

Office of the City Auditor

**Report to the City Council
City of San José**

**AUDIT OF THE SAN JOSÉ
POLICE ACTIVITIES
LEAGUE**

**Report 18-02
June 2018**

June 7, 2018

Honorable Mayor and Members
Of the City Council
200 East Santa Clara Street
San José, CA 95113

Audit of the San José Police Activities League

The San José Police Activities League (PAL) is a 501(c)3 that provides youth athletic programs. PAL's mission is to *promote a constructive relationship between law enforcement agencies, young people and citizens of the community to develop the young people into responsible citizens*. PAL offers an assortment of programs under its overarching umbrella. Individual programs include taekwondo, boxing, cadet program, and the Junior Giants program for mentally and physically challenged youth and adults. In addition, PAL has incorporated three different sports leagues – Metro PAL Soccer, PAL PONY Baseball, and the Football/Cheerleading Conference. In 2017, over 1,600 youth participated in PAL's activities.

The City of San José (City) provides significant support to PAL through free use of the J.R. Blackmore PAL Stadium Complex located on the east side of San José. PAL is an independent non-profit organization—separate from the City, but managed and run by sworn City staff. A Police Sergeant is the PAL Executive Director and a Police Officer manages the PAL cadet program. Our review focused on PAL's financial reporting, facility use, service delivery, and compliance with its 2007 Facilities and Maintenance agreement with the City's Parks, Recreation, and Neighborhood Services department (PRNS).

Finding 1: The City Should Re-examine Its Current Relationship With PAL. The San José Police Department has been an integral part of PAL since it started in 1968—responsible for day-to-day operations of the facility and the organization. As this report describes in detail, our review revealed weaknesses in the administration of the program that led us to conclude that a new direction may be warranted, and that PAL may be better served by a specially trained executive director and potentially a different service delivery model. We are recommending the City: reconsider how and who should manage the PAL facilities and associated activities; clarify the roles of the PAL board, council liaison, and Police and Parks Departments; and revise its 2007 agreement with the PAL organization, as appropriate. In addition, we recommend the City and PAL work to inform and encourage police officers regarding volunteer (and potentially paid) opportunities to work with youth at PAL.

Finding 2: PAL Failed to Comply With Financial Requirements. PAL's administrative difficulties include not completing required annual audits of financial statements since 2014 and not fully addressing the concerns raised by auditors at that time. Additionally, PAL has inconsistently submitted their tax forms to the IRS—risking penalties. Although the PAL Board receives monthly financial status reports, there is no annual budget. Furthermore, PAL does not have formal policies and procedures to ensure

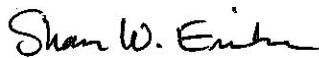
proper handling of cash or tracking of donations. This has resulted in administrative processes without proper checks and balances.

Finding 3: PAL Failed to Comply With Provisions of Its Agreement With the City. PAL's non-compliance with the 2007 agreement includes: not setting aside its agreed-upon share of revenues for facility improvements; granting naming rights to the facility without prior City Council approval; not addressing potential conflicts of interest; not complying with requirements to allow sports fields to rest; and not obtaining City approval for field and parking rental rates and free use. In addition to addressing these issues, we recommend the City assess needed facility improvements, and determine the funding mechanism to address those improvements.

Finding 4: PAL Lacks Formal Agreements With Its Sports Leagues and Was Not Compliant With Some City and State Requirements. PAL program expenditures and registration fees were inconsistent among its various soccer districts. Children in one district were inexplicably charged a higher registration fee compared to children in other districts, and were required to pay for their uniforms out-of-pocket, where children in other districts had uniforms provided by PAL. Furthermore, PAL did not follow-up and track whether State and City requirements for backgrounding and TB testing were followed, and had not addressed recent State guidelines on concussions in contact sports. We recommend the City enforce State and City requirements for backgrounding, TB testing, and concussions and require formal agreements with the various sports leagues that govern the relationship and responsibilities of each of the leagues.

This reports includes 23 recommendations to improve the City's oversight and management of the San José Police Activities League. We plan to present this report at the June 14, 2018 meeting of the Neighborhood Services and Education Committee. We would like to thank the San José Police Department, the San José Police Activities League, Parks, Recreation and Neighborhood Services Department, and the Office of the City Attorney for their assistance during the audit process. The Administration has reviewed this report and its response is shown on the yellow pages.

Respectfully submitted,



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Introduction

The mission of the City Auditor’s Office is to independently assess and report on City operations and services. The audit function is an essential element of San José’s public accountability, and our audits provide the City Council, City management, and the general public with independent and objective information regarding the economy, efficiency, and effectiveness of City operations and services.

In accordance with the City Auditor’s Fiscal Year (FY) 2017-18 Work Plan, we have completed an audit of the Police Activities League (PAL).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We limited our work to those areas specified in the “Audit Objective, Scope, and Methodology” section of this report.

The Office of the City Auditor thanks the San José Police Department (SJPD), the San José PAL staff, Parks, Recreation, and Neighborhood Services (PRNS), Public Works (PW), the City Manager’s Office, and the City Attorney’s Office for their time and insight during the audit process.

Background

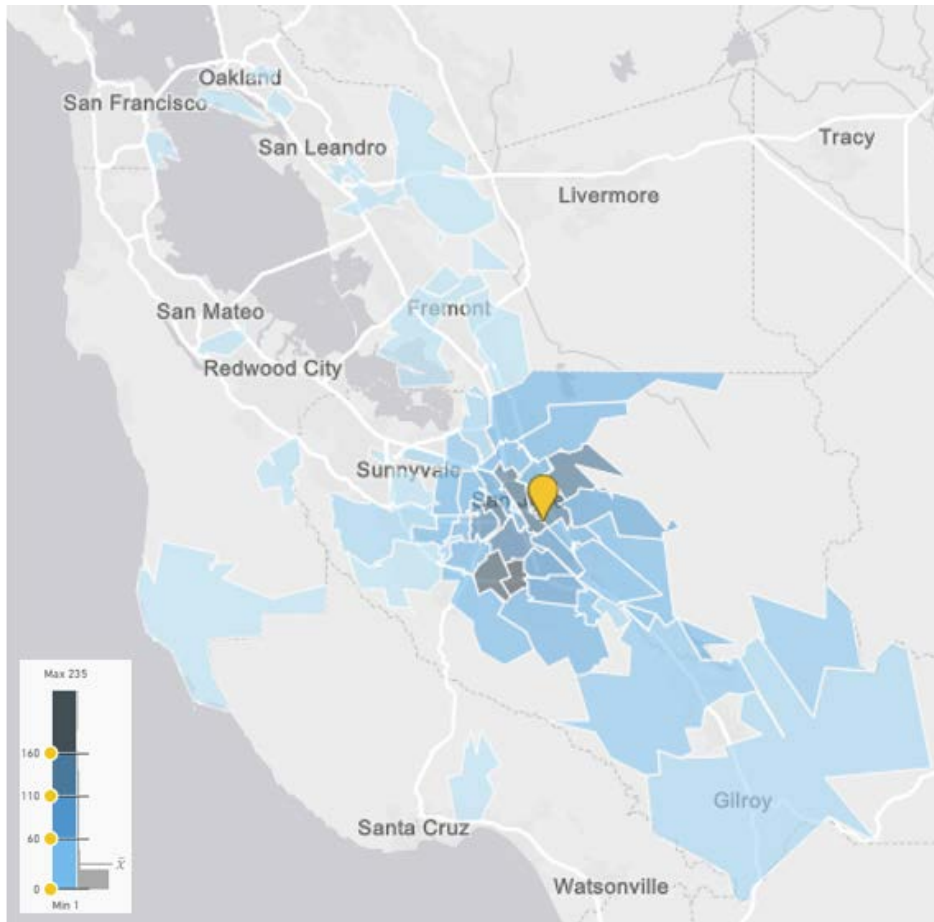
The San José Police Activities League (PAL) is a 501(c)3, established in 1968, that provides youth athletic programs. PAL operates out of the City-owned J.R. Blackmore PAL Stadium Complex, located on the east side of San José.¹ PAL’s mission, as stated in its bylaws, is

to promote a constructive relationship between law enforcement agencies, young people and citizens of the community to develop the young people into responsible and mature citizens. P.A.L. programs are designed to develop activities which act as deterrents to delinquent behavior among young people and keep them occupied with constructive organized activity.

¹ The City provides free use of the PAL stadium located at 680 34th Street in San José (J.R. Blackmore Police Activities League Stadium and Complex). The stadium includes PAL’s office building, sports field house, fitness center, futsal courts, baseball field, softball field, and a football/soccer field—including spectator stands, press boxes, restrooms, and running track.

PAL offers a variety of sports programs through different sports leagues. Sports programs that PAL offered in 2017 included, taekwondo, boxing, soccer, baseball, cheerleading, and football. Children participating in these activities came from all areas of San José and its neighboring cities. In 2017, over 1,600 youth participated in PAL's activities.

Exhibit I: PAL Serves Youth from San José and Surrounding Areas²



Source: Auditor created from PAL registrations by zip code

PAL Sports and Activities

PAL offers an assortment of programs under its overarching umbrella. Individual programs include taekwondo, boxing, cadet program, and the Junior Giants program for mentally and physically challenged players of all ages.

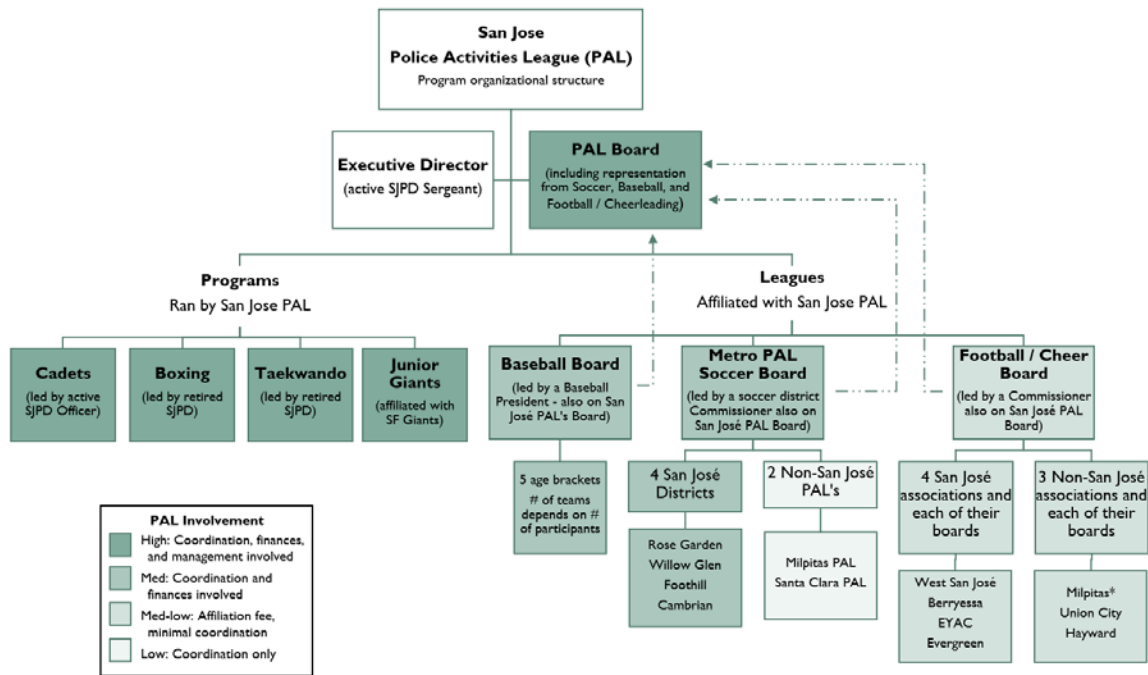
PAL has incorporated three different sports leagues which includes associations from different areas across the San Francisco Bay Area. Each league has varying involvement in management and coordination from PAL. These leagues include

² This data is from PAL's website registrations, which excludes Football and Cheerleading.

Metro PAL Soccer, PAL PONY Baseball, and the Football/Cheerleading Conference.³

Some programs and leagues are more closely involved with PAL as an organization than others. Exhibit 2 showcases the organizational structure of the programs and leagues offered by PAL and their varying levels of involvement.

Exhibit 2: San José PAL’s Program Organizational Structure (as of February 2018)



Source: Compiled by the Auditor’s Office from PAL documents

* As of March 2018, Milpitas football no longer participates in this league.

PAL Board and Staffing

The PAL Board currently has 12 active volunteer members. The PAL Board is composed of a combination of community members, participating sports league commissioners (currently three members are commissioners of their own PAL sports leagues), and two active SJPD Sergeants (the current and former Executive Directors).

The PAL bylaws state that the Board is responsible for conducting and controlling all affairs of PAL including selecting and removing all employees (except the Police

³ PAL previously offered a girls softball league. Per PAL Board minutes it was cut in 2016 due to high cost of insurance, lack of oversight and involvement from the San José PAL Board, and no police involvement throughout the season. Additionally, per PAL Board minutes, PAL’s mixed martial arts program was also cut in 2016 due to low revenue, high cost, no oversight, no officer involvement, no access to financials, and no Live Scans or criminal background checks.

