



## AGENDA REPORT

**Meeting Date:** September 20, 2016  
**Item Number:** D-13  
**To:** Honorable Mayor & City Council  
**From:** Nancy Hunt-Coffey, Director of Community Services  
**Subject:** AMENDMENT NO. 1 TO CHARITABLE PLEDGE AGREEMENT –  
DONATION FOR CACTUS GARDEN IN BEVERLY GARDENS PARK  
**Attachments:** 1. Amendment No. 1

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### **RECOMMENDATION**

Based on recommendations made by the City Council at the July 5, 2016 City Council Study Session, staff requests approval of an Amendment with The Resnick Foundation for sole donor recognition of the Cactus Garden block in Beverly Gardens Park.

### **INTRODUCTION**

In August of 2015, The Resnick Foundation donated \$750,000 toward the restoration of the Cactus Garden block of Beverly Gardens Park. At that time, an agreement was executed which indicated that in recognition of the donation, a donor plaque would be placed in the Cactus Garden which is similar in size and appearance to the plaques that are placed on the wall that surrounds the Lily Pond. At the July 5, 2016 City Council Study Session; The Resnick Foundation's request of an Amendment to their agreement which would ensure that the Resnick Foundation plaque was the only plaque to be placed in the Cactus Garden was brought to City Council and direction was provided to execute a Amendment with The Resnick Foundation.

### **DISCUSSION**

The pledge agreement that was executed in August of 2015 indicated that "the Donor Plaque cannot be modified or removed before the earlier of 50 years or the removal or major renovation of the Cactus Garden" (other than the current campaign to restore the Cactus Garden) in Beverly Gardens Park, without prior written consent of the Foundation...." However the pledge agreement did not provide for sole donor recognition for that block of the park. The Resnick Foundation feels that sole donor recognition was the intent of the original agreement; however, they would like this intent memorialized in a side letter. The Amendment grants exclusivity to The Resnick Foundation, future

donors, if any, would be precluded from having a plaque in the Cactus Garden for the 50 year term.

**FISCAL IMPACT**

The current estimate to restore the Cactus Garden block in Beverly Gardens Park is \$1,175,810. The Resnick Foundation donated \$750,000 specifically toward the restoration of the Cactus Garden. With the City's matching dollars of \$750,000, it would provide for a \$1,500,000 total, and the balance (\$324,190) of which could be utilized for other blocks included in the overall Beverly Gardens Park project.

  
\_\_\_\_\_  
Don Rhoads  
Finance Approval

  
\_\_\_\_\_  
Nancy Hunt-Coffey  
Approved By

# **Attachment 1**

**AMENDMENT NO. 1**

**TO CHARITABLE PLEDGE AGREEMENT**

WHEREAS, the Resnick Foundation (the "Foundation") and the City of Beverly Hills, a municipal corporation (the "Recipient") have previously entered into a CHARITABLE PLEDGE AGREEMENT (the "Agreement"), dated August 18, 2015 and referenced by the Recipient as Agreement No. 431-15.

WHEREAS, the Recipient and the Foundation desire to amend the Agreement pursuant to this Amendment No. 1 to Charitable Pledge Agreement (the "Amendment") to clarify that the Donor Plaque shall be the sole donor plaque in the Cactus Garden in Beverly Gardens Park for as long as the Donor Plaque is located in the Cactus Garden pursuant to Section 5 of the Agreement.

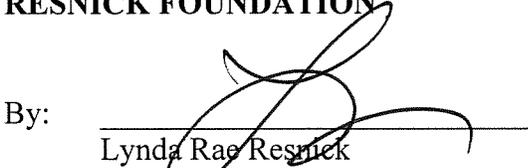
NOW, THEREFORE, in consideration of the mutual promises of the parties as set forth herein, the parties hereto agree as follows:

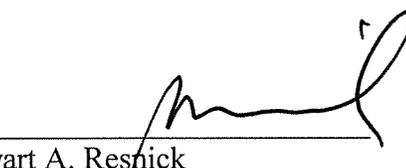
A. Section 5 of the Agreement is hereby amended and restated as follows:

"5. Donor Recognition. The Pledge shall be recognized as a charitable donation made by the Foundation in the name of the Resnicks. In recognition of the Pledge, Recipient shall install a plaque (the "Donor Plaque") in the Cactus Garden in Beverly Gardens Park in accordance with the policy set by Recipient for donor plaques in this area of Beverly Gardens Park. The Resnicks reserve the right to approve the description and appearance of the Donor Plaque prior to its placement in the Cactus Garden in Beverly Gardens Park but hereby acknowledge and agree that such Donor Plaque will be similar in size and appearance to the plaque attached hereto as Exhibit A. Once approved, the Donor Plaque cannot be modified or removed before the earlier of 50 years or the removal or major renovation of the Cactus Garden other than the Project (the "Term of the Plaque"), without the prior written consent of the Foundation, which consent shall not unreasonably be withheld. In addition, the Donor Plaque for the Resnick Foundation shall be the sole donor plaque in the Cactus Garden for the Term of the Plaque. The parties agree that a breach of this Section 5 is considered a material breach of this Agreement."

IN WITNESS WHEREOF, the parties have executed this Amendment as of the \_\_\_\_ day of \_\_\_\_\_ 2016.

**RESNICK FOUNDATION**

By:   
Lynda Rae Resnick  
Director

By:   
Stewart A. Resnick  
Director

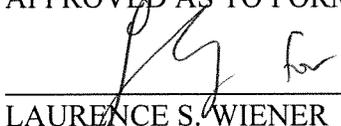
CITY OF BEVERLY HILLS, a municipal  
corporation

\_\_\_\_\_  
JOHN A. MIRISCH  
Mayor of the City of Beverly Hills, California

ATTEST:

\_\_\_\_\_  
BYRON POPE (SEAL)  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
MAHDI ALUZRI  
City Manager  
  
\_\_\_\_\_  
NANCY HUNT-COFFEY  
Director of Community Services