



## **PUBLIC WORKS DEPARTMENT**

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### **CITY COUNCIL STAFF REPORT**

Meeting: May 4, 2021

#### Subject

Consider Authorizing the City Manager to Execute a Lease Agreement with the Library Joint Powers Authority of Santa Clara County for the Cupertino Library Located at 10800 Torre Avenue, Cupertino, CA 95014.

#### Recommend Action

Authorize the City Manager to Execute a Lease Agreement with the Library Joint Powers Authority of Santa Clara County for the Cupertino Library Located at 10800 Torre Avenue, Cupertino, CA 95014, for a 25-year Term Starting January 1, 2019. (Attachment A).

#### Background

In 1967, the City of Cupertino entered a 25-year lease with the County of Santa Clara (County), which provided for the City's construction of a library building to be operated by the County. In 1985, the parties amended the 1967 lease to account for an expansion. In the amended lease, the County agreed to pay \$120,000 per year as reimbursement of bond payments for a period not to exceed thirty (30) years, which commenced in 1986. The lease expired in 1992 but the parties continued to honor the terms of the lease.

In 1994 the cities of Cupertino, Campbell, Gilroy, Los Altos, Los Altos Hills, Milpitas, Monte Sereno, Morgan Hill, and Saratoga formed the Library Joint Powers Authority of Santa Clara County (Library JPA) to deliver library services. Two years later, in 1996, the City of Cupertino entered into a 23-year agreement with Library JPA for lease of the library building with an annual lease amount of \$120,000 to repay bonds issued to fund the construction of the library building addition in 1985, with the last lease payment due in June, 2018. ( Attachment B).

The library building was demolished and rebuilt in 2004 as part of the Civic Plaza capital project. The cost of rebuilding was \$19 million, which was paid through City reserves and Certificates of Participation (COP). The 1996 lease was not renegotiated at that time.

Prior to expiration of the 1996 lease, on December 31, 2018, the Library JPA exercised its option to renew the lease for an additional 25 years. The Library JPA made its last lease payment in June 2018.

The 1996 lease includes terms which establish that the Library JPA is responsible for the cost of internal maintenance, utilities, insurance, and other incidentals, while the City is responsible for maintenance of the building exterior and the surrounding grounds. However, the language in the lease is vague and outdated. Further, the lease does not cover the Library JPA's responsibility to reimburse the City for staff time spent on maintenance of the facility.

### Discussion

Due to the vague and outdated language in the 1996 lease, the City and the Library JPA agreed to negotiate a new lease to replace the 1996 lease. The term of the new lease extends through December 2044. The proposed new lease identifies an updated diagram of the existing premises (including the area of the new Library Expansion currently under construction), clarifies the use of the premises, refines maintenance responsibilities of the Library JPA and the City, updates insurance requirements, and enhances indemnities and other legal provisions, while maintaining existing financial responsibilities and lease term. It requires the Library JPA to reimburse the City for the average yearly cost of maintenance and capital improvements (\$137,000 and \$40,000 respectively) and it allows for variations in those totals to ensure full cost recovery to the City.

The new lease provides the City more control over library maintenance, alterations, and janitorial operations, which ensures that these services are performed to the City's standards. Further, the new lease clarifies the JPA's obligation to reimburse the City for City staff time spent in performing and overseeing these operations, which is currently not occurring.

The Library JPA Board is scheduled to consider the approval and authorization of the execution of the new lease at their Board meeting held on April 29, 2021.

### Sustainability Impact

Many of the amended terms will improve the City's ability to modify and maintain the Library assets to implement the City's sustainability programs.

For example, the City will assume control of the Library's energy meters, allowing the City to manage energy use for the entire Civic Center more efficiently and allow the City greater economies of scale in procuring renewable energy upgrades. Combining all Civic Center energy metering with the City will also streamline and reduce the cost to comply with sustainability reporting requirements. Transfer of energy metering to the City will also allow data showing the carbon footprint for the entire Civic Center to be posted to the City's utility management dashboard, increasing transparency of as to the City's energy use.

Fiscal Impact

Authorization of this lease agreement will ensure the Library JPA reimburses the City for actual cost of maintenance and capital improvements, which currently averages approximately \$177,000/year. The agreement also requires the Library JPA to reimburse the City for expenses backdated to January 1, 2019 for all maintenance and capital costs incurred by the City, including employee compensation and materials for maintenance of the building interior and exterior (excludes aquarium maintenance and the Library expansion project).

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Prepared by: Chad Mosley, Assistant Director of Public Works

Reviewed by: Roger Lee, Director of Public Works

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A – Draft Lease Agreement for Cupertino Library

B – 1996 Library Lease Agreement