Department employees), and making relevant rules and regulations. Exhibit 3 shows the Board composition.

Exhibit 3: Board Composition⁴

Active PAL Board Members	6 Community members (including the Board President and Board Vice President)
	3 Sports League Commissioners (baseball, soccer, football/cheerleading)
	2 Active SJPD Sergeants (Board Treasurer and Executive Director)
	1 Retired SJPD Officer (Past Board President)

Source: Auditor Compiled from PAL Documents and Website

A Police Sergeant is the PAL Executive Director managing all affairs of PAL and a Police Officer manages the PAL cadet program.⁵ The sergeant and the officer are both full-time City of San José employees that are paid through the City and report through the San José Police Department’s chain of command.

The non-profit organization, PAL, directly employs a full-time administrative staff member, a part-time book keeper, a full-time facility manager and seven as-needed concessions and facilities staff.

City On-going Support

The City provides on-going support through staffing and use of the stadium. In FY 2016-17, the City’s financial support for PAL included \$582,000 in staffing (police sergeant and police officer). The Police Department also provided about \$9,000 in supplies and materials, use of a printer/copier, training, and the security alert system.

The Department of Parks, Recreation and Neighborhood Services (PRNS) provides on-going maintenance for the fields including mowing, line marking, turf building, irrigation, etc. During the peak season, PRNS staff provide field maintenance services twice per week and any additional services on request.

Additionally, the Public Works Department provides as-needed maintenance for the PAL facilities, including, furnace and air conditioning repairs, light replacements, roof inspections, and toilet repairs. In FY 2016-17, Public Works provided \$34,000 worth of work.

⁴ PAL Board also has one honorary board member.

⁵ The Police Officer also spends part of his time helping with the boxing practice. We should note that PAL’s police staffing has declined significantly since 2010 when it had 5 sworn and 1 civilian staff assigned.

Further, the City provides about \$30,000 in custodial services annually, through two agreements—one through PRNS for the outdoor restrooms and another through the City for custodial services in the PAL offices.

A 20-Year Facilities Agreement Governs Use of the PAL Stadium

In 2007, PAL entered a 20-year facilities maintenance agreement (2007 Agreement) with the City through PRNS.⁶ In recognition of the importance of PAL activities to San José youth, the 2007 agreement allows PAL the use of the stadium complex, including all facilities and the parking lot. The 2007 agreement also provides PAL with designated police staffing, regular custodial services, and regular field maintenance (mowing, irrigation, striping fields, etc.), and as-needed facility maintenance by City staff. PAL is responsible for trash cleanup and maintenance after special events.

Other Sources of Funding

In addition to in-kind services from the City, PAL receives donations from Police personnel through regular paycheck deductions. Specifically, in FY 2016-17, 238 City employees donated about \$24,000 through payroll deductions. This made up about half of the total donations PAL received in FY 2016-17, with \$2,000 contributed through actual fundraising events.

Much of PAL's non-City funding is through registrations for its various sports programs, such as soccer, baseball, boxing, and taekwondo. In FY 2016-17, PAL collected \$194,275 in revenues in registration and affiliation fees. Exhibit 4 shows PAL's 2017 unaudited income-loss summary.

⁶ PAL had previous agreements with the City, including a prior facility agreement from 2004-2009 and one before that from 1983-2003. The City Charter prohibits the City from alienating any portion of a City park through agreements for periods more than three years, unless approved by the voters. The stadium complex, along with certain other parkland was the subject of a ballot measure in 1982 (Measure D). The voters authorized the City to enter into agreements with a term of up to 20 years provided that the purpose of that agreement is for public use and that any revenue from that agreement shall be used "solely for recreation purposes".

Exhibit 4: Unaudited Income-Loss for FY 2016-17 (July 1 – June 30)

Category	Total
Contributions (including City employee donations)	\$47,641
Fundraising Proceeds	\$1,850
Facility Usage	\$97,228
Registration and Affiliation Fees	\$194,275
Concession Revenue	\$89,775
Admissions and Parking Revenue	\$50,870
Other Income (including investment income)	\$1,687
Total Income	\$483,326
Cost of Goods Sold	(\$38,851)
Gross Income	\$444,475
Staff Expenses (Non-City)	\$132,484
Professional Services	\$39,560
Non-Personnel Expenses	\$59,678
Organization Expense (including uniforms)	\$52,310
Special Event Expenses	\$16,599
Other Operating Expenses	\$64,137
Other Expenses (including bank fees)	\$27,483
Total Expenses	\$392,338
Net Income	\$52,137

Source: Information from PAL's QuickBooks

Note: Does not include in-kind donations from the City (i.e. stadium use, SJPD salaries, etc.)

PAL Offers Many Different Athletic Programs

PAL offers various athletic programs and partners with other organizations to provide additional options for youth athletics.

Depending on the type of sports league, PAL collects registrations and will reimburse leagues for the costs of rental fields, uniforms, trophies, etc. Most of these leagues also have their own separate structure and their own board of directors.

Organizations participating in the football/cheerleading conference each pay a \$700 annual affiliation fee to PAL.⁷ General affairs, such as membership, discipline, and rule changes, are governed by PAL's board of directors. For participating organizations, PAL hosts a cheerleading competition and four major football events—Jamboree, Playoffs, Championship, and All Stars.

The following section describes the various programs and the leagues and groups that collaborate with PAL.

⁷ Most of the football organizations affiliated with this conference have their own organizational structure and sometimes a separate board. The football/cheerleading conference board, consisting of the president of each affiliated association and the conference commissioner, provides direction and administration of the conference's policies.

Junior Giants

Junior Giants is a baseball program for mentally and physically challenged individuals. This program is free to participants of all ages. The Major League Baseball team, the San Francisco Giants, provides a hat, shirt, and equipment to the participants. The teams play at the PRNS-run Olinder field, which is a baseball field that has been adjusted to accommodate the Junior Giants. The teams play a schedule of eight games during the fall season.

Taekwondo

A retired SJPD officer coaches the taekwondo program. Taekwondo is offered as a co-ed sport for ages 6 through 19. A \$65 annual fee is collected from each participant for the cost of the uniform, PAL patch, insurance, and national membership. In 2017, there were 80 youth participating in taekwondo at PAL.

Exhibit 5: Taekwondo



Source: PAL Website

Boxing

Boxing at PAL is coached by a retired SJPD officer and an active SJPD sergeant volunteering their time.⁸ The youth boxing program at PAL is co-ed and offered to ages 12-21 for an annual fee of \$80. The co-ed boxing group from San José State University (SJSU) also practices at PAL and pays the annual PAL fee. In 2017, PAL had 122 individuals registered for the youth and SJSU boxing programs held at PAL.

Exhibit 6: Boxing



Source: PAL Website

Futsal and Soccer Camp

In addition to PAL's regularly offered programs, it also offers outdoor futsal programs and soccer camps. Futsal is offered to youth for \$5, and the soccer camps are typically offered for \$25. In 2017, PAL served about 30 youth in its futsal program and about 100 youth in its three soccer camps—winter, summer, and spring.

⁸ The Police Officer assigned to PAL also helps with the boxing program.

Metro PAL Youth Soccer League

Metro PAL is a youth soccer league under the umbrella of San José PAL. The league is governed by its constitution and bylaws and “all rules and regulations set forth by the SJPD PAL Board of Directors.” PAL Soccer is currently the most used and popular of PAL sports programs. The Metro PAL board is composed of representatives from San José’s PAL and the police activities leagues from Santa Clara and Milpitas. This separate board is led by a San José PAL commissioner.⁹

Exhibit 7: Boys Soccer



Source: PAL Facebook

Exhibit 8: Girls Soccer



Source: PAL Facebook

San José’s teams are divided into four districts from different areas of San José—Rose Garden, Willow Glen, Cambrian, and Foothill. Each district has a commissioner who coordinates for the teams within their district and represents their district on the Metro PAL board. Soccer serves youth from ages 4 through 17 with co-ed teams for the younger age brackets and separate boys and girls teams in the older age brackets. In 2017, there were over 1,000 youth registered across the four districts.

PAL PONY¹⁰ Baseball League

PAL PONY Baseball is a competitive baseball league offered in the spring to boys ages 5 through 18. They primarily play at PAL stadium and a few City-run fields. In 2017, there were 214 children competing within five age brackets. Registration for each child costs \$165 for the youngest age bracket, \$225 for the next two brackets, and \$240 and \$260 for the oldest two brackets.

Exhibit 9: Baseball



Source: PAL Website

⁹ Prior to 2014, Milpitas PAL and Santa Clara PAL contributed upwards of \$1,200 each to participate in the soccer league. Both currently do not contribute monetarily.

¹⁰ PONY baseball is part of the larger association, *Protecting Our Nation’s Youth*.

Football/Cheerleading Conference (League)

The Football/Cheerleading Conference is structured differently than the rest of the athletics offered through PAL. Registrations for youth participants are done through the associations, rather than going through PAL. PAL puts on a cheer competition and four large games through the year, and provides the secondary sports insurance for all participants. The Football/Cheerleading Conference is made up of seven associations. Four are in San José — West San José, Berryessa, Evergreen, and Eastside Youth Athletic Club (EYAC). The other three include Milpitas, Union City, and Hayward.¹¹

Exhibit 10: Football and Cheerleading

Source: PAL Website and Facebook

PAL Regularly Rents the Fields and Parking Lot to Other Community Organizations

In addition to regularly scheduled PAL games and practices, community organizations have used PAL facilities for sporting and cultural events. Valley Christian High School, Beyond the Game, Real San José, and Notre Dame High School are a few organizations that regularly uses PAL fields for Soccer, Softball, and Lacrosse practices, games, and tournaments. The parking lot is regularly used by Rocketship Education, Inc., Los Suenos Academy, and occasionally used by events like the Azteca Festival.

PAL has also collaborated with Second Harvest food bank to offer fresh produce to those in need, every third Tuesday at PAL stadium.

PAL Cadet Program

In addition to the athletic programs, PAL manages the Law Enforcement Unit (LEU) Cadet Program under the Boy Scouts of America affiliation. This program was initially created to introduce young people to law enforcement as a career opportunity. The Police Officer assigned to PAL teaches the cadets about a variety of topics related to police work, relaying the information in a way that is relatable to the youth involved in the program.

¹¹ As of March 2018, Milpitas no longer participates in the football program.

Exhibit II: Cadets Preparing for a Test



Source: Auditor Photo

While in the program, cadets participate in several aspects of police work including volunteering at Police Department events and helping at DUI checkpoints. Exposing cadets to police work can help create an interest in a career in law enforcement and result in candidates who are already aware of what work as a Police Officer entails.

The cadets have participated and excelled in numerous competitions across California, competing against other LEUs and cadet programs. The cadets participate in an annual summer academy, hosted by the Boy Scouts.¹² The current cadet class is composed of 18 youth, ages 15 through 20.

Audit Objective, Scope, and Methodology

The objective of our audit was to review PAL financial reporting, facility use, service delivery, and determine compliance with its Facilities and Maintenance 2007 Agreement with PRNS. To meet our audit objective and understand management controls, we did the following:

- Reviewed the City's 2007-2027 Facilities and Maintenance agreement between PRNS and PAL
- Reviewed PAL's articles of incorporation, Board bylaws, and other historical information on PAL's mission
- Reviewed other relevant City agreements, including the agreements for custodial services
- Sampled PAL's agreements with outside organizations and agencies, including a sample of rental agreements with:
 - Notre Dame High School (soccer, softball, and lacrosse)

¹² In 2017, the \$195 per individual cost of the academy was paid for by SJPD. This totaled \$1,755 for 9 attendees.

- Valley Christian High School
- Real San José
- Beyond the Game Soccer
- Rocketship Education, Inc., Los Suenos Academy (for use of the parking lot)
- Sampled PAL's schedule of stadium use
- Reviewed expenditures for PAL by the Police Department and PRNS, as shown in FMS
- Reviewed PAL's permits from the health department and summaries of liability insurance
- Reviewed relevant California Health and Safety Code sections related to fingerprinting, backgrounding, TB testing, and concussions
- Reviewed relevant City policies, including:
 - Check Processing Policy (CPM 5.3.2)
 - City Revenue Collection Policy (CPM 5.3.3)
 - Cash Overages and Shortages (CPM 5.3.5)
 - General Guidelines for Cash Handling Procedures (CPM 5.3.7)
 - The City's Open Government and Ethics Ordinance (Sunshine Ordinance)
 - The City of San José's Sign Ordinance (Section 23.02.800 of the San José Municipal Code)
 - The Police Duty Manual
 - Grants Manual
- Walked through PAL's related cash handling process
- Reviewed PAL's audited financial statements as of June 30, 2011, 2012, 2013, and 2014¹³
- Reviewed PAL's organization charts, staffing, and Board make-up
- Reviewed Board of Director meeting minutes for 2014, 2015, 2016, 2017, and 2018 (as of March)
- Reviewed PAL's unaudited financial transactions from 2014 through 2017 in QuickBooks

¹³ Abbot, Stringham & Lynch concluded that the combined statements showed significant material deficiencies, including a lack of sufficient and appropriate accounting records. Based on this lack of information, the auditors could not confirm whether all significant transactions have been recognized in the financial statements in the proper period. Other concerns included a lack of estimated in-kind support from the City, and estimates of net shared revenue obligation to the City.

