San Mateo County Libraries

Agenda Item V.

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| To: | JPA Governing Board |
| From: | Anne-Marie Despain, Director of Library Services |
| Date: | February 3, 2021 |
| Meeting: | February 8, 2021 |
| Re: | Fair Oaks Library Service Agreement |

## Background

The County of San Mateo and the City of Redwood City partnered in 1995 to jointly fund the Fair Oaks Library. The City agreed to operate the Library with the County contributing to the annual operating costs, on the basis that 50% of the library's service population came from the neighboring unincorporated North Fair Oaks area.

When the San Mateo County Library JPA was formed in 1999, it assumed the County's obligation under the agreement to ensure a continued high level of service to unincorporated residents. For over twenty years, the Library JPA has contributed annually to the cost of operating the Fair Oaks Library, this year budgeting $400,000 for that purpose.

The Fair Oaks Library service area includes an estimated 25,015 people, with 62% (15,454) representing unincorporated residents and 38% (9,561) representing Redwood City residents primarily located in the neighborhoods of Friendly Acres and Redwood Village. Pre-COVID, the Library was open six days a week, Monday through Saturday, for 50 hours per week. If the Library JPA were to assume operation, the Fair Oaks Library would be entitled to 60 hours per week, based on the current Library JPA Agreement.

In 2018-19, the Fair Oaks Library branch circulated 34,850 items, had 50,000 visitors, and hosted 443 programs that were attended by 9,632 people. Approximately 30% of the service area has a library card and usage by home jurisdiction for July 2019-February 2020 included 47% by City residents, 24% by North Fair Oaks residents, and the remaining 29% coming from other residents throughout the County.

The County, a member of the Library JPA and representative of the unincorporated areas of the district, expressed interest in negotiating a new Fair Oaks Library Agreement and transferring operational responsibility to the Library JPA, and on November 3, 2020 the Governing Board directed staff to conduct community outreach and work with County and City staff to negotiate a new cost-sharing agreement.

## Discussion

The County, the JPA, and the City all have a shared interest in providing the best possible library services to the North Fair Oaks community. During the community engagement process, no significant obstacles were identified to moving forward with a transfer of operational responsibility to the JPA. Generally, support for the transfer was provided based on the potential long-term benefits which include increased programming and hours of service.

Staff have worked with the City, County, JPA Attorney, and Chairs and Vice Chairs of the Operations Committee and Governing Board to develop and recommend the attached new operating agreement designed to enhance services to the community while equitably sharing ongoing operating costs.

The agreement includes the following key terms:

- Effective March 15, 2021, operation of the Fair Oaks Library becomes the responsibility of the Library JPA.
- The Library JPA will pay half of the City's operating costs incurred for FY 2020-21, or $235,567.
- The City will transfer assets, including the library collection, furniture and shelving, and specific technology valued at $475,000 to the Library JPA.
- The City will contribute to the ongoing operation costs of the Library operation based on a 50%-50% cost share.
- The City's FY 2021-22 payment is deemed met through the transfer of assets.
- City employees shall remain City employees and will not transfer to the Library JPA.
- The Agreement will continue until June 30, 2031, unless terminated earlier by mutual consent and by action taken by the City Council and Library JPA Governing Board.
- In the event the JPA is dissolved or the County withdrawals from the Library JPA, the agreement is terminated.

San Mateo County Libraries is excited to include the Fair Oaks Library into its family of libraries and begin serving the residents of that community. Staff have begun working on transition plans and are confident that service will not be interrupted and can begin on Monday, March 15, 2021. Redwood City Library has been a strong partner and we look forward to continuing to work with them to ensure that through their ongoing financial support City residents as well as those in the unincorporated Fair Oaks area will enjoy the comprehensive and innovative services offered by San Mateo County Libraries.

## Fiscal Impact

A total of $400,000 has been budgeted in FY 2020-21 to support the Fair Oaks Library. If the new agreement is approved by the Governing Board, ongoing operations of the Fair Oaks Library will shift to the Library JPA effective March 15, 2021. The JPA will pay the City $235,567, which represents 50% of the costs of operations for the portion of the year that the City provided library services; and assets valued at $475,000 will be transferred to the Library JPA.

