

City of San José, California

COUNCIL POLICY

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EFFECTIVE DATE June 3, 2008	REVISED DATE September 13, 2011	

APPROVED BY COUNCIL ACTION 6/3/2008, Item 4.7, Resolution No. 74394; 9/13/11, Item 4.3, Resolution No. 75985

Purpose

To create a framework for engaging in and evaluating demonstration partnerships with the aim of developing, testing and demonstrating innovative solutions in San José in support of the City’s Economic Development Strategy and City operations. The policy sets forth:

1. Goals and guiding principles for partnerships.
2. Criteria for prioritizing partnerships.
3. Guidelines for conducting a competitive selection process.

Background

The City of San José is home to many of the leading technology companies in the world. The City helps spawn new and innovative solutions of tomorrow by supporting and maintaining some of the most successful technology incubators in the nation.

On October 5, 2007 the City Council adopted San José’s Green Vision – a set of bold goals to put the City on a course to lead the world in environmental change by capitalizing on the innovation that exists or is created in the community. The primary focus of the strategy has been placed on three major elements: Clean Technology, Sustainability, and Green Mobility. By using local ingenuity, entrepreneurship, and creative talent, San José desires to lead the change and stimulate the local economy to create new markets and jobs. In order to achieve the desired growth, inventive businesses require support that reaches beyond traditional business incubators and streamlines commercialization of innovative products, services or processes. Hence, San José recognizes the need to partner with companies for demonstration and testing opportunities. Moreover, the public awareness of innovation and its exposure is an important part of the commercialization process.

On February 12, 2008 the City Council accepted staff’s report on the Public-Private Partnerships emphasizing the importance of meaningful local partnerships. The Council further directed staff to review policies applicable to demonstration projects.

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In conjunction with San José's Green Vision goals and City Council direction, this policy will serve to take advantage of emerging technologies, product and service innovations as well as become a new economic development tool to attract innovative entrepreneurs to move to or excel in San José.

Policy

The City may enter into a Demonstration Partnership Agreement with the purpose of testing, evaluating and/or demonstrating innovative solutions if the potential partnership follows the Goals of Demonstration Partnerships and meets the requirements of the Guiding Principles set forth in this Policy. The application of this Policy depends on the type of Demonstration Partnership as defined in this policy. The City may consider but it is not limited to, some of the following to enter into a meaningful demonstration partnership:

1. Make available temporary use of City owned land, facilities, equipment, right of ways and data.
2. Provide financial assistance and/or absorb some costs for project implementation.
3. Agree to non-disclosure statements.
4. Request City Council to exempt the project from certain City Policies.
5. Where appropriate, consider extended use of City assets that provide opportunities to demonstrate the return on investment provided by a particular innovation.

Definitions

A "Demonstration Partnership" refers to an agreement between the City and businesses, nonprofit organizations, and/or other governmental agencies to test, evaluate and/or demonstrate innovative solutions utilizing City land, facilities, equipment, right of ways, and City data. The partnership may fall into the following types:

1. "Pilot Project" refers to a product, process, service, or information technology that is currently available in the U.S. marketplace and that the City may want to explore for further application to improve City services.
2. "Demonstration/Testing" refers to a request by an outside party for the City to provide the outside party with City land, facilities, right of ways, equipment or/and data for the purpose of testing, evaluating and/or demonstrating the outside party innovative solution.
3. "Mutual Development Opportunity" refers to a Demonstration/Testing partnerships that the City has identified as a potential candidate for a contribution toward economic development and/or has the potential for a benefit for use by the City.

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“Innovative solution” refers to a product, process, service, or information technology that is new or improves an existing product, process, service, or information technology and is not currently deployed in the U.S. marketplace. An Innovative solution is expected to deliver measurable benefits compared to current practice in the areas of environmental benefits, performance, overall process reliability and control, or economic or social benefits. Moreover, an innovative solution shall consist of a specific and identifiable research component.

Implementation Guidelines

A. Goals of Demonstration Partnerships

Through demonstration partnerships, the City strives to achieve one or more of the following:

- a. create new markets and new jobs or/and support existing local innovators;
- b. improve quality and efficiency of City services and operations;
- c. advance the City’s Green Vision and Economic Development Strategy; and
- d. educate the public about innovative solutions.

B. Guiding Principles

Mutual benefits and consistency with City Policy

Both the City’s and the partner’s goals should be openly and clearly stated. The City will strive that a proposed partnership be mutually beneficial to both parties. All partnerships shall, to the extent feasible, be consistent with all applicable policies and ordinances set by the City, with variance from policy subject to City Council approval.