- Sampled PAL bank statements for January 2017 through November 2017 to understand cash flow¹⁴
 - We conducted a limited review of PAL's CY 2017 bank statements to verify cash on hand. As of November 2017, PAL had \$348,000 in their checking and money market accounts
- Reviewed best practice, including:
 - California Attorney General's Guide for Charities
 - New York Attorney General's Internal Controls and Financial Accountability for Not-For-Profit Boards
- Sampled gate receipts, cash register collections, registration refunds
- Sampled receipts for concession purchases, and reimbursements for league expenses
- Interviewed PAL staff, including the book keeper, administrative staff member, facility manager, two as-needed concessions staff
- Interviewed staff from the following City departments
 - Police Department
 - PRNS
 - City Manager's Office (Grants team)
 - City Attorney's Office
 - Public Works
- Interviewed councilmembers who were at one time assigned to attend PAL board meetings
- Reviewed facility conditions assessment for the PAL facilities for 2016 and 2017
- Reviewed maintenance logs from Public Works for 2013, 2014, 2015, 2016, 2017
- Observed a PAL cadet training, boxing practice, and concessions
- Attended the March 10th PAL Baseball Opening Day
- Met or interviewed various other PALs including:
 - New York PAL (New York Police Athletic League)
 - San Francisco PAL
 - Santa Clara PAL

¹⁴ We identified that PAL had been paying a monthly fee of about \$60 to its bank for many years. After discussion with the bank, PAL's Executive Director discovered that the fee was for an ATM machine that PAL has not had or used for years. The Executive Director requested that the bank stop charging the fee on a go-forward basis and received a refund of at least three months of the incorrect fees.

- Reviewed webpages and/or 990s for the following PALs:
 - San Francisco PAL
 - Santa Clara PAL
 - New York PAL
 - Oakland PAL
 - Milpitas PAL
 - Anaheim PAL
 - San Diego PAL
 - Sacramento PAL
 - Redwood City PAL

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Finding I **The City Should Re-examine Its Current Relationship With PAL**

Summary

The only agreement currently in force between the City and PAL is the 20-year facilities maintenance agreement through PRNS. The San José Police Department essentially runs the day-to-day operations of the organization, and has been an integral part of PAL since it started in 1968. Police staff serve vital roles in the organization. However, our review has revealed weaknesses in the administration of the program that led us to conclude that a new direction maybe warranted, and that PAL may be better served by a specially trained executive director and potentially a different service delivery model. Further, the City should reconsider how and who should manage the PAL facilities and associated activities; the roles of the PAL board, council liaison and Police and Parks Department; and revise its 2007 agreement with the PAL organization. Lastly, the City and PAL should work to inform and encourage officers regarding the volunteer (and potentially paid) opportunities to work with PAL youth.

The Police Department Has Been an Integral Part of PAL Since It Started

San José PAL began as a Police Department initiated after-school program for youth.¹⁵ Since it was first incorporated in 1968, the Police Department has provided on-going support to the PAL organization. The purpose of PAL (as stated in the articles of incorporation) was “to combat community deterioration and juvenile delinquency through the establishment of sound amateur athletic programs under the direction of qualified police officers.”

Unique City Relationship

PAL is an independent non-profit organization, separate from the City, but managed and run by sworn City staff. The PAL Board of Directors governs the organization, but in fact does not have much authority over City staff managing the organization. The City’s 2007 agreement with PAL provided significant SJPD support in the form of staffing. Specifically,

The CITY has made available to PAL certain funding in the CITY’S annual budget and also provided the assistance of certain sworn on-duty Police Department Officers to oversee operation of the Complex and to act as Complex Manager, to assist in the planning, scheduling and supervision of the PAL youth sports programs, both at the Complex and in other locations, and to act under the title of Executive Director of the non-profit entity [...].

¹⁵ The program initially was started at San José High School and Roosevelt Junior High School but later relocated to its current location.

A non-sworn City staff member also provides services in acting as a liaison with the PAL Board's bank and in providing assistance in preparing the budgets of the PAL Board.

Currently, two full-time sworn police employees are assigned to PAL with a Police Sergeant managing the organization.

A Police Sergeant Fills the Role of PAL Executive Director

The role of PAL Executive Director has been filled by Police Department personnel since the creation of San José's PAL. Currently a Police Sergeant is responsible for the day-to-day running of PAL. A Police Officer is also assigned full-time to PAL with primary responsibility to manage and train PAL cadets.

Role of an Executive Director – Best Practices

Typically, an executive director's primary responsibility is to carry out the strategic plans and policies as established by that non-profit's board of directors. An executive director is the leader of the organization, who advises the Board and plays an important role in a non-profit organization. Key responsibilities of an executive director include:

- *Support operations and administration of Board by advising and informing Board members, interfacing between Board and staff, and supporting Board's evaluation of chief executive.*
- *Oversee design, marketing, promotion, delivery and quality of programs, products, and services.*
- *Recommend yearly budget for Board approval and prudently manages organization's resources within those budget guidelines according to current laws and regulations.*
- *Effectively manage the human resources of the organization according to authorized personnel policies and procedures that fully conform to current laws and regulations.*
- *Assure the organization and its mission, programs, products, and services are consistently presented in strong, positive image to relevant stakeholders.*
- *Oversee fundraising planning and implementation, including identifying resource requirements, researching funding sources, establishing strategies to approach funders, submitting proposals and administrating fundraising records and documentation.*¹⁶

¹⁶ <https://managementhelp.org/chiefexecutives/job-description.htm>

PAL Would Be Better Served by a Specially Trained Executive Director

A Police Sergeant is a career police employee who reports directly within the chain of command in the police hierarchy. Per the City's Police Sergeant job classification description,

the Police Sergeant classification is responsible for supervising, and performing the work of, staff in an assigned law enforcement program area on an assigned shift. [...] The Police Sergeant class is distinguished from the Police Officer in that the latter class performs the full range of police enforcement and prevention duties, but does not supervise staff.

While a Sergeant has significant experience and expertise in police work, they would typically have little to no experience in non-profit governance. Further, because of the Police Department shift-change rules, the assigned Sergeant transfers out of this position after three years, leaving little time for coming up-to-speed with the organization and its challenges. A non-profit executive director is a specialized job that requires experience, training, and knowledge of basic non-profit management principles.

Role of a Non-Profit Executive Director May Conflict with the Roles and Responsibilities of a Sworn Officer

An executive director of a non-profit is expected to be heavily involved in fundraising. The PAL executive director typically would be actively involved with calling potential funders and asking for donations. However, that role may conflict with the roles and responsibilities of a sworn officer. The Police Duty Manual specifically prohibits fundraising by its staff, unless authorized by the Chief. Section C 1435 of the Duty Manual states that,

Department members will not solicit, collect or receive money or other things of value for charitable or testimonial purposes except as approved by the Chief of Police.

Like San José, police personnel in San Francisco are similarly restricted from soliciting donations. The San Francisco PAL Sergeant (who heads SFPAL) heavily relies on his Non-profit Administrator (who has previous fundraising and non-profit management experience) to manage fundraising campaigns and donor calls.

The PAL Board Has no Personnel Decision Making Authority Over its Executive Director

The City's agreement with PAL makes clear that the PAL Board has no authority over the PAL executive director or any other City employees that are assigned to PAL. Specifically, the City's facility agreement states

PAL Board [...] understands that any CITY staff providing support of PAL Board's operations are CITY employees and are under the supervision of the City Manager.

Not having any authority over the employee managing the organization that the Board is ultimately responsible for, can significantly weaken the Board's authority and make it ineffectual.

PAL-City Relationship Needs Restructuring

The only agreement currently in force between the City and PAL is the 20-year facilities maintenance agreement through PRNS. The San José Police Department essentially runs the day-to-day operations of the organization, but the current structure is confusing.

It is unclear whether PAL is an independent organization or whether it is an arm of the City. As a result, PAL's accountability to its monitoring agency (PRNS or Police, depending on who you talk to) is extremely challenging. PAL's 2014 audit noted:

Communication controls are lacking and responsibilities are not well-coordinated [...]: (a) PAL's management (Provided by the City of San Jose), (b) the City of San Jose, and (c) PAL's volunteer board members. All should have relevant information to fulfill their roles with respect to governance and to financial reporting objectives. The roles for governance and financial matters related to the PAL Stadium Complex are not well-defined or administered effectively.

Unless this unique structure is addressed and defined, PAL's current problems will continue.

Continuity of leadership and subject matter expertise in non-profit governance, in an organization facing significant financial and operational challenges, will be very important for its survival and future success. If the current operational model continues, it would be in the best interest of the non-profit and the City to have a qualified, independent Director who is answerable to the Board of Directors and fully focused on the organization's long-term organizational and financial success.

In our discussions with other PALs, we found that NYPAL (New York Police Athletic League, Inc.), which originally began as an entity with a similar organizational structure as San José PAL, later became an independent entity relying on City support along with other donors.

New York's model may be something that San José might want to consider as it reviews different options. The Police Department or the City Manager's Office could fund the organization through a grant—similar to how the City funds other non-profit organizations. The grant could specifically be used to pay for an executive director

and other critical staff. This would also cost less because sworn staff that currently run the organization are significantly more expensive than hiring from outside or using civilians.

Alternatively, the City's own PRNS department already manages athletic programming including sports leagues for basketball, flag football, and futsal. PRNS also manages a Citywide scholarship program that ensures qualifying San José residents have access to participation in its programs, classes, and activities.¹⁷ Further, PRNS runs a systematic field registration process for sports across the City renting City fields.

Recommendation #1: The City should reconsider how and who should manage the PAL facilities and associated activities, and revise its 2007 agreement with the PAL organization accordingly.

The PAL Board Make-up and Responsibilities Should Be Reviewed

While the Police Department provides staffing for day-to-day operations, the Department's command staff involvement in guiding the strategy or mission of the organization is less clear. Two Bay Area PALs we talked to (San Francisco and Santa Clara)¹⁸ appear to have greater involvement in the oversight of the organization by the presence of police command staff on the Board of Directors. For example, according to the Santa Clara PAL, the Police Chief is a member of the Board. Similarly, San Francisco PAL also includes many members of the Police Department's command staff. As discussed above, a greater involvement of the Police Department in guiding strategy and mission may be more prudent than running the day-to-day operations.

Other examples of active involvement from the jurisdictions include having paid officers participate in PAL activities such as youth trainings and classes on a regular basis. For example, San Francisco Police Department assigns officers to teach classes and run programs on a routine basis on paid time.

Role of Council Liaison

The PAL Board also includes a Council liaison—as part of the Mayor's larger assignment of councilmembers to different commissions, taskforces, boards, etc. around the City. Per PAL's bylaws, the Councilmember does not have voting rights

¹⁷ Scholarships are awarded as funding is available.

¹⁸ Similar to San José's PAL, San Francisco and Santa Clara also have Police personnel running the organization, however San Francisco has a dedicated non-profit administrator.

and is in an advisory capacity—though it is not clear from the bylaws what that advisory capacity entails.¹⁹

The 2007 Agreement does not address this relationship even though Councilmembers are routinely assigned to sit on the PAL Board. The Council liaisons we talked with also expressed concern about this lack of clarity.

Recommendation #2: The City should clarify its relationship with the PAL Board, including the role of the Council liaisons and the role of police staff on the PAL Board.

Opportunities for Officers to Volunteer Regularly Can Be Improved

The mission of PAL is connecting police officers with community youth to combat juvenile delinquency through the establishment of sound athletic programs under the direction of qualified police officers. While the organization is led by a Police Sergeant and the cadet program is managed by a Police Officer, few other activities are run/managed by sworn employees.²⁰

As mentioned before, San Francisco Police Department regularly assigns their Community Division officers to work with SFPAL. Police officers work full-time, leading regularly scheduled programs (including pick-up games) or dedicating a full day of their time to support youth for the fishing program. The SFPAL also works closely with the Police Officers' Association (POA) to post volunteer opportunities and other needs.

Given the Police Department's staffing challenges, it may not be possible to assign staff to PAL on a regular basis, but there may be some opportunities to make available volunteer opportunities known to staff.

There appears to be interest in the Police Department staff in supporting the organization. Specifically, about 238 employees—mostly from SFPD, contribute regularly to PAL through payroll deductions. The Department and PAL may be able to take advantage of this interest.

¹⁹ Board bylaws require that there shall be an Executive Committee which includes the President of the Board, Vice President, Secretary, Treasurer, Chief of Police, Legal Counsel, immediate past president, and the Program Director. PAL currently does not have this Executive Committee nor does it have its own legal counsel.

