

LEASE AGREEMENT FOR CUPERTINO BRANCH LIBRARY

The following is a lease agreement between the SANTA CLARA COUNTY LIBRARY JOINT POWERS AUTHORITY, State of California, hereinafter referred to as "Lessee," and the CITY OF CUPERTINO, a municipal corporation, hereinafter referred to as "Lessor."

WHEREAS, Lessor is the owner of real property hereinafter described and located in the civic center site in the City of Cupertino, California; and

WHEREAS, on December 26, 1967, the City of Cupertino, as lessor, and the County of Santa Clara, as lessee, entered into a lease for a term of twenty-five (25) years which provided for the construction of a building for use as a county public library at the civic center site of the city; and

WHEREAS, on June 11, 1985, the City of Cupertino and the County of Santa Clara amended the 1967 lease by entering into an agreement for the construction of a library addition by Lessor, whereby Lessee agreed to pay to Lessor \$120,000.00 per year as reimbursement of bond payments commencing in 1986 and for a period not to exceed thirty years (30); and

WHEREAS, although the twenty-five (25) year term of the 1967 lease terminated on December 26, 1992, Lessee and Lessor have continued to honor the terms of the lease and desire to continue to do so;

NOW, THEREFORE, in consideration of, and subject to, the terms and conditions hereinafter set forth, LESSOR and LESSEE AGREE AS FOLLOWS:

1. Description of Property

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to rent from Lessor, the real property described in Exhibit A attached hereto and made part hereof by reference .

2. Use of Premises

Said premises shall be used by Lessee for the maintenance and operation of a branch library for the Santa Clara County Library. The term "premises" is defined to mean the real property above described and the building and all improvements thereon.

3. Term of Lease

The term of this lease shall be for a period of twenty-three (23) years commencing on January 1, 1996 and ending on the last day of the twenty-third (23rd) year following.

4. Option to Renew

Lessor hereby grants to Lessee the sole and exclusive option to renew said lease for an additional term of twenty-five (25) years, which option shall be exercised by Lessee by giving one year's advance written notice of Lessee's intention to renew said lease. In the event Lessee does not exercise its option within the time prescribed hereunder, the lease shall automatically terminate upon the expiration of the term hereof, and no notice shall be required to effectuate said termination.

5. Rental Amount

Lessee agrees to pay Lessor a minimum base rent of \$120,000.00 per year, payable by Lessee to Lessor annually on the first business day of June of each year of the term hereof, or as the parties hereto may agree in writing. In addition to said base rent described above, Lessee shall pay a yearly sum equal to the increase of Cupertino's assessed value of property as a percentage of the assigned assessed value from the base fiscal year 1985-1986. Said increase is expressed as follows:

$$\frac{\text{Cupertino AV}}{\text{Assigned AV}} > 18.96\% (\text{base fiscal year 1985-1986})$$

The last payment under this lease agreement will be due in June, 2018.

6. Maintenance and Utilities

Lessee shall make all repairs during the term as are necessary to keep and maintain said premises from the exterior walls and roof inward in good and tenantable condition. Lessor shall maintain landscaping and parking for said premises at Lessor's cost and expense.

7. Alterations, Changes or Additions

Lessee shall not make any alterations, changes or additions to said premises without obtaining prior written consent of Lessor. Any such alterations, changes, or additions made by Lessee shall be at the cost and expense of Lessee, and, upon termination hereof, said alterations, changes, or additions shall inure to the benefit of Lessor, except, however, trade fixtures, lighting fixtures, partitions, appliances, equipment, furniture, and other improvements placed on said premises by Lessee; and upon termination of this lease, Lessee shall have a reasonable length of time in which to remove said trade fixtures, lighting fixtures, partitions, appliances, equipment, furniture, and other improvements installed by it on said premises.

8. Utilities

Lessee shall pay for the furnishing of all water, janitorial services and other utilities necessary or required for use in or upon the premises during the term of this lease or any extension thereof.