Mitigated Risk

The partners, its employees and potential subcontractors must, at a minimum, comply with all applicable laws, codes, rules, regulations and requirements pertaining to the execution of the demonstration project.

Coordination

The City Manager will designate a Demonstration Partnerships Coordinator who coordinates the partnership creation process as defined in this policy. Each proposed partnership will be coordinated with all City departments identified by the Partnerships Coordinator as being crucial to the success of the project.

Performance Measurement and Evaluation

At the outset of each Demonstration Partnership a set of performance measures should be established. At the conclusion of each project, a report evaluating the project against the stated performance measures and any additional information should be forwarded to the Demonstration Partnerships Coordinator.

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C. Partnership Process

Step 1. The City department or Partnerships Coordinator identifies the type of Demonstration Project considered.

1. **Pilot Projects** should to the extent possible follow the procedures established by the Finance Department/Purchasing Division or the Public Works Department, if the project is a public work.
2. **Demonstration/Testing Projects** should first be subjected to an initial assessment, prepared by the proponent, to identify the potential costs and benefit to the City in engaging in the project. Estimated cost factors that should be considered include staff time, out of pocket expenditures, risk to the City and lost opportunity of providing core services. Projects that are found to have costs that outweigh the benefits should not be engaged in as a Demonstration/Testing Project.
3. **Mutual Development Opportunities** must identify potential for a contribution toward economic development of the City and/or has the potential for a benefit for use by the City. To the extent that the City might not otherwise engage in such a project, the City's Office of Economic Development or interested City Departments may identify resources for the City to engage in the Project.

Step 2. The Partnerships Coordinator in conjunction with City departments will prioritize potential demonstration partnerships based on the following criteria:

1. Consistency of the goals of the proposed partnership with the City's mission and core services.
2. Consistency with existing laws, City policies and practices.
3. Balance between the potential benefit of the partnership with the level of risk assumed by the City.
4. Potential for actual or perceived conflicts between demonstration partners' and City's goals or business practices.

Step 3. Based on internal interests and requests from potential demonstration partners, the Partnerships Coordinator, in consultation with the City Procurement Officer will decide whether to negotiate with a potential demonstration partner or pursue, to the extent feasible and practicable, a competitive process as prescribed by the City Charter and the San José Municipal Code (SJMC), Chapter 4.12. The Partnerships Coordinator may decide to use modified competitive models where it is infeasible or impracticable to follow established City procedures. When the Mutual Development Opportunities Model is employed, City staff may negotiate

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concurrently with potential partners to establish the most advantageous demonstration partnerships and to arrive at a timely agreement which is consistent with this policy and applicable City policies and ordinances.

Step 4. The City, if requested to share some of the potential liability in recognition of the benefit to be gained by the City, should decide the matter by applying processes used for other Public-Private Partnership agreements within the City. This includes but is not limited to mutual indemnification.

Step 5. Demonstration Partnership Agreements shall be approved by the City Council when:

1. involving City revenues or expenses of \$100,000 or greater,
2. exposing the City to an extraordinary risk, or
3. requiring exemption from City Policies.

D. Duration and closure

Each Demonstration Partnership should have a limited duration that is established at the outset. At the conclusion of each project a report evaluating the project against the stated performance measures and any additional information should be forwarded to the Demonstration Partnerships Coordinator. In the event that a private party provides resources to advance a demonstration (including but not limited to: capital funds, grant funding, technology deployment and technical expertise), then the term of the partnership may occur for a longer duration than otherwise contemplated in this Policy in consideration of that investment. Depending on the partnership agreement the City may require partners to remove all equipment or materials installed and to return City property to its original condition.

E. Responsibilities

All demonstration partnerships will be coordinated by the leading City department(s) under the direction of the Partnerships Coordinator designated by the City Manager.

The Demonstration Partnerships Coordinator will be responsible for:

1. Implementing this policy.
2. Providing guidance to all City departments regarding the interpretation and application of this policy.
3. Reviewing and assisting in the development of partnership agreements.

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4. Tracking and reporting all demonstration partnerships developed by City departments.
5. Acting as a contact person for partnership opportunities and connecting potential demonstration partners with appropriate departments.
6. Recommending to the appropriate Authority approval or denial of the proposed Demonstration Partnership Agreements.
7. Regularly reporting to the City Council regarding the implementation of this policy and the status of all partnership agreements approved to date.