²⁰ Retired police employees coach the taekwondo and boxing programs, with at least one active police employee volunteering with boxing on a regular basis.

For example, the Police Department, Community Outreach Coordinator works with department staff to organize the Department's highly successful Coffee-with-a-Cop and Team Kid programs.²¹ While staff participating in those programs are paid overtime, the Coordinator has also been successful in recruiting officers to volunteer for other programs including Shop-With-A-Cop. The Coordinator told us that the tools used for this are email blasts to Department staff, flyers, and in some cases adding it to briefings. PAL could work with the Community Coordinator and make opportunities for volunteering known and available to current staff.

Recommendation #3: The San José Police Department should inform and encourage officers regarding available volunteer opportunities at PAL.

Recommendation #4: The San José Police Department should determine if some opportunities for police officers to work with youth in PAL programs can be paid.

²¹ In 2016-17, the Police Department used a portion of a \$297,358 City Law Enforcement Grant to fund the Coffee-With-A-Cop and TEAM Kids programs. Coffee-With-A-Cop is a program that is a critical part of a department-wide commitment and effort to increase community relations. Coffee-With-A-Cop takes place in casual and familiar settings, such as a coffee shop, community center, or other neighborhood locations, where residents have an opportunity to have one-on-one conversations with law enforcement personnel outside of a crisis situation. The Team Kids program is a comprehensive crime prevention community education program. The six core courses being offered in the Team Kids program include introduction to the program; choices and consequences; peer pressure; bullying and harassment; gang prevention and review; and a class project to improve school climate.

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Finding 2 PAL Failed to Comply With Financial Requirements

Summary

PAL has not completed its annual audit of financial statements since 2014. Additionally, PAL has not consistently submitted their tax forms to the IRS in a timely manner—risking penalties. While the PAL Board does receive monthly financial status reports downloaded from QuickBooks, there is no annual budget. Furthermore, PAL does not have formal policies and procedures including cash handling policies and donations. This has led to instances where requirements in the City’s agreement were not being properly followed. This has also resulted in administrative processes without proper checks and balances.

The PAL Board Has Not Addressed the Serious Concerns Raised in Its 2014 Audit

In 2014, PAL’s then auditor—Abbot, Stringham & Lynch expressed serious reservations about the organization. This included concerns about its accounting practices, lack of policies and procedures, and potential liabilities because of lack of compliance with City requirements. The matrix in Exhibit 12 shows the 2014 auditor concerns, the Board response in 2014 outlining the corrective actions PAL intended to take, and the status of those stated fixes three years later in February 2018.

Exhibit 12: PAL's 2014 Financial Auditor Concerns, Proposed Corrective Actions From PAL, and Status of the Concerns Raised

2014 Auditor Concern	Proposed Corrective Actions from PAL Response in 2014	Status in February 2018
Top level controls are not sufficient to responsibly oversee financial reporting.	The Board contracted with an outside firm for the Organization's monthly accounting procedures and CFO support.	<ul style="list-style-type: none"> • No formal procedures currently exist • No CFO support • 2018 PAL auditors have expressed similar concerns on PAL's accounting practices
Lack of Internal Controls (including untimely financial statements, inadequate financial and business expertise at the management level, lack of controls to safeguard assets, insufficient regulatory compliance, perceived mismanagement and lack of controls to potential donors.	<ul style="list-style-type: none"> • Appointing a new Board of Directors • Hire new administrative staff • Contract with an outside accounting firm for monthly accounting functions and continued CFO support 	<ul style="list-style-type: none"> • Five new Board members since 2014²² • Hired one new administrative staff person for help with sports programming • No outside accounting firm for monthly accounting functions • No cash handling, personnel, backgrounding policies, and procedures exist • No policies on managing donations from potential donors
Insufficient regulatory compliance including Federal and California tax returns and California non-profit organization reporting forms are not consistently filed.	<ul style="list-style-type: none"> • PAL management was going to make every effort to ensure that all filings are submitted accurately and timely • The organization hoped to engage a single CPA firm to prepare both annual audit as well as the preparation of Federal and State tax returns 	<ul style="list-style-type: none"> • PAL is in compliance with California's State Board of Equalization and has a current non-profit exempt organization status • After the 2014 audit was completed, PAL did not have another auditor hired until 2017. The firm PAL recently engaged with has filed the federal taxes and will also complete annual audits for FY 2014-15 and FY 2015-16 • Tax returns were significantly late and the organization faced fines and penalties and loss of non-profit status²³
Communication controls are lacking and not well coordinated among PAL's management, the City of San José and PAL's volunteer board.	PAL was going to reach out to the City and work on revising its agreement with the City of San José to minimize ambiguity.	The agreement was never revised.
Lack of top-level management processes to identify and evaluate internal control deficiencies including regularly auditing financial books and records.	PAL's monthly financials were going to be reviewed regularly at monthly Board meetings.	<ul style="list-style-type: none"> • Monthly financials are reviewed, however meetings are not always monthly • PAL does not have an annual budget • No oversight or regular review of PAL's financial books and records has occurred

Source: Summary of PAL's 2014 external auditor comments, PAL's response and current status based on our observation and review of PAL internal controls and documentation.

²² An additional board member was added in January 2018.

²³ According to PAL's current auditor, they had to file the most current form 990 late and work with the IRS to waive over \$6,000 in fines and penalties.

PAL Has Not Completed an Audit Since 2014

The 2014 audit raised serious concerns, noting that PAL had:

- *Maintained insufficient and inadequate accounting records,*
- *Failed to timely submit non-profit registration status to the State of California, and*
- *Possessed inherent limitations of internal control.*

The report concluded that “*the Organization’s accounting records are not sufficient or adequate to enable us [the auditors] to form an opinion on these financial statements.*” PAL has not had an audit since.

The City’s Ethics and Open Government Provisions and the 2007 Agreement **requires** PAL to submit annual audited financials. These provisions state:

A Non-Governmental Body that receives annual financial assistance from the City of at least the amount of the City Manager’s contracting authority [currently \$290,000] shall: 1. Post financial reports on the Non-Governmental Body’s web site. [and] 2. Submit information and cooperate with the City, which will conduct an annual financial scan that reviews the Non-Governmental Body’s financial condition based on its audited financial statements [...]

In 2017, PAL signed an agreement with a new financial auditor to conduct the audits for FY 2015-2016 and FY 2016-17.²⁴ However, work on that audit has not begun in part because of the auditor’s concerns regarding the:

- *Previous audit findings making the information reported unreliable;*
- *Uncertain liability since PAL has not submitted its audited financials to the City in a timely manner; and*
- *Lack of adequate accounting staff.*

According to the City Manager’s Office, PAL is the only organization receiving City money that is not in compliance with the requirement to submit audited financial statements.

The City Did Not Follow-Up on PAL’s Lack of Audited Financials

At the time of our audit, the City had not followed up with PAL even though PAL has been non-compliant with the City’s requirement for audited financial statements for years. When the previous audit showed a material deficiency, this should have raised concerns and required a follow-up from the City. Typically, a non-profit organization that failed to comply with this rule would

²⁴ An audit of the FY 2014-15 financial statements has not been contracted for.

have to undergo a multi-step City-defined corrective action plan, which could result in the organization losing City funding.

In February 2018, the City Manager's Office put PAL and SJPD in contact with a non-profit called SCORE. SCORE is a volunteer-based organization that aims to "foster vibrant small business communities through mentoring and education" that has previously helped other organizations in difficulty. The Police Department reports that it is working with SCORE to assist PAL in improving its financial practices.²⁵

Recommendation #5: The City should ensure that the PAL organization complies with the City's requirement to submit an annual audit and regularly follow-up.

PAL Did Not Submit Required IRS Tax Forms in a Timely Manner

PAL did not complete and submit its 2015-16 Form 990 to the Internal Revenue Service (IRS) in a timely manner.²⁶ Form 990 must be filed by an organization exempt from income tax if it has either (1) gross receipts greater than or equal to \$200,000 or (2) total assets greater than or equal to \$500,000 at the end of the tax year.²⁷

PAL has previously faced similar challenges in filing this required document. Further, in PAL's FY 2011 – FY 2014 audited financial statements, the auditors were concerned that,

PAL does not have a reliable system to insure compliance with rules and regulations. Federal and California tax returns and California non-profit-organization reporting forms are not consistently filed timely.

PAL faces significant financial and organizational risk if it continues to miss filing deadlines for regulatory filings.²⁸ To avoid such issues in the future, the PAL Board should develop policies and procedures to establish financial accountability.

²⁵ Just prior to publication of this report, PAL hired an accountant to assist with the financial reporting and tracking.

²⁶ Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from income tax under section 501(a), and certain political organizations and nonexempt charitable trusts.

²⁷ There are some exceptions on this requirement provided by the IRS. More information can be found here: <https://www.irs.gov/instructions/i990>

²⁸ According to IRS rules, penalties of \$20 a day, not to exceed the lesser of \$10,000 or 5% of the gross receipts of the organization for the year, can be charged when a return is filed late. If an organization fails to file an annual return or submit a notice as required for 3 consecutive years, its tax-exempt status is automatically revoked on and after the due date for filing its third annual return or notice.

Recommendation #6: The City should require formal policies and procedures to ensure compliance with Federal and State financial reporting requirements.

PAL Does Not Have an Annual Budget

While the PAL Board does receive monthly financial status reports, downloaded from QuickBooks, PAL staff does not prepare an annual budget. The 2007 Agreement requires PAL to submit an annual budget to the City.

Within ninety (90) days following the end of each fiscal year (July 1 – June 30) during the Term, PAL Board shall provide City Manager with [...] an approved budget for the current fiscal year which includes revenue estimates from all sources of income, all assets, and planned expenditures.

In addition to being a City requirement, it is best practice to prepare an annual budget of income and expenses. Per the California Attorney General's Guide to Charities, preparing annual budgets can help contribute to good internal controls that "safeguard charitable assets and insure reliability of financial records." Further, periodic reports—at least quarterly, preferably monthly—comparing actual receipts and expenditures to the budget with explanations of the differences is also best practice.²⁹ PAL should prepare an annual budget and this should be reviewed and regularly discuss at board meetings.

Recommendation #7: The City should require that the PAL organization prepare and submit an annual budget.

PAL's Cash Handling Policies and Procedures Are Deficient

PAL does not have formal policies and procedures to address cash handling and managing donations. This has led to instances where City requirements were not being properly followed. This has also resulted in processes without proper checks and balances.

²⁹ https://www.charitiesnys.com/pdfs/Charities_Internal_Controls.pdf

Brown Paper Bag System

PAL does not have formal cash handling policies and procedures. At the time of our audit, staff used *brown paper bags to store cash* during the event and store receipts thereafter.³⁰ Moreover, there is a lack of adequate segregation of job functions. After collecting money at a concession stand, the same staff managing the cash register count the cash and place the money in a paper bag. The event name and total cash count is written on it, and the cash and receipt rolls are added to the bag. A PAL employee (generally the facility supervisor or the PAL Executive Director) would count the cash and ensure that this matches to the number written on the outside of the bag.

Exhibit 13: Jamboree Concessions Paper Bag



Source: Auditor Photo

In a sample of gate and concessions receipts from the Football Jamboree in 2017, we found that register receipts were piece meal and did not always show sub-totals. Furthermore, register staff made manual changes on the register receipts without any indication of who made those changes.

Final counts done by concessions staff were not signed; paper bags were not sealed. In addition, we were told that the cash count is not reconciled with the register receipts—only the totals shown on the paper bags. Staff told us that final counts have been short or over.

Further, the facility supervisor removes money from the cash register at various points during an event, for convenience, when the cash register is full. There is no process to formally sign-out and track this money.

Improvements Needed to Basic Internal Controls

The California Attorney General's Guide to Charities states,

Good internal controls safeguard charitable assets and insure reliability of financial records. Items which make up an effective control system include budgets, segregation of duties, policy and procedures manuals, clear definition of, and adherence to, set procedures for management authority, and periodic review of the control system. A system requiring two signatures on all the corporation's checks is an important control measure. Continuing cost-

³⁰ Since then, PAL reports that concessions staff now use a zippered bank bag and a form that documents the cash collected in greater detail including required signatures from staff that do the cash close-outs.

benefit analysis by charity managers is vital to effective operation and survival.

The charity's directors play a key role in establishing internal controls for the charity. Their approval of policies and procedures determines the fiscal management system. The minutes of the board meetings should reflect these important policies.

The Executive Director is the only person that manages the bank account³¹ and is the only one approving checks written out of PAL accounts.³² The California Attorney General's Guide to Charities supports having a two signature system as an important way to maintain control over the cash system. As defined in the Board bylaws, the Board Treasurer's responsibility is

To keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Corporation including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, surplus and reserves. [... and] To deposit or cause of be deposited all monies and other valuables [...]

PAL should develop financial policies that address a two signature approval system and cash handling including, segregation of duties, proper cash count methodology, and tracking process.

Recommendation #8: The City should require financial policies and procedures addressing a two signature approval system and cash handling, including segregation of duties, proper cash count methodology, and tracking process.