The City budget to operate the Fair Oaks Library for FY 2020-21 was $833,652, staff estimate annual operating costs will increase to approximately $1,000,000 as part of the Library JPA. Revenue of approximately $400,000 per year from the Redwood City will offset this amount.

## Recommendation

Recommend Library JPA Governing Board approve the Agreement Between San Mateo County Library Joint Powers Authority and City of Redwood City. Operations Committee members present at the February 2, 2021, meeting concurred with this recommendation.

## Attachment

Agreement Between San Mateo County Library Joint Powers Authority and City of Redwood City

**AGREEMENT BETWEEN**
**SAN MATEO COUNTY LIBRARY JOINT POWERS AUTHORITY AND**
**CITY OF REDWOOD CITY**

THIS AGREEMENT ("Agreement"), entered into this _____ day of _____, 2021, by and between the SAN MATEO COUNTY LIBRARY JOINT POWERS AUTHORITY, hereinafter called "JPA," and CITY OF REDWOOD CITY, hereinafter called "City." The JPA and City are sometimes referred to individually herein as a "Party" and collectively as "Parties."

W I T N E S S E T H:

WHEREAS, the City has been operating the Fair Oaks Library branch ("Library"), located at 2500 Middlefield Road in Redwood City, pursuant to a "Common Use/Shared Facility License Agreement" dated June 6, 1995 between the County of San Mateo ("County") and the City (hereinafter referred to as the "License Agreement"); and

WHEREAS, the License Agreement*, inter alia*, calls for the City to operate the Library at the County's Middlefield Road facility, with the County annually contributing a portion of the costs of operating that Library; and

WHEREAS, the initial term of the License Agreement is to "continue in effect as long as both parcels are used for community serving facilities, but in any event the term of the Agreement shall be no longer than (30) years from" June 6, 1995; and

WHEREAS, in July 2000 the JPA assumed the County's obligation, under the License Agreement, to contribute a portion of the operating costs of the Library and, since then, the JPA has been contributing a portion of the operating costs of that Library; and

WHEREAS, the Parties each recognize and value the critical service the Library provides its users, including residents of the unincorporated North Fair Oaks community and residents of the City; and

WHEREAS, each Party recognizes its obligation to ensure the provision of professional, accessible library services to each Party's respective communities served by the Library; and

WHEREAS, the Parties now desire to transfer operational responsibility for and control of the Library to the JPA, and the City and County are concurrently amending the License Agreement to facilitate such transfer; and

WHEREAS, the City, through its ongoing provision of financial support provided for herein, also intends to ensure that its residents and those in the unincorporated North Fair Oaks area continue to enjoy the services offered by the Library; and

WHEREAS, the Parties intend by this Agreement to ensure the Library continues to provide high-quality library services, with the JPA assuming operational responsibility for the Library, and the City contributing an equitable share of the operating costs.

**NOW, THEREFORE, IT IS HEREBY AGREED:**

## 1. OPERATION AND CONTROL OF FAIR OAKS LIBRARY BRANCH

In consideration of the mutual promises set forth herein, the City transfers and the JPA accepts operational responsibility and control of the Library, on the following terms:

a. Effective March 15, 2021, the overall operation of the Library shall become the responsibility of the JPA. The JPA shall operate the Library to provide high quality library services for the use and enjoyment of the public including residents of the unincorporated North Fair Oaks community and residents of the City of Redwood City.

b. Effective March 15, 2021, the right, title and interest in all personal property within the Library, including, without limitation, books, magazines, shelving, furniture, electronic equipment and self-checkout equipment, shall pass from City to the JPA, as more particularly described in Exhibit A.

c. On or before March 15, 2021, the JPA shall pay to City the total amount of $235,567 for the portion of Fiscal Year 2020-21 that the City has operated the Library.