9. Insurance

Lessee, at its own cost and expense, shall maintain during the term of this lease casualty and fire insurance to the extent of the insurable value of the premises, including provision for payments to cover bonding costs abated as a result of damage by fire, the elements, casualty or other cause or happening not due to the negligence of Lessee. Lessee shall further maintain during the term of this lease public liability and property damage insurance. Lessor shall be named as additional insured under the terms of said policies of insurance.

10. Damage to Premises

If said premises are partially or totally destroyed by fire, casualty, or other cause or happening, said premises shall be promptly restored by Lessor to their previous condition and made safe, and a just proportion of the rent herein provided for, according to the extent to which said premises have been rendered untenable or declared unsafe, shall abate until said premises have been restored and put in proper condition for use and occupancy; provided, however, that (a) if said building is totally destroyed and a fully comparable building is not completely rebuilt by Lessor and ready for occupancy by Lessee within six (6) months after the casualty causing destruction, or (b) if said building is partially destroyed and the same is not restored to its former condition and made safe within sixty (60) days from the date of the casualty causing said partial destruction, then, in either event, Lessee may, at its sole option, cancel and terminate this lease in its entirety, and should Lessee exercise its option to cancel and terminate, any unearned rent paid in advance by Lessee shall be refunded to it. The determination of whether the casualty has caused total or partial destruction shall be made solely by Lessee within ten (10) days after the date of the date of said casualty. In the event of disagreement between Lessor and Lessee as to Lessee's determination of the amount of destruction, Lessor shall submit the matter to arbitration and the rules and procedures of the American Arbitration Association shall apply. Failure to submit the matter within thirty (30) days after the date of said casualty shall be deemed assent by Lessor to Lessee's determination of the extent of said destruction.

11. Use and Enjoyment

The enjoyment and use of all entrances, exits and approaches, and means of entrance and approach now existing in favor of said premises shall not be unreasonably interfered with or interrupted by any act or assent of Lessor during the term of this lease.

12. Condition of Premises

Lessor covenants and agrees that said premises will be delivered to Lessee free from all tenancies and occupancies and free from all orders, notices, and violations filed or entered by any public or quasi-public authority and free from complaints and/or reports of violations noted or existing in, or filed with, any governmental authority.

13. Notices

All notices required or permitted to be given hereunder or by any provisions of law shall be given to the party to be notified by personal delivery or sent by registered or

certified mail addressed to Lessor at the Administration Office of the City of Cupertino, 10300 Torre Avenue, Cupertino, California 95014, and addressed to Lessee to the attention of the County Librarian at 1095 North Seventh Street, San Jose, California. All notices given as aforesaid shall be sufficient service thereof, and if sent by mail, shall be deemed served as of the date of deposit in the mails.

14. Termination

It is mutually agreed that this lease may be canceled and terminated by Lessee if the whole or any part of the City of Cupertino served by the branch library occupying the said premises withdraws from the Santa Clara County Library System for any reason or purpose whatsoever.

At the end of the term or upon termination of this lease or any extension thereof, Lessee shall surrender said premises in as good condition as the same were when Lessee took possession, reasonable wear and tear, damage from the elements, fire, acts of God, structural deficiencies and repairs, and exterior deficiencies and repairs, or other casualty beyond the reasonable control of Lessee, excepted.

15. Successors and Assigns

The foregoing covenants and conditions shall be binding upon the parties hereto and their respective heirs, successors, executors, administrators, legal representatives, and assigns.

IN WITNESS WHEREOF, the parties hereto have subscribed their names this
11th day of April, 1996.

COUNTY OF SANTA CLARA

CITY OF CUPERTINO

By *Annie McKenna*
Chairperson, Joint Powers Authority
"Lessee"

By *Don Burnett*
Mayor, Cupertino City Council
"Lessor"

ATTEST:
Clerk, Joint Powers Authority

ATTEST:
Cupertino City Clerk

By *Joanne Ellis*

By *Kimberly Smith*

APPROVED AS TO FORM:

By *Brian L. Can*
Deputy County Counsel

By *Charles T. Kilian*
Charles T. Kilian, City Attorney