Donations Are Not Adequately Tracked

PAL has received some very generous donations from local businesses. These donations were made informally without the benefit of formal letters or agreements. This is important to document the intent of the donation, whether the donor wanted the donations to be used for specific purposes, and for transparency, in general.

³¹ Until the current Executive Director started, there were names on the bank account of employees that no longer work at PAL. They immediately worked with the bank and previous employees to remove those names from the account. Now the Executive Director is the only person on the account.

³² PAL's book keeper will occasionally sign the document when the Executive Director is issuing and approving a check, but this does not always occur.

For example, a local business gave PAL a one-time \$25,000 donation. According to the previous Executive Director this was a one-time donation to be used for bleacher shade/tarps on the small baseball field, fencing to the upper bleachers, and purchase and installation of a rubberized futsal court. Although these improvements appear to have been made, it is difficult to verify what the intent of the donation was and whether there were any restrictions, absent written documentation. Finally, the Board received no reports on the use of these donated funds.³³

Recommendation #9: The City should require a formal process to receive donations and record the amount of the donation, the stated purpose of the donation, any restrictions, and final reports on how the funds were used.

³³ Donations are also accepted through the PAL website, but there currently is no way of specifying intended purpose of the funds through this mechanism. The process for receiving donations through their website should also be considered when developing a formal process of receiving and recording donations.

Finding 3 PAL Failed to Comply With Provisions of Its Agreement With the City

Summary

PAL did not comply with many provisions in its 2007 agreement with the City including not setting aside its agreed-upon share of revenues for facility improvements, granting naming rights to the City-owned facility without prior approval using the PAL sports fields year-round, and setting inconsistent field rental rates. While PAL did not comply with those 2007 Agreement provisions, the City was not actively monitoring this agreement either, and never followed-up. The City should ensure that agreement provisions are clarified and require compliance with those terms.

PAL Failed to Track and Share Net Proceeds Over \$50,000

PAL is required, per its 2007 Agreement, to track and share a portion of its net proceeds over \$50,000 with the City. The purpose of this revenue sharing agreement is so PAL can contribute to the capital improvement costs of maintaining the facility. According to the agreement,

Each fiscal year, PAL Board shall retain the first \$50,000 of Shared Net Proceeds received by the PAL Board to assist in the cost of providing PAL youth programs. PAL Board and CITY shall coordinate tracking of Shared Net Proceeds to determine the totals...

If \$50,000 in the aggregate in a Fiscal Year of Shared Net Proceeds have been received by PAL Board, PAL Board shall notify CITY. From the date of receipt of PAL's notice, each party shall thereafter, during the Fiscal Year, place one-half of any further Shared Net Proceeds received by such party into its Shared Net Proceeds Account. Any Shared Net Proceeds deposited into such accounts shall only be used for Capital Improvements to the Complex.

PAL has not provided the City with an accounting of the Shared Net Proceeds. However, we should note that neither did the City request or follow-up on this when it did not receive it. The City and PAL were supposed to coordinate tracking of the Shared Net Proceeds to determine the totals and set up separate accounts for the Shared Net Proceeds that could be used for capital improvements to the facility.

These shared net proceeds were not tracked. In fact, in FY 2015-16, when PAL faced a budget surplus, the Board gave \$3,750 in bonuses to some employees instead of working with the City to determine if these should go into a shared

net proceeds account.³⁴ We should note that it is not clear whether the Board was even aware of the requirement to invest net proceeds for capital improvements.

Since 2011, PRNS and Public Works have completed many capital projects at PAL. These included baseball and softball field irrigation renovations, repairing wooden seating at the stadium, concrete work, and re-sodding. PRNS estimates that expenditures for these improvements were over \$350,000.³⁵ It is our understanding that PAL did not share in the cost of these improvements.

Recommendation #10: The City should work with the PAL Board to track and comply with revenue sharing provisions in its 2007 Agreement.

PAL Granted Naming and Advertising Rights Without City Approval

The PAL Board appears to have given naming rights and advertising rights to various organizations without City approval. For example, the PAL Stadium appears to be renamed as shown in Exhibit 14.

Exhibit 14: PAL Stadium Name Change

Football/Soccer Field



Boxing Gym



Baseball Field



Source: Photos taken by the City Auditor's Office

³⁴ PAL experienced a surplus of \$136,900 in that fiscal year. Of that, PAL collected \$70,700 from facility rental fees—far above the \$50,000 set in the agreement. Because of PAL's bookkeeping issues, it is difficult to tell how much direct cost should be calculated into the shared net proceeds so the total amount for shared net proceeds is unknown.

³⁵ This figure may include work completed by Public Works, paid for by PRNS. Public Works reports that over the last five years alone, they have done \$252,000 of work (small capital improvements and capital repairs) at the PAL stadium—funded primarily by PRNS and SJPD.

The donor also has a dominant presence inside the PAL facility. According to PAL, this was a result of a one-time \$15,000 donation in 2013 and shoe giveaways by the company. The donor has not continued this monetary support since at least 2015.

Other organizations have banners on the stadium.³⁶ An author of adult mystery novels also has advertising credits on the PAL website. The author provided a one-time donation of \$135 in 2015.

Most had donated to PAL at one time and advertisements were never taken down. There are no established criteria for having naming rights or advertising credits, and how long they would last. Exhibit 15 shows the various advertisements visible around the City's stadium.

Exhibit 15: Signage Around PAL Stadium



Source: Auditor taken pictures at PAL stadium

PAL's agreement with the City states,

*As a means of revenue generation and not intended to create a public forum, **and subject to the CITY's prior approval**, PAL Board may provide advertising signage in recognition of a donor of significant funds or significant in kind donations for the benefit of the CITY or the Complex, or the recreational programs held at the Complex. All advertising or donor recognition signage shall be subject to the conditions and limitations hereinafter contained and the San Jose Sign Ordinance as stated in Title 23 of the San Jose Municipal Code, the CITY's Revenue Generating Policy (which required City Council approval of any agreement to allow signage for advertisers, sponsors or donors in excess of one year) and any other applicable laws, ordinances, rules, regulations, policies or guidelines. [Emphasis added.]*

³⁶ Donations ranged from \$500 to \$25,000 and in-kind support through services provided for PAL.

The agreement limits the signage to the existing outfield fences of the softball field and the baseball field, on the perimeter fencing at the west end of the soccer-football field and specifies that no sign shall be placed on or attached to any of said fences or facilities **unless it is first approved as to content, form, location, and method of attachment by the City Manager.**

Further the agreement requires the Board to provide the City with a copy of any agreement (not to exceed three years) to allow advertising or donor recognition, which agreement shall be without limitation. PAL does not have agreements with any of these advertisers—only an informal understanding.

As stated above, the signage is not only a violation of the City’s agreement, but also the City’s Sign Ordinance which has rules on posting signs and requires Council approval of the same.

PAL appears to have allowed naming and advertising rights to companies with no time limits. Requiring additional contributions for companies that desire to continue advertising at PAL should be common practice, especially since the 2007 Agreement stipulates that advertising agreements are limited to three years with additional agreements requiring City Council approval.

Recommendation #11: The City should require compliance with its rules on naming and advertising rights, and require policies and procedures to require written agreements regarding signage.

Recommendation #12: The City should require a comprehensive strategy to maximize fundraising opportunities through naming and advertising rights.

Potential Conflicts of Interest and Ethics Requirements Should Be Addressed

The PAL Board is required to sign a City volunteer code of ethics agreement, per the 2007 Agreement, but it never did. According to the City Attorney’s Office, it is not clear why this was included as a requirement in the agreement and should be subject to review; nonetheless it is a compliance issue, at least for now.

Recommendation #13: The City should either require PAL board members to sign the City’s volunteer code of ethics, or work with the City Attorney’s Office to eliminate that provision from the Agreement.

Irregularities and Potential Conflicts of Interest

During our review, we found PAL bought insurance from a Board member for multiple years.³⁷ In 2017, the PAL Executive Director discovered a much lower insurance rate from a different company and switched insurance providers.

In addition, we observed other inexplicable expenditures among the various districts. For example, the Soccer League Commissioner, who is also a member of PAL's Board of Directors, was reimbursed for his monthly phone bill. No other league or district commissioner is. It is not clear why this Commissioner was reimbursed, why others were not, and whether the Board authorized this.

The California Attorney General's Guide to Charities warns against self-dealing transactions by Board members. Specifically,

A "self-dealing" transaction is a contract, agreement, or other action affecting the assets or income of a public benefit corporation to which the corporation is a party and in which one or more of its directors has a "material financial interest." Such transactions may include payment of a salary, contract, fee, commission, or other benefit of material economic value from the public benefit corporation to one or more of its directors, or to a corporation or partnership in which a director has a material financial interest.

The PAL Board should revise their bylaws to include conflict of interest, ethics, and reimbursements to be provided to various board members. Additionally, they should inform and train board members on the updated policies and organizational responsibility.

Recommendation #14: The City should require that the PAL Board formalize conflict of interest policies and determine whether any conflict of interest laws were violated in PAL's previous use of a board member's family insurance or in paying for board member expenses.

³⁷ The Board member had formerly owned this insurance company; the company is now run by family members.

PAL Has Not Honored the Stadium and Field Use Provision in Their Maintenance Agreement

The 2007 Agreement specifies how and when PAL stadium facilities will be used, including specific *PAL use periods and City use periods*. This enables PAL to conduct its activities during previously agreed-upon times and months. However, it appears that PAL has been setting its own schedule and renting out fields at times that were set aside for City use. The City does not appear to have made use of the PAL fields on a regular basis.

In addition, there are specified “rest” periods. The purpose of this rest period is to allow maintenance of the fields. Specifically, the soccer field is to remain unused from December 15 to February 15, the baseball field from November 1st to February 1st, and the softball field from September 1st to February 1st. However, PAL has continued renting out the fields throughout the year. Specifically, PAL continued to rent out the soccer field to Notre Dame High School and Beyond the Game (an adult soccer league) for regular practices and games during this restricted time-period.

According to PRNS maintenance staff, this year-round use of the fields is detrimental to the condition of the fields and leaves staff with very little time to make improvements for the upcoming seasons. However, PRNS staff continued to provide maintenance during those “rest” periods even though its own agreement prohibited it.

Recommendation #15: The City should enforce agreement terms regarding when the fields can be used and when they are allowed to “rest”.

PAL Has Not Obtained City Council Approval for Field Rental Rates and Free Use

The 2007 Agreement, that was approved by City Council, included an attached fee schedule that outlined approved rates *are subject to an annual review by the City and the PAL Board*.³⁸ For example, the approved agreement set the rental rate for the softball field for 1-5 hours at \$650, the adult day use of for 3-6 games at \$1,300. Similarly, the rates for the youth league for 1-2 games for 1-5 hours for the soccer/football field were set at \$750, and the youth day use for 3-6 games at \$1,500.

³⁸ According to the 2007 Agreement, the “CITY shall charge non-PAL Youth Programs for such use of the Complex pursuant to a fee schedule mutually agreed by PAL Board and the CITY and approved by City Council and shall require such users to sign the CITY’s standard facility use forms for use of the Complex. Any use of the Complex by PAL Board for purposes other than athletic and other Recreational activities, at any time, shall require the prior written consent of the Complex Manager and the Director of PRNS.”

These rates are different from what is currently charged. For example, PAL's listed hourly rates, with a two-hour minimum, ranged from \$50 for softball field rental without lights to \$125 per hour for the football/soccer field with lights. There is no record of either the City or PAL's Board approving these rates or how these rates were set. In accordance with the 2007 Agreement, City approval is needed for any rate changes.

Different Organizations Are Charged Different Rates

We found that PAL charges various organizations rates that differ from PAL's own rate schedule. Further, these rates vary significantly from organization to organization, as shown in Exhibit 16.

Exhibit 16: Hourly Rates Charged to Various Leagues for PAL's Fields

Organization	Hourly Rate Charged
Notre Dame High School lacrosse	\$59
Beyond the Game soccer (Adult League) Without lights	\$75
Beyond the Game soccer (Adult League) With lights	\$100
Valley Christian High School baseball	\$114
Real San José soccer (Adult League)	\$125

Source: Auditor calculated hourly rate based on hours and total paid to PAL

This is of concern because it could indicate favoritism toward particular organizations.

Other Organizations Use the Facilities and May Receive Free Use of the Parking Lot

PAL allowed some organizations to utilize the PAL facilities for free without a formal agreement. Additionally, the agreements that it had with some organizations (example shown in Appendix A), contained minimal amounts of information acknowledging rules, regulations, liability, and cost. PAL did not require organizations using PAL facilities to complete the *City Field Registration & Waiver Form*, as required by the 2007 Agreement with the City.

PAL has an inconsistent process for providing organizations with free use of the PAL facility parking lot. For example, PAL has provided free use of its parking lot for a two-day festival. However, PAL has no written agreement with the organizers—only an informal verbal agreement to have parking lot users voluntarily donate to PAL.

