



Council Meeting: April 29, 2008

SUBJECT: Agreement Between the City of Sunnyvale and the Friends of the Sunnyvale Public Library for FY 2008/09 – FY 2010/11

REPORT IN BRIEF

In accordance with City Council's policy governing "Relationships with Outside Groups," this report reviews a proposed agreement between the City and the Friends of the Sunnyvale Public Library (Friends), an independent, non-profit organization.

The proposed new agreement outlines obligations of the Friends such as disposition of donated materials, discarded materials and revenues as well as describing the obligations of the City such as providing a location for Friends book sales and certain staff assistance. The Friends raise money through book sales and memberships and contribute at least 90% to the Library and up to 10% to Sunnyvale literacy-based initiatives. Funds donated to the Library help pay for the acquisition of materials, equipment/furniture, programs and other items requested by Library staff to enhance the delivery of library services to the community. The donations supplement the Library's operating budget, and support activities consistent with the goals of the Library Sub-element.

Staff recommends that Council approve the new Friends agreement which would be in effect between July 1, 2008 and June 30, 2011, and authorize the City Manager to enter into said Agreement on behalf of the City. Please see Attachment A, *Agreement Between the City of Sunnyvale and the Friends*.

BACKGROUND

Since FY 2004/05, there has been an agreement between the City of Sunnyvale and the Friends. Prior to FY 2004/05, the Friends was a co-sponsored group of the City and a contributor to the Library for more than 20 years. The group has tax exempt status under Section 501 (c)(3) of the Internal Revenue Service code. For many years, the Friends has received materials which have been either donated to the Library or have been discarded from the Library. They have priced and sold these materials at quarterly book sales as well as at a table inside the Library. The Friends donate proceeds from the sales to the Library, allowing the Library to acquire materials, equipment/furniture, programs and other needs as requested by Library staff to supplement the operating budget. Library staff develop a funding proposal each year for Friends consideration after reviewing Library initiatives to enhance service delivery. The Friends also serve as advocates for the Library and assist with programs for the public and other events as requested by Library staff.

EXISTING POLICY

Partnering with groups in the community to provide assistance for the Library, library services, programs and materials to serve the public is supported by the following City goals and policies:

Library Sub-element of Sunnyvale General Plan

Goal 6.2A: Provide a broad and diverse collection of books and other library materials to meet the varied interests and needs of the community

- Goal 6.2C: Provide library programs and publications to educate, enrich and enlighten library users
- Goal 6.2E: Use new technology to optimize the development and delivery of library services
- Goal 6.2F: Foster a collaborative organization to attain a high performance and customer focused library
- Policy 6.2F.1f: Cooperate with such organizations as the Friends of the Sunnyvale Library in their effort to support and promote library services

Sunnyvale Legislative Policy

Policy 7.2.4: Relationships with Outside Groups Policy

DISCUSSION

The Relationships with Outside Groups Policy facilitates the provision of programs that provide a community service, or promote an informed interest in the City's objectives, services, facilities and programs for the benefit of its residents and businesses, and/or have as their purpose the raising of funds and provision of financial support for the City's programs.

The existing agreement between the City and the Friends has been in effect since April 26, 2005, and is due to expire on June 30, 2008. The Friends will contribute at least 90% of the total donations it distributes in any calendar year to the Library and up to 10% to other Sunnyvale literacy-related initiatives. They will also advocate for the maintenance and improvement of library services and materials. The City will provide the following to the Friends:

- Books and other materials donated to the Library and discarded Library materials;
- As available, space in one classroom at Raynor Center to collect, sort and store books and other donated and discarded materials for Friends book sales. At such time that Raynor Center is no longer available, the City shall assist the Friends in identifying alternative arrangements for the collection, sorting, storage and sale of donated materials;
- A location within the Library for an ongoing Friends book sale when appropriate;
- The following staff assistance: collect money from the Friends' table sales, a Library manager to serve as liaison to the Friends, maintain records of the Library's expenditures from Friends' donations, provide copies of these records to the Friends, and publicize the Friends' events and membership as appropriate; and
- When possible, provide a space to hold Friends book sales.

New provisions in the agreement include:

- The Friends are defined as independent contractors to the City and are not considered to be City volunteers.
- The Friends will take out and maintain, at their own cost, commercial general liability insurance as well as automobile liability, worker's compensation and employer's liability insurance, as required by law.
- Should the Friends organization dissolve or the agreement be terminated by either body, at least 90% of any remaining Friends funds will be donated to the Library within 90 days, and up to 10% may be donated to other Sunnyvale literacy-related initiatives.

Staff provides the proposed new three-year Friends agreement dated July 1, 2008, for Council consideration (Attachment A).