d. The City shall contribute to the operation of the Library according to the schedule attached as Exhibit B. The City's financial contribution for the remainder of Fiscal Year 2020-21 and Fiscal Year 2021-22 is deemed met by the City's personal property transfer to the JPA per Exhibit A, such that City's first monetary contribution shall be provided for beginning in Fiscal Year 2022-23, all as set forth in Exhibit B.

e. Not less than 90 days prior to the conclusion of the fifth year of this Agreement (i.e., on or before April 1, 2026), the Parties shall meet, confer, evaluate and determine whether the City's annual contribution for the last prior fiscal year equals at least 50 percent of total operating costs of the Library for a level of service similar to that provided by the City in Fiscal Year 2018-19 (50 hours of service per week). In the event the City's annual payment is less than or more than 50 percent of total operating costs of the Library for a level of service similar to that provided by the City, the base contribution as set forth in Exhibit B shall be adjusted, to reach the goal of equal participation in operating costs. The City will follow the "Years 6 – 10 Adjusted Payment Schedule" in Exhibit B.

f. The Parties acknowledge that City's annual financial support for the operation of the Library includes support for routine maintenance and facility-related costs but not for any non-routine capital improvement projects. The Parties agree to meet and confer in good faith to determine if and to what extent the City will contribute to the development of any capital improvement projects during the term of this Agreement.

## 2. TERM AND TERMINATION

The term of this Agreement shall commence upon the execution of this Agreement by all Parties and continue in effect until June 30, 2031, unless sooner terminated by mutual consent of the parties, as reflected in action taken by the City Council and JPA Governing Board. However, in the event that the JPA is dissolved or the County withdraws from the Joint Powers Authority, this Agreement shall be deemed immediately terminated.

## 3. RECORDS

The JPA agrees to maintain property, personnel, financial and other records and accounts reflecting the costs of its operation of the Library for a period of at least three (3) years, with all expenditures supported by properly executed payrolls, time records, invoices, contracts or other official documentation evidencing in sufficient detail the nature and propriety of the charges. The City will have the right to request review of the JPA's records, with thirty (30) days' notice, no more than annually for the purpose of verifying the actual cost of operating the Library. The cost of such review will initially be borne by the City; however, in the event the audit identifies errors in the reported cost of operating the Library, the JPA shall reimburse the City for half the audit cost.

## 4. NOTICES

Any notice, request, demand, or other communication required or permitted hereunder shall be in writing and shall be deemed to be properly given when deposited in the United States mail, postage prepaid, addressed to:

In the case of the Library JPA:
Library Director
San Mateo County Libraries
125 Lessingia Court
San Mateo, CA 94402

In the case of the City:
City Manager
City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063

## 5. MUTUAL HOLD HARMLESS

a. The JPA agrees to defend, hold harmless, and indemnify the City and its officers, employees, agents, and servants from any and all claims, suits, or actions of every name, kind, and description brought by a third party which arise out of the terms and conditions of this Agreement and which result from the acts or omissions of the JPA and/or its officers, employees, agents, and servants.

b. The City agrees to defend, save harmless, and indemnify the JPA and its officers, employees, agents, and servants from any and all claims, suits, or actions of every name, kind, and description brought by a third party which arise out of the terms and conditions of this Agreement and which result from the acts or omissions of the City and/or its officers, employees, agents and servants.

c. The duty of each Party to defend, hold harmless, and indemnify the other as set forth herein shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

d. In the event of concurrent negligence (or intentional/reckless acts) of the City and/or its officers and employees, on the one hand, and the JPA and/or its officers, employees, agents, and servants, on the other hand, then the liability for any and all claims for injuries or damage to persons and/or property which arise out of terms and conditions of this Agreement shall be apportioned according to the California theory of comparative fault.

e. The obligations under this Section 6 shall survive termination of this Agreement.