On the other hand, PAL charges another organization \$1,000 a month for regular use of the parking lot. It is unclear whether it was approved by the City, and why the fees for one organization would be waived but not for another. In any case, it is our understanding that a liability waiver would be required – even for free use of the parking lot.

Recommendation #16: The City should formalize the fees that are charged for use of the facilities including the required documents to be completed. Further, address whether free use of the PAL facilities is allowed and what waivers would be required when providing that free use.

The Stadium Condition Is “Acceptable” But Some Improvements Are Needed

PRNS conducts an annual park condition assessment of all its fields and parks. Scoring is based on various factors including overall aesthetics (litter, graffiti, vandalism, cleanliness, odor), turf condition, bleachers, trees, landscape beds, etc. Each feature at a park/site is rated between 1 (unacceptable) – 5 (excellent).

PRNS’s 2017 park condition assessment of PAL facilities (excluding the office building) showed that PAL is currently rated a 3.1 out of 5. According to PRNS, the overall park condition assessment for City sports fields in 2017 was 2.6 out of 5, making the PAL stadium slightly better than the average.

PRNS reports that the stadium is not on their capital improvement priority list and no major capital improvements are planned at the stadium.³⁹

Some Facility Improvements Are Needed

Even though PRNS’s Park Condition Assessment showed PAL stadium in better condition than other facilities, we observed some hazardous conditions in the bleachers, which could lead to injuries of spectators. In addition, the PAL indoor offices had multiple areas showing significant water damage and possibly hazardous conditions. According to Public Works, the indoor facility has a life of about 30 years, and may need to be remodeled. Exhibit 17 shows some concerning conditions.

³⁹ PRNS staff provide maintenance at the PAL stadium on an on-going basis. Field preparation for special events may be requested and depends on staffing availability. Public Works also responds to requests for capital maintenance, such as, repairing rotting bleachers.

Exhibit 17: Condition of PAL Facilities

Football/Soccer Stadium Bleachers



PAL Modular Offices (Ceilings)



Source: Pictures taken by Auditor Staff (January and February 2018)

Recommendation #17: PRNS and Public Works should review the facilities, develop a list of long-term and short-term priority improvements, and determine the funding mechanism to address those improvements.

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Finding 4 PAL Lacks Formal Agreements With Its Sports Leagues and Was Not Compliant With Some City and State Requirements

Summary

PAL program expenditures and registration fees were inconsistent among its various soccer districts. It appears that children in one district were inexplicably charged a higher registration fee compared to children in other districts. Further, the children in this district were required to pay for their uniforms out-of-pocket, whereas children in other districts had uniforms provided by PAL. Moreover, PAL did not follow-up and track whether State and City requirements for backgrounding and TB testing were followed. Finally, added State guidelines on concussions in contact sports have not been addressed. Much of the inconsistency and non-compliance was a result of the lack of formal agreements with these various athletic leagues. The City should require formal agreements laying out expectations on revenues and expenditures by each league, and responsibilities for backgrounding and TB testing. Finally, the City should require compliance with updated concussion requirements.

Inconsistent Treatment Among the Different Soccer Districts

The Metro PAL soccer league includes two non-San José PAL's (Milpitas and Santa Clara), and four San José soccer districts (Foothill, Rose Garden, Willow Glen, and Cambrian).⁴⁰ Prior to our audit, there was inconsistent treatment among the different soccer districts. As shown in Exhibit 18, families in three of the four soccer districts paid a registration fee of \$125 per child, however families in the Foothill district (on the east side surrounding the PAL stadium) paid a higher fee of \$150 per child.

Exhibit 18: Foothill Children Paid More than Youth in Other Districts

District	Price Paid on Time	With the Early Bird Discount	With the Late Fee ⁴¹	With the Sibling Discount ⁴²
Foothill	\$150	\$125	\$150	\$140
Rose Garden	\$125	\$115	\$135	\$115
Cambrian	\$125	\$115	\$135	\$115
Willow Glen	\$125	\$115	\$135	\$115

Source: PAL

⁴⁰ See the organization chart at Exhibit 2 for more information on the structure of the leagues.

⁴¹ Foothill does not have any late fees, where the other three districts have a potential \$10 late fee.

⁴² This is calculated based on the price paid on time. The discount might be applied for early or late registration.

Youth in the Foothill district not only paid more in registration fees but were also required to buy their soccer uniforms out-of-pocket, whereas soccer uniforms for children in all other districts were paid for by PAL. Uniforms were an additional cost of \$27 per child, in addition to the higher registration fee. In other words, youth from the Foothill district paid up to \$177 to participate in PAL's soccer program, whereas youth from the other districts paid approximately \$50 less.

After we brought this discrepancy to the Police Department's attention in early 2018, the Department equalized the registration fees across the four San José districts.

Some Districts Subsidized Others

According to PAL's unaudited income-loss for soccer, Willow Glen district had a deficit of over \$3,000 in 2017, including some inexplicable expenditures. For example, Willow Glen district appeared to wildly overestimate the number of soccer uniforms, ordering 78 more uniforms than needed at an additional cost of \$1,695—paid for by PAL.⁴³ Furthermore, PAL was paying \$2,300 per year on a storage unit for the Willow Glen district that they apparently did not need.⁴⁴ There does not appear to be much oversight from PAL on why this occurred and what was done with the extra uniforms.

In contrast, Foothill district appears to have had \$9,000 in surplus in 2017.⁴⁵ Nonetheless, even with the \$9,000 surplus (primarily from registration fees), Foothill children paid more to participate and were required buy uniforms out-of-pocket.

Any surplus from one district goes into general operating expenditures for all districts. So when one district overspends, that deficit will be covered by other districts. Thus, the \$3,000 deficit of the Willow Glen district appears to have been subsidized by a \$9,000 surplus from families from the areas surrounding PAL stadium, the Foothill district.

PAL was not able to articulate a reason for the inconsistent treatment of district expenditures. The PAL Board does not appear to have been involved or approved the particulars of these expenditures.

Recommendation #18: The City should require a process to ensure consistent and cost-equivalent fees and expenditures among all districts.

⁴³ Even though the initial uniform order contained extra uniforms, two additional orders, later in the season, were placed for more uniforms. We should note that each district orders (with the exception of Foothill) orders its own uniforms based on its estimate of participants.

⁴⁴ During our audit, the rent on the storage unit was cancelled and the district is storing its equipment at the PAL stadium.

⁴⁵ These figures are taken from PAL's accounting records and are unaudited.

PAL Did Not Monitor Background Checks PAL Coaches and Volunteers

At the time of our audit, PAL did not monitor compliance for fingerprint background checks (typically a digital LiveScan) by coaches and other relevant volunteers, as required by the City's agreement and California Public Resources Code (CPRC) section 5164. These require all adults, "in a position having supervisory or disciplinary authority over a minor" be backgrounded to prove they have not committed a criminal offense that bars them from that role.⁴⁶ In addition, PAL did not have any policies and procedures on ensuring compliance with the backgrounding requirements and maintaining rosters of volunteers and coaches.

Specifically, PAL did not verify if coaches and volunteers operating under the PAL umbrella and coaches that directly operated under PAL (taekwondo and boxing) had undergone a background check and were allowed to work with minors. Further, PAL was not aware of the results, even for those coaches that did go through the fingerprinting process. Additionally, at the time of our audit, PAL did not maintain a roster of its coaches, assistant coaches, and other adults supervising the children participating in PAL activities.

Not being compliant with these requirements is particularly disturbing given that Police Department staff manage the day-to-day operations of the organization—not PAL.

Other Police Activities Leagues Have More Extensive Backgrounding Procedures in Place

Other jurisdictions report that they maintain a separate list of all coaches and assistant coaches that documents when they completed fingerprinting and if they passed, with those that did not pass on to a 'no coach' list.

For example, coaches for Santa Clara PAL are not permitted to receive their coaching badges until after they have been cleared through the backgrounding process, regardless if the season has begun. Further, other PAL's report regularly checking the Department of Justice (DOJ) database, that maintains employees' and volunteers' background check records, as often as once a week. When a person has completed the backgrounding process once, the database will inform the organization of any new recorded criminal activity from then on.

⁴⁶ All coaches and volunteers needing background checks must be fingerprinted at an approved location, according to the Office of the Attorney General website (<https://oag.ca.gov/fingerprints>). The fingerprints are then transmitted to the California DOJ, who will identify if they have any records of arrests or prosecution. The results of this check is then provided to the employer or requester. After the initial process, any new requests will be sent to the employer or requester.

The Police Department Is Addressing This Issue

Since we brought this to the Police Department's attention in January 2018, PAL's Executive Director has begun compiling and verifying the list of coaches and assistant coaches across PAL's various activities. In addition, the Department reports that it has informed all coaches to be backgrounded and has designated the PAL Police Officer to review and follow-up on the results.

The Police Department is confident that all coaches that work with children on a go-forward basis will have gone through a fingerprint background check.⁴⁷

Recommendation #19: The City should enforce fingerprint background checks of all adults serving in a supervisory or disciplinary role over children to ensure that all coaches and relevant volunteers comply with the California Public Resource Code 5164 and relevant City policies.

Recommendation #20: The City should require maintenance of an updated roster of all players, coaches, and other relevant volunteers participating in each of PAL's activities.

The City Should Ensure Required Concussion Awareness Information Is Distributed

PAL offers many contact sports for youth that may be susceptible to concussions. These include football, soccer, cheerleading, boxing, and baseball. Per the California Health and Safety Code § 124235,

[...] on a yearly basis, the youth sports organization shall give a concussion and head injury information sheet to each athlete. The information sheet shall be signed and returned by the athlete and, if the athlete is 17 years of age or younger, shall also be signed by the athlete's parent or guardian, before the athlete initiates practice or competition.

The health and safety code also outlines requirements on providing concussion and head injury education to coaches and administrators of youth sports. We found that PAL did not require these required concussion forms. PAL reports that it has begun the process of providing concussion and head injury education to some of its coaches.

⁴⁷ Since we brought it to PAL's attention, PAL has secured a new custodian of records who will have primary access to the background check DOJ database.

Concussion awareness is a requirement of the California Health and Safety Code, effective January 1, 2017. The 2007 Agreement should be updated to include this new requirement. After we brought it to their attention, the Police Department updated the PAL website to now include a concussion policy and fact sheets for parents and coaches.

Recommendation #21: The City should require compliance with the concussion awareness requirements in the California Health and Safety Code.

The City Should Ensure Food Concessionaires Meet TB Testing Requirements

TB testing of food concessionaires is a requirement under both the City's agreement and the California PRC Section 5163. According to its agreement with the City,

[...] no person paid or unpaid by PAL Board shall be permitted to provide services requiring contact with children or providing food concessionaire service or other licensed concessionaire services in that area unless PAL Board has complied with the TB testing requirements [...]

Per the City Attorney's Office, this requirement is for employees working at concessions. PAL employs 6 as-needed staff and one facility/concession manager that manages concessions. Each of these employees may need to be tested for TB.

Recommendation #22: The City should require development and enforcement of policies and procedures for TB testing for relevant employees.

Lack of Formal Agreements

PAL lacks agreements with the different leagues serving under the San José PAL umbrella.⁴⁸ As shown earlier in Exhibit 2, each of these leagues operate with varying levels of involvement under the PAL umbrella and are offered as *PAL sports*. This has led to unclear roles, responsibilities, and requirements—including who would be responsible for meeting State and City requirements on backgrounding, TB testing, and concussion education. As described earlier in this report, it also has led to disparate treatment among children in different districts.

⁴⁸ The agreement shown in Appendix A only relates to outside organizations renting PAL facilities.

Recommendation #23: The City should require formal agreements with the various sports leagues that govern the relationship and responsibilities of each of the leagues.

Conclusion

The City of San José has had a relationship with the Police Activities League (PAL) since it initially formed in 1968. The City provides support to PAL including in-kind use of its stadium complex, maintenance and custodial services at those facilities, the cost of a police sergeant to serve as executive director and a police officer to teach the Cadet program, and various other services. We found that PAL failed to comply with some State and City financial requirements, requirements related to youth sports, and provisions in its 2007 Agreement with the City. Furthermore, PAL's programs were inconsistently managed and fees being charged to program participants and organizations renting facilities were inconsistent.

RECOMMENDATIONS

Finding 1: The City Should Re-examine Its Current Relationship with PAL

Recommendation #1: The City should reconsider how and who should manage the PAL facilities and associated activities, and revise its 2007 agreement with the PAL organization accordingly.

Recommendation #2: The City should clarify its relationship with the PAL Board, including the role of the Council liaisons and the role of police staff on the PAL Board.

Recommendation #3: The San José Police Department should inform and encourage officers regarding available volunteer opportunities at PAL.

Recommendation #4: The San José Police Department should determine if some opportunities for police officers to work with youth in PAL programs can be paid.

Finding 2: PAL Failed to Comply with Financial Requirements

Recommendation #5: The City should ensure that the PAL organization complies with the City's requirement to submit an annual audit and regularly follow-up.