FISCAL IMPACT

The Friends raises funds to enhance Library services to the community. In the past two fiscal years, the Friends group has donated nearly \$90,000 to the Library. These funds permit the purchase of materials, equipment/furniture, programs and other items which support the goals of the Library Sub-element and help supplement the Library's budget. The Agreement between the Friends and the City states that the Friends will give at least 90% of the total donations it makes in any given year to the Sunnyvale Public Library.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk. The agreement was approved by the Board of the Friends of the Sunnyvale Public Library at their meeting on February 14, 2008. On April 7, 2008, the Board of Library Trustees held a public hearing on this matter.

ALTERNATIVES

1. Approve the three-year agreement between the City and the Friends of the Sunnyvale Public Library, depicted by Attachment A, and authorize the City Manager to enter into the agreement by June 30, 2008.
2. Do not approve the Friends agreement.
3. Other action as determined by Council.

RECOMMENDATION

At their April 7, 2008 meeting, the Board of Library Trustees voted unanimously to recommend to Council Alternative No. 1 which approves the three-year agreement between the City and the Friends of the Sunnyvale Public Library, depicted by Attachment A, and authorizes the City Manager to enter into the agreement by June 30, 2008.

Staff recommends Alternative #1.

Reviewed by:

Deborah L. Barrow, Director, Library
Prepared by: Steve Sloan, Administrative Librarian

Approved by:

Amy Chan
City Manager

Attachments

- A. Agreement Between the City and the Friends of the Sunnyvale Public Library for FY 2008/09 – FY 2010/11.
- B. Draft Board of Library Trustees Meeting Minutes of 4/7/08.

Attachment A

AGREEMENT BETWEEN CITY OF SUNNYVALE AND THE FRIENDS OF THE SUNNYVALE PUBLIC LIBRARY FOR 2008-2011

THIS AGREEMENT dated June 30, 2008 is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and the Friends of the Sunnyvale Public Library, a non-profit 501(c)(3) organization ("FRIENDS").

WHEREAS, the City desires to accommodate independent organizations providing services beneficial to the Community; and

WHEREAS, the Friends of the Sunnyvale Public Library is an association of persons interested in books and libraries; and

WHEREAS, the Friends of the Sunnyvale Public Library wish to focus public attention on library services, library materials, facilities and needs; and

WHEREAS, the Friends of the Sunnyvale Public Library wish to stimulate gifts of books, desirable collections, endowments and bequests to benefit the Sunnyvale Public Library; and

WHEREAS, the Friends of the Sunnyvale Public Library wish to raise money through book sales and other means to contribute to the enhancement of library services, equipment and materials;

NOW THEREFORE, in accordance with The City's Relationships with Outside Groups Policy, the City and the Friends of the Sunnyvale Public Library enter into this agreement.

1. Obligations of City

CITY shall provide FRIENDS with space in one classroom at Raynor Center to collect, sort and store books and other donated and discarded print and non-print materials for FRIENDS book sales, as long as storage at Raynor Center is available. At such time that the Raynor Center is no longer available, CITY shall assist the FRIENDS in seeking alternative arrangements for the collection, sorting, storage and sale of donated materials.

CITY shall provide at the discretion of the Director of Libraries, books and other materials donated to the Sunnyvale Public Library and discarded library materials to the FRIENDS.

CITY shall provide a location within the Library for an on-going FRIENDS book sale when appropriate.

CITY shall provide the following staff assistance: collect money from FRIENDS' table sales, provide a Library manager to serve as liaison to the FRIENDS, maintain records of the Library's expenditures from FRIENDS' donations, provide copies of these records to the FRIENDS, and publicize the FRIENDS' events and membership as appropriate.

CITY shall provide space to hold FRIENDS book sales, when possible.

2. Obligations of Friends of the Sunnyvale Public Library

FRIENDS shall provide a verified statement or a declaration under the penalty of perjury, signed by the president or other duly authorized officer of the organization, indicating that the organization qualifies as tax exempt under federal or state income tax

laws. FRIENDS shall notify CITY within 30 days if the organization no longer qualifies as tax exempt under federal or state income tax laws.

FRIENDS shall encourage membership, especially among Sunnyvale residents, and actively recruit and train new members to carry on Friends of the Sunnyvale Public Library activities on behalf of Sunnyvale Public Library.

FRIENDS shall annually provide a member list to the Library, complete with addresses and other contact information.

FRIENDS shall comply with all Federal, State and local laws.

FRIENDS shall comply with all CITY facility key policies and any other relevant policies.

FRIENDS shall contribute to the Sunnyvale Public Library at least 90% of the total donations it distributes in any calendar year. Donation may be for special equipment/furniture, programs, materials and services and other library needs as requested by Library staff.

FRIENDS may make donations, not to exceed 10% of the total donations it distributes in any calendar year, to other Sunnyvale literacy related initiatives, after prior discussion with the Director of Libraries.