**6. RELATIONSHIP OF PARTIES**

The Parties are separate public entities and are independent contractors with respect to this Agreement. JPA's employees involved in operation of the Library shall be and remain only JPA employees and are not and shall not be asserted to be employees, borrowed employees, agents or borrowed agents of City, and City's employees involved in operation of the Library, if any, shall be and remain only City employees and are not and shall not be asserted to be employees, borrowed employees, agents or borrowed agents of the JPA. Each Party shall maintain all legally required insurance and employee benefits as to its Library employees. Neither party shall be vicariously liable for the culpable acts or omissions of the other's employees.

**7. ASSIGNMENT**

This Agreement is not assignable by the JPA without the express prior written consent of the City, which consent will be given in the City's sole discretion.

**8. ENTIRE AGREEEMENT**

The foregoing constitutes the entire agreement between the parties related to the matters herein, and supersedes any prior written or verbal agreement, or representation, involving these matters. This Agreement may be modified only by a writing authorized by actions of the City's City Council and the Governing Board of the Library Joint Powers Authority.

**9. NO THIRD-PARTY BENEFICIARY**

This Agreement is only for the benefit of the Parties as corporate entities and shall not be construed as or deemed to operate as an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action or obtain any right to benefits or position of any kind for any reason whatsoever.

## EXHIBIT A

Schedule of Personal Property at Fair Oaks Library to be transferred from the City to the JPA

1. 14,000 library materials collection (books, magazines, dvds, cds, etc.), valued at approximately $280,000.

2. Furniture, fixtures and display shelving throughout the 3,800 square foot Library, valued at $100,000.

3. Children's Early Learning Installation "Food Truck", valued at $55,000.

4. Technology Equipment including, (1) Smart Board and (1) Smart Board computer, (1) Envisionware self check, security gates and RFID pads, (1) Ultimaker 2 3D printer, (1) Occulus Virtual Reality system and (5) Allenware laptop X51 valued at $36,000.

5. Outdoor materials return, valued at $4,000

For a total of $475,000.

Any personal property not listed on this Schedule, including without limitation any and all wireless hotspots, leased copier, all Shoretel phones and associated network equipment, rooftop wireless bridge antenna, staff workroom desk chairs fitted for individual staff members, City security panic buttons, curbside pickup service supplies, and PPE, shall be removed from the Library by the City prior to March 15, 2021 and will remain the property of the City. City shall also transfer to JPA small miscellaneous items such as office supplies, craft supplies, board games, and other items of minimal value by mutual agreement of the parties.

## EXHIBIT B

Financial Contribution to Operating Costs

In accordance with Section 1 of the Agreement, the City will contribute funding to the operating costs of the Library as follows. For clarity, each fiscal year ("FY") begins on July 1 and concludes on June 30 of the subject year.

Year 1 (16 month period) (March 15, 2021 – June 30, 2022): $0.

Year 2 (FY 2022-23): $400,000 (to be referred to as the "base contribution").

Years 3 – 5 (FYs 2023-24 through 2025-26): The contribution for years 3 through 5 shall be increased or decreased by the percentage increase or decrease in the Consumer Price Index for the San Francisco-Oakland-San Jose area ("CPI") over the prior year, as of December 1 of the previous fiscal year.

Years 6 – 10 (FYs 2026-27 through 2030-31): The contribution for years 6 through 10 shall be increased or decreased by the percentage increase or decrease in the CPI over the prior year, as of December of the applicable fiscal year, unless, pursuant to Section 1.e. of the Agreement, the City is following the "Years 6 – 10 Adjusted Payment Schedule" as follows:

- Year 6 (FY 2026-27): Base contribution shall be adjusted if City contribution is more than or less than 50 percent of the Library operating costs, for a level of service similar to that provided by the City in Fiscal Year 2018-19 (50 hours of service per week), during the prior fiscal year (FY 2025-26). This amount shall be referred to as the "Year 6 base contribution."

- Years 7 – 10 (FYs 2027-28 through 2030-31): The contribution for years 7 through 10 shall be increased or decreased by the percentage increase or decrease in the CPI as of December 1 of the previous fiscal year.

Said contributions shall be made from the City to the JPA on a semiannual basis. Each semi-annual payment shall be tendered to the JPA within thirty (30) days of the commencement of that portion of the fiscal year.