Recommendation #6: The City should require formal policies and procedures to ensure compliance with Federal and State financial reporting requirements.

Recommendation #7: The City should require that the PAL organization prepare and submit an annual budget.

Recommendation #8: The City should require financial policies and procedures addressing a two signature approval system and cash handling, including segregation of duties, proper cash count methodology, and tracking process.

Recommendation #9: The City should require a formal process to receive donations and record the amount of the donation, the stated purpose of the donation, any restrictions, and final reports on how the funds were used.

Finding 3: PAL Failed to Comply With Provisions of Its Agreement With the City

Recommendation #10: The City should work with the PAL Board to track and comply with revenue sharing provisions in its 2007 Agreement.

Recommendation #11: The City should require compliance with its rules on naming and advertising rights, and require policies and procedures to require written agreements regarding signage.

Recommendation #12: The City should require a comprehensive strategy to maximize fundraising opportunities through naming and advertising rights.

Recommendation #13: The City should either require PAL board members to sign the City's volunteer code of ethics, or work with the City Attorney's Office to eliminate that provision from the Agreement.

Recommendation #14: The City should require that the PAL Board formalize conflict of interest policies and determine whether any conflict of interest laws were violated in PAL's previous use of a board member's family insurance or in paying for board member expenses.

Recommendation #15: The City should enforce agreement terms regarding when the fields can be used and when they are allowed to "rest".

Recommendation #16: The City should formalize the fees that are charged for use of the facilities including the required documents to be completed. Further, address whether free use of the PAL facilities is allowed and what waivers would be required when providing that free use.

Recommendation #17: PRNS and Public Works should review the facilities, develop a list of long-term and short-term priority improvements, and determine the funding mechanism to address those improvements.

Finding 4: PAL Lacks Formal Agreements With Its Sports Leagues and Was Not Compliant With Some City and State Requirements

Recommendation #18: The City should require a process to ensure consistent and cost-equivalent fees and expenditures among all districts.

Recommendation #19: The City should enforce fingerprint background checks of all adults serving in a supervisory or disciplinary role over children to ensure that all coaches and relevant volunteers comply with the California Public Resource Code 5164 and relevant City policies.

Recommendation #20: The City should require maintenance of an updated roster of all players, coaches, and other relevant volunteers participating in each of PAL's activities.

Recommendation #21: The City should require compliance with the concussion awareness requirements in the California Health and Safety Code.

Recommendation #22: The City should require development and enforcement of policies and procedures for TB testing for relevant employees.

Recommendation #23: The City should require formal agreements with the various sports leagues that govern the relationship and responsibilities of each of the leagues.

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APPENDIX A

PAL Stadium Application and Rental Agreement



408-272-9725
680 S. 34TH ST.
San Jose, CA 95116

████████████████████

Executive Director

680 S. 34th Street
San Jose, CA 95116
Phone: (408) 272-9725
Fax: (408) 272-9733

APPLICATION FOR THE USE OF THE SAN JOSE PAL STADIUM

ORGANIZATION: _____ DATE OF APPLICATION: _____
 REPRESENTATIVE: _____ HOME PHONE: (____)____-____
 ADDRESS: _____ WORK PHONE: (____)____-____
 _____ E-MAIL: _____
 FACILITY REQUESTED: _____ PURPOSE: _____

DATES REQUESTED	REPORT TIME	OFF FIELD	Field Using
-----------------	-------------	-----------	-------------

Price per Each Field \$ _____

Cost \$ _____
 Processing Fee: \$ 0.00

GRAND TOTAL	\$ _____
--------------------	-----------------

Other May Use: Call ██████ for game day assistance ██████

**Balance due _____*

RENTAL OF SJ PAL STADIUM IS SUBJECT TO THE FOLLOWING CONDITIONS. PLEASE REVIEW, COMPLETE AND SIGN WITH ACKNOWLEDGMENT OF CONDITIONS PRIOR TO EVENT AND TO SECURE STADIUM FOR ABOVE MENTIONED DATE (S):

1. HOLD HARMLESS CLAUSE: The persons or organizations renting the Stadium facilities agree to hold the City of San Jose and San Jose PAL, its agents and employees, free and harmless from any loss, damage, liability, cost, or expense that may arise during or be caused in any way by such use or occupancy of City property. _____ (Initial)

2. RULES AND REGULATIONS: The persons and organizations renting San Jose PAL Stadium agree to be bound by and conform to all regulations and policies of the City of San Jose and San Jose PAL. _____ (Initial)

3. LIABILITY COVERAGE: The persons or organizations renting the Stadium shall to provide liability insurance at his/their sole expense in the following minimum amounts: BODILY INJURY \$500,000 each person; \$1,000,000 for snore than one person each occurrence. PROPERTY DAMAGE \$100,000 each occurrence and \$200,000 aggregate for all employees as additional insured. Policy shall name the City of San Jose and San Jose PAL as insured. A letter from the Insurance company or other evidence of the above required Coverage must be delivered to the SJ PAL Administrative office, 680 S. 34 St San Jose, CA 95116, at least 12 hours prior to the scheduled event or such event may be canceled at the discretion of the SJ PAL Executive Director. _____ (Initial)

4. CHARGES FOR RENTAL: Will be made in accordance with the established rate schedule. The fees include the initial preparation and set up of the field. Scoreboards, PA. system, and the SJ PAL operated snack bar are also available. Security is not included. The persons or organizations renting the stadium agree to pay the total rental cost, This payment should be in the form of a **certified check PAYABLE TO: San Jose PAL** OR cash, and must be received within (30) days prior to the scheduled date of the event(s). This payment is **NOT REFUNDABLE** if cancellation occurs less than (14) days prior to the scheduled event. _____ (Initial)

5. DEPOSIT An initial deposit in the amount of one third (1/2) of the total amount due must be received within ten (10) days after receipt of this contract. The date(s) for the use of the stadium will be scheduled upon receipt of deposit and application fee. **THE DEPOSIT AND \$50.00 APPLICATION FEE ARE NON-REFUNDABLE.** _____ (Initial) N/A

6. SECURITY REQUIREMENTS: The SJ PAL Executive Director will assign security personnel as deemed necessary. The organization requesting the use of SJ PAL Stadium facilities will be responsible for paying security fees. San Jose Police Officers: \$55.00/hr, each individual to be paid at the end of each scheduled event. There is a (3) hr. minimum payable for each assigned individual. _____ (Initial) NA

7. LOUD SPEAKERS WILL BE TURNED OFF AT 10 P.M. SHARP: No events will be allowed to continue after 11:30 p.m. This rule will be waived in the event of championship playoffs or special events, or by special permission PRIOR to the event and/or upon approval of the San Jose PAL Executive Director.

8. DO NOT ARGUE WITH THE SAN JOSE PAL STAFFI FACILITY MANAGER: Any complaints regarding the reservation, field lights, PA., etc., should be referred to the SJ PAL office, 680 S. 34th St, San Jose, CA 95116, or call (408) 272-9725.

9. NO ONE IS ALLOWED ON THE FIELD PRIOR TO REPORT TIME: If you are scheduled for the last game or event of the evening, please notify all the participants to leave the sports complex AS SOON AS POSSIBLE, so that the complex may be secured. The SJ PAL representative will begin extinguishing field lights and locking gates fifteen (15) minutes after the completion of the scheduled event.

10. RAINOUT AND CANCELLATION NOTIFICATION: If SJ PAL does not call by 2:00 p.m. on the day of the event, the event should go on as scheduled. If an event is scheduled on a weekend, it is the responsibility of SJ PAL to contact the organization representative for notification of cancellation or rainout. Money will be refunded if the event cannot be rescheduled.

11. NO DOGS. CANS. BOTTLES OR ALCOHOLIC BEVERAGES ALLOWED: Food products may not be sold because of our concessionaire contract; however, food may be brought for your own use, but only eaten in the parking lot. **ABSOLUTELY NO ICE COOLERS/CHEST(S) ARE ALLOWED INTO THE STADIUM. EXCEPTION ONE (1) PER SPORTS TEAM**

12. NO SMOKING: Smoking of any kind is not permitted anywhere on PAL facilities.

13. PARKING: The SJ PAL Executive Director will determine the stadium-parking fee for each event. _____ (Initial)

The applicant hereby agrees to be bound by these terms and conditions as outlined herein.

Organization (signature of authorized representative) _____ Title _____ Date _____

No field will be reserved until the rental fee and signed contract have been returned. Upon receipt of the signed contract and your payment, we will mail you an approved contract, which must be presented to the SJ PAL representative at the field the day of your event(s).

YOU WILL NOT BE ALLOWED ON THE FIELD WITHOUT THE APPROVED CONTRACT!

FOR OFFICE USE ONLY

Application Fee _____	Paid _____	Check No. _____	Date _____
Rental Fee _____	Paid _____	Check No. _____	Date _____
Facility Manager Fee _____	Paid _____	Check No. _____	Date _____
Cleaning Fee _____	Paid _____	Check No. _____	Date _____

Approved By _____ Date _____

() Enc.(s).

SAN JOSE PAL, 680 S. 34 St, PAL Stadium, San Jose, CA 95116 (408) 272-9725. FAX (405) 272-9133



Memorandum

**TO: SHARON ERICKSON
CITY AUDITOR**

FROM: Edgardo Garcia

**SUBJECT: RESPONSE TO THE AUDIT OF
THE SAN JOSE POLICE ACTIVITIES
LEAGUE**

DATE: June 4, 2018

Approved

Date

6 JUNE 2018

BACKGROUND

The Administration thanks the City Auditor for its recent audit of the San José Police Activities League's (PAL) policies and practices. The Auditor's final report is comprehensive and includes 23 recommendations for improving PAL's operations. The auditor's review focused on PAL financial reporting, facility use, service delivery, and compliance with its 2007 Facilities and Maintenance agreement with PRNS.

The San José Police Department formed PAL in 1968 to serve at-risk youth in San José. Today, PAL is a non-profit, public charity, incorporated under Section 501(c)3 of the Internal Revenue Code, that provides youth athletic programs. PAL's mission is *to promote a constructive relationship between law enforcement agencies, young people and citizens of the community to develop the young people into responsible citizens*. PAL offers an assortment of programs, including taekwondo, boxing, the Police Cadet program, and the Junior Giants program for mentally and physically challenged youth and adults. Additionally, PAL has incorporated three different sports leagues—Metro PAL Soccer, PAL Pony Baseball, and the Football/Cheerleading Conference—under its umbrella.

Since 2012-13, the San José Police Department has provided a full-time sergeant and officer to manage the PAL operations. The sergeant serves as Executive Director of PAL and reports to the Foothill Division Captain in the Department's Bureau of Field Operations. Prior to 2012-13, PAL was overseen by the Department's Community Services Division, and the Department provided a staff of one sergeant (Executive Director), four officers, and 1.85 full-time equivalent civilian positions (the partial position was a civilian accountant).

In addition to the current staffing of a sergeant and officer, the City provides support to PAL through free-use of the J.R. Blackmore PAL Stadium Complex located on the east side of San José. The use of the facility is governed by a 2007 agreement between the City and PAL. The facility is maintained by the Department of Parks, Recreation and Neighborhood Services (PRNS).

June 4, 2018

Subject: Response to Audit of the San José Police Activities League

Page 2

While the Police Department provides a sergeant and officer to manage PAL, the organization is governed by a Board of Directors comprised of community members and volunteers who lead the various PAL sports leagues. As outlined in the audit, the PAL Board of Directors hires staff for the organization, including a part-time bookkeeper, office specialist, part-time concessions staff, and facilities staff.

During the course of this audit, the PAL Board began the process to hire an accountant to provide on-going accounting services for the organization. Additionally, PAL's Executive Director and President have held meetings with SCORE, a non-profit organization that provides retiree mentors to provide counseling, mentoring, and education to non-profit organizations and for-profit businesses. SCORE will continue to provide its expertise to the PAL Board as it works to improve operations.

Following are the Administration's responses to each of the Auditor's recommendations.

RECOMMENDATIONS AND ADMINISTRATION'S RESPONSE

Recommendation #1: The City should reconsider how and who should manage the PAL facilities and associated activities, and revise its 2007 agreement with the PAL organization accordingly.

Administration's Response to Recommendation #1:

The Administration agrees with this recommendation.

The Police Department, PRNS, and the City Manager's Office have begun an internal review to identify alternatives to PAL's current service delivery model. Staff intends to evaluate PAL's current model and alternative models, including reviewing best practices for Police Athletic Leagues and other non-profit youth sports programs, and return to Council with the results of its evaluation, along with a recommendation for the best option to manage PAL.

As part of this analysis, the Administration will evaluate the cost of various program models and review the potential for long-term program and fiscal stability, as well as reviewing the risks related to each potential service delivery model. Initial work will be done by a cross-departmental team, however, it is possible that assistance may be needed by a consultant with experience in non-profit management. The Administration's goal is to bring a work plan and recommendations regarding the PAL program model to the Neighborhood Services and Education Committee in Fall 2018.