If, at any time, the FRIENDS organization should dissolve or the agreement should be terminated by either body, at least 90% of any remaining FRIENDS funds shall be donated to the Sunnyvale Public Library within 90 days. Up to 10% may be donated to other Sunnyvale literacy related initiatives, after prior discussion with the Director of Libraries.

FRIENDS shall actively advocate for the maintenance and improvement of Sunnyvale Public Library services and materials.

3. Conflicts of Interest

No officer or employee of CITY shall have any interest, direct or indirect, in the Agreement or in the proceeds thereof. During the term of this Agreement FRIENDS shall not accept employment or an obligation which is inconsistent or incompatible with FRIENDS' obligations under this Agreement.

4. Compliance with Laws

a) FRIENDS shall not discriminate against any volunteer or volunteer applicant because of race, religion, creed, color, gender, age (persons 40 years of age or older), disability, national origin, sexual orientation, or any other basis to the extent prohibited by federal, state or local law.

b) FRIENDS shall comply with all federal, state, county and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting performance of the Agreement.

5. Independent CONTRACTOR

FRIENDS is acting as an independent contractor in furnishing any services or materials and performing work required by this Agreement and is not an agent, servant or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating

or establishing the relationship of employer and employee between CITY and FRIENDS. FRIENDS is responsible for paying all required state and federal taxes.

6. Indemnity

FRIENDS agree to indemnify and hold harmless CITY, its officers and employees from any and all claims, demands, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property arising out of or in any way connected with the act, omission or negligence of FRIENDS, its officers, employees, agents, volunteers, , sub-contractors and/or any officer, agent or employee thereof in relation to FRIENDS' performance under this Agreement.

7. Insurance

FRIENDS shall, at its own cost, take out and maintain without interruption during the life of this Agreement in such form and with a company or companies satisfactory to the CITY policies of the following types of insurance:

a) Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be twice the required occurrence limit. ISO Occurrence Form CG 0001 is required.

b) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 is required if FRIENDS owns any vehicles. Otherwise, non-owned and hired automobile liability coverage is required.

c) Worker's compensation and Employer's Liability: \$1,000,000 per accident for bodily injury or disease for employees of FRIENDS as required by law.

The City of Sunnyvale, its officers, employees, agents and volunteers shall be named as additional insureds with respects to liability arising out of activities performed by or on behalf of FRIENDS; products and completed operations of FRIENDS; premises owned, occupied or used by FRIENDS; or automobiles owned, if any, leased, hired or borrowed by FRIENDS

6. CITY Representative

Administrative or Supervising Librarian or such other person as may be designated by the Director of Libraries, shall represent CITY as the City Manager's authorized representative in all matters pertaining to the services to be rendered under this Agreement. All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the City representative.

7. FRIENDS Representative

The President of the Friends of the Sunnyvale Public Library or other designated officer shall represent FRIENDS in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of FRIENDS pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the FRIENDS representative. Upon appointment or election of a new Friends of the Sunnyvale Public Library representative, the City shall be notified within fourteen days.

8. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class mail with postage prepaid, or by commercial courier, addressed as follows:

To CITY: Director of Libraries
CITY OF SUNNYVALE
P. O. Box 3714
Sunnyvale, CA 94088-3714
(408) 730-7314

To GROUP: Danielle Maddox
1072 Echo Drive
Los Altos, CA 94024
(650) 948-9025
(or current representative of the Friends of the
Sunnyvale Public Library)

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail, by commercial carrier, or hand-delivered. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

9. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

10. Duration of Agreement

This Agreement shall continue from the date of execution for a period of three years, unless terminated in accordance with section 11 below.

This Agreement shall continue until such time as terminated in accordance with section 11 below.

11. Termination

(a) If FRIENDS default in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to FRIENDS.

(b) Without limitation to such rights or remedies as CITY shall otherwise have by law, either party shall have the right to terminate this Agreement for any reason upon ninety (90) days' written notice to the other party.

12. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced by writing signed by all parties.

13. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. This Agreement shall be governed and construed in accordance with the laws the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

DATE: _____

ATTEST:

CITY OF SUNNYVALE ("CITY")

Gail Borkowski
City Clerk

By _____
Amy Chan
City Manager

APPROVED AS TO FORM:

GROUP

David Kahn
City Attorney

By _____
Danielle Maddox
President, Friends of the Sunnyvale Public Library

Attachment B

2. Draft RTC: Agreement Between the City of Sunnyvale and the Friends of the Sunnyvale Public Library for FY 2008/09 – FY 2010/11:

Administrative Librarian Steve Sloan provided the Board with an overview of the RTC and noted significant provisions in the agreement. Discussion ensued regarding distribution of funds.

Chair Griffith opened the public hearing, and there being no public testimonies, closed the public hearing.

Vice Chair Lilly moved, and Boardmember Su seconded