codes and specifications. All construction work will be coordinated with the Utility Department to ensure that there is no adverse impact on utility infrastructure.

If for any reason the Friends are unable to satisfactorily complete the project within the one-year time period allotted by the agreement, the construction bonds and retained dedicated funds for the project will be used to allow the City to complete the project according to plans.

**RESOURCE IMPACT**
Funds for this project are included in Capital Improvement Program Project – PG-07000 (Park Facilities Improvements). Funds were derived from park development impact fees. The $75,000 in development impact fees that were approved by Council for this project have been met by $175,000 in private contributions from the Heritage Park, LLC.

The annual cost for maintaining and inspecting the playground is estimated at $6,000. This cost is approximately the same as the maintenance of the existing turf area and irrigation system in the area of the park where the playground will be developed.

The Friends have presented a budget for the project based on real equipment, material and labor costs (Exhibit C of the Agreement). Its project cost estimates include a reasonable amount for
contingency expenses. If for some reason actual bids come in higher than anticipated, the Friends will use its prioritized budget to construct the essential infrastructure, pathways, drainage and core playground equipment. The Friends will continue to solicit contributions until all aspects of the plan are realized.

**POLICY IMPLICATIONS**
This project is consistent with the recently approved (Policies & Services Committee) public/private partnership policy as a “joint partnership project.”

The proposed project is consistent with existing City policy, including C-17: Continue to support provisions, funding, and promotion of programs for children and youth; and C-26: Maintain and enhance existing park facilities.

**ENVIRONMENTAL REVIEW**
An Environmental Impact Report for the Summerhill Homes development project, that included conceptual designs for a full-amenity public park, was adopted by the Council resolution (Resolution 7950) on March 27, 2000 (CMR 192:00). These plans are consistent with the original concepts evaluated in the EIR.

**ATTACHMENTS**
Attachment A: Agreement (including exhibits)

**PREPARED BY:**
GREG BETTS
Open Space and Parks Division Manager

**DEPARTMENT HEAD:**
RICHARD JAMES
Director of Community Services

**CITY MANAGER APPROVAL:**
EMILY HARRISON
Assistant City Manager