June 4, 2018

Subject: Response to Audit of the San José Police Activities League

Page 4

Target Date for Completion: July 2020

- Green Light Yellow Light (see response to #1) Red Light
 Refer to budget process
 Refer to Council Priority Setting

Recommendation #3: The San José Police Department should inform and encourage officers regarding available volunteer opportunities at PAL.

Administration's Response to Recommendation #3:

The Administration agrees with this recommendation.

The Police Department is reviewing ways to internally message volunteer opportunities to its members and encourage participation. The goal is to let employees know about the programs and opportunities for positive interactions with the City's youth. As an example, the San José Police Officers Association recently agreed to allow PAL staff to participate in their "Meet the Recruit Night" event with the purpose of encouraging new officers to participate in PAL and/or make bi-weekly donations to PAL.

Target Date for Completion: January 2019

- Green Light Yellow Light Red Light
 Refer to budget process
 Refer to Council Priority Setting

Recommendation #4: The San José Police Department should determine if some opportunities for police officers to work with youth in PAL programs can be paid.

Administration's Response to Recommendation #4:

The Administration conceptually agrees with this recommendation.

The Department will review its PAL programs and determine if there are opportunities for officers to be paid for their time. This recommendation is subject to budget constraints and Department priorities, and may be more feasible in the future, as the Department reduces the amount of overtime spent on operational needs.

Target Date for Completion: None

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Due to budget constraints.

Recommendation #5: The City should ensure that the PAL organization complies with the City's requirement to submit an annual audit and regularly follow-up.

Administration's Response to Recommendation #5:

The Administration agrees with this recommendation.

PAL is currently in contract with an accounting firm to complete its 2015 and 2016 audits. These audits are expected to be completed in May 2018. Upon completion, the 2017 audit is expected to begin.

While the City Auditor was completing this audit, the PAL Board began a search for an accountant to provide on-going accounting services to the organization.

Target Date for Completion: July 2019

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Refer to budget process

Refer to Council Priority Setting

Recommendation #6: The City should require formal policies and procedures to ensure compliance with Federal and State financial reporting requirements.

Administration's Response to Recommendation #6:

The Administration agrees with this recommendation.

PAL is on-track to complete the Form 990 for 2017 and submit it to the IRS in a timely manner. PAL has submitted its 2016 Form 990 to the IRS. As the City Auditor was completing this audit, the PAL Board began a search for an accountant to provide on-going accounting services to the

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organization. Once an accountant is hired, PAL will review its policies and procedures regarding financial reporting.

Target Date for Completion: July 2019

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Refer to budget process

Refer to Council Priority Setting

Recommendation #7: The City should require that the PAL organization prepare and submit an annual budget.

Administration's Response to Recommendation #7:

The Administration agrees with this recommendation.

As PAL reviews its internal processes with its new accountant, PAL will complete an annual budget and provide it to the City.

Target Date for Completion: July 2019

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Refer to budget process

Refer to Council Priority Setting

Recommendation #8: The City should require financial policies and procedures addressing a two signature approval system and cash handling, including segregation of duties, proper cash count methodology, and tracking process.

Administration's Response to Recommendation #8:

The Administration agrees with this recommendation.

The PAL staff has reviewed its cash handling process and instituted new procedures. A new form has been created to assist in accurately tracking money received from concessions or gate revenues and requiring two signatures. Additionally, new bank bags have been purchased for use by the staff.

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Target Date for Completion: July 2018

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Recommendation #9: The City should require a formal process to receive donations and record the amount of the donation, the stated purpose of the donation, any restrictions, and final reports on how the funds were used.

Administration's Response to Recommendation #9:

The Administration agrees with this recommendation.

The PAL staff has reviewed its process for receiving donations and instituted new procedures. These new procedures track the amount of the donation, the purpose of the donation, and any restrictions placed on the donation. A close out report will be completed once the funds have been used.

PAL intends to have its new accountant review the process for receiving donations and make recommendations to improve the policies and procedures.

Target Date for Completion: January 2019

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Refer to budget process

Refer to Council Priority Setting

Recommendation #10: The City should work with the PAL Board to track and comply with revenue sharing provisions in its 2007 Agreement.

Administration's Response to Recommendation #10:

The Administration agrees with this recommendation.

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The PAL staff will work with its accountant to track its revenue and comply with the terms of the 2007 agreement.

Target Date for Completion: July 2019

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Refer to budget process

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Recommendation #11: The City should require compliance with its rules on naming and advertising rights, and require policies and procedures to require written agreements regarding signage.

Administration's Response to Recommendation #11:

The Administration agrees with this recommendation.

PAL is currently reviewing all signage on the PAL property. This review includes: determining when the sign was posted, why it was posted, if the posting complies with City policy, and whether or not the business would like to continue advertising on PAL property. PAL intends to work with the Police Department, in coordination with PRNS, to remove any advertising which is not in compliance with City policy and ensure that any future advertising is done in compliance with City policy.

PAL staff has removed the word "Stadium" from the "Shoe Palace Stadium" sign posted within PAL stadium.

Target Date for Completion: July 2019

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Refer to budget process

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Recommendation #12: The City should require a comprehensive strategy to maximize fundraising opportunities through naming and advertising rights.

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Administration's Response to Recommendation #12:

The Administration agrees with this recommendation.

PAL is currently reviewing all of the advertising on the PAL property. Once the review is completed, the PAL Board can begin to assess fundraising opportunities through naming and advertising rights consistent with City policies.

Target Date for Completion: July 2019

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Refer to budget process

Refer to Council Priority Setting

Recommendation #13: The City should either require PAL board members to sign the City's volunteer code of ethics, or work with the City Attorney's Office to eliminate that provision from the Agreement.

Administration's Response to Recommendation #13:

The Administration agrees with this recommendation.

The City Attorney is reviewing this recommendation to determine whether the volunteer agreement and code of ethics is required of the PAL Board. If necessary, any changes to this policy will be addressed in an amendment to the Agreement.

Target Date for Completion: July 2019

Green Light

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Refer to budget process

Refer to Council Priority Setting

Recommendation #14: The City should require that the PAL Board formalize conflict of interest policies and determine whether any conflict of interest laws were violated in PAL's previous use of a board member's family insurance or in paying for board member expenses.

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Administration's Response to Recommendation #14:

The Administration agrees with this recommendation.

PAL's current by-laws include a section related to conflict of interest. PAL will work with its legal counsel to review the Board's conflict of interest policy to ensure it is appropriate and comprehensive.

PAL's current insurance policy was obtained through its affiliation with the California Police Activities League (CALPAL), the governing body for all the PALs in California. There is no conflict of interest related to the policy. PAL does not pay board members for expenses.

Target Date for Completion: July 2019

Green Light

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Refer to budget process

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Recommendation #15: The City should enforce agreement terms regarding when the fields can be used and when they are allowed to "rest."

Administration's Response to Recommendation #15:

The Administration agrees with this recommendation.

PAL and PRNS have started to meet on a monthly basis to discuss scheduled events, on-going issues, and service delivery. PAL will work with PRNS to determine how to best manage rest periods and manage the fields more effectively.

Currently, PRNS staff provides approximately 20 work hours per week of facility maintenance, which is not nearly enough time to maintain the facility in proper functioning condition. Under the current model, a crew of four maintenance staff visits PAL twice per week. This same crew is responsible for maintaining Emma Prusch Farm Park, Overfelt Garden, and a number of neighborhood parks in the area, including Plata Arroyo. Maintenance staff dedicated to PAL may be needed to provide an appropriate level of attention to the facility.

As directed in the Mayor's June 2018 Budget Message, the Administration will assess maintenance, service, and capital improvement needs and return to the Neighborhood Services and Education Committee in Winter 2019.

Target Date for Completion: July 2019

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Recommendation #16: The City should formalize the fees that are charged for use of the facilities including the required documents to be completed. Further, address whether free use of the PAL facilities is allowed and what waivers would be required when providing that free use.

Administration's Response to Recommendation #16:

The Administration agrees with this recommendation.

PAL will review its current fee schedule. The 2007 MOU fee schedule guidelines are over 10 years old. The current PAL fees are less than the fee schedule guidelines in the 2007 MOU, but are higher than the current fees charged by PRNS for similar venues. PAL was not able to effectively rent the fields at the 2007 MOU prices as they were too expensive for renters. The income from the rental of the field is the primary source of income for PAL and is necessary to pay the salaries of PAL civilian staff. PAL will work with PRNS to establish new fee guidelines.

PAL will consider if free use of the PAL facility is allowed under the terms of the agreement. If it is allowed, PAL will determine what waivers should be required. For use of the facility, PAL currently requires a hold harmless waiver along with proof of insurance. PAL will work with the City Attorney to review its current processes and required forms.

Target Date for Completion: July 2019

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Refer to budget process

Refer to Council Priority Setting

Recommendation #17: PRNS and Public Works should review the facilities, develop a list of long-term and short-term priority improvements, and determine the funding mechanism to address those improvements.

Administration's Response to Recommendation #17:

The Administration agrees with this recommendation.

As proposed in the Mayor's June Budget Message for 2018-2019 (scheduled for City Council consideration on June 12, 2018), the Administration plans to assess the PAL facility's maintenance, service, and capital improvement needs and return to the Neighborhood Services and Education Committee in Winter 2019. In the meantime, PRNS and Public Works staff will jointly evaluate short- and long-term capital improvement priorities. Funding for these improvements will be considered as part of the 2019-2020 budget process, consistent with the Greenprint Update.

Target Date for Completion: July 2019

Green Light

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Refer to budget process

Refer to Council Priority Setting

Recommendation #18: The City should require a process to ensure consistent and cost-equivalent fees and expenditures among all districts.

Administration's Response to Recommendation #18:

The Administration agrees with this recommendation.

As this audit was in process, PAL reviewed its fees and charges for its soccer districts and made adjustments. The fees and charges are now consistent across the districts. The PAL staff will continue its review of fees and charges and ensure a process is in place to ensure fair and equitable fees and charges are set.

Target Date for Completion: July 2019

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Recommendation #19: The City should require fingerprint background checks of all adults serving in a supervisory or disciplinary role over children to ensure that all coaches and relevant volunteers comply with the California Public Resource Code 5164 and relevant City policies.

Administration's Response to Recommendation #19:

The Administration agrees with this recommendation.

As this audit was in process, PAL reviewed its procedures related to background checks. Historically, PAL has been completing the fingerprint and background processes on all adults serving in a supervisory or disciplinary role with children and youth; however, these processes were not being recorded at an organizational level. The officer assigned to PAL has been designated as the Custodian of Records and the records are now being maintained at the PAL office.

Target Date for Completion: September 2018

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Refer to budget process

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Recommendation #20: The City should require maintenance of an updated roster of all players, coaches, and other relevant volunteers participating in each of PAL's activities.

Administration's Response to Recommendation #20:

The Administration agrees with this recommendation.

PAL is in the process of updating rosters of all players, coaches, and assistant coaches participating in each of PAL's activities.

Target Date for Completion: September 2018

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Recommendation #21: The City should require compliance with the concussion awareness requirements in the California Health and Safety Code.

Administration's Response to Recommendation #21:

The Administration agrees with this recommendation.

PAL has created a Concussion Awareness Policy. The policy is based on guidelines from the Center of Disease Control (CDC) and California Police Activities League (CALPAL), the governing body for all the PALs in California. CALPAL recommends using the CDC programs for concussion awareness.

All coaches and assistant coaches are required to take an annual online course covering concussion awareness and protocols. The coaches must provide a copy of their certificate of completion to PAL.

Parents are provided with a Concussion Information Fact Sheet. They are required to sign a Concussion Awareness Form to acknowledge they have reviewed it.

All completed forms will be maintained at PAL.

Target Date for Completion: September 2018

Green Light

Yellow Light

Red Light

Refer to budget process

Refer to Council Priority Setting

Recommendation #22: The City should require development and enforcement of policies and procedures for TB testing for relevant employees.

Administration's Response to Recommendation #22:

The Administration agrees with this recommendation.

PAL will review this issue and develop policies and procedures related to TB testing.

All PAL concession employees are currently undergoing TB tests, and they are required to provide PAL with a copy of the test results.

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Target Date for Completion: January 2019

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Recommendation #23: The City should require formal agreements with the various sports leagues that govern the relationship and responsibilities of each of the leagues.

Administration's Response to Recommendation #23:

The Administration agrees with this recommendation.

PAL will review this recommendation and work with its legal counsel to develop facility use agreements for leagues and organizations using PAL facilities.

Target Date for Completion: July 2019

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COORDINATION

This memorandum has been coordinated with the Department of Parks, Recreation, and Neighborhood Services and the City Attorney's Office.

CONCLUSION

The San Jose Police Department appreciates the comprehensive audit of the San Jose Police Activities League prepared by the City Auditor and her staff. The Department agrees with all 23 recommendations and looks forward to improving both the current performance of PAL and future programs.

/s/

Edgardo Garcia
Chief of Police

SHARON ERICKSON, CITY AUDITOR

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For questions, please contact Randy Schriefer, Captain, at (408) 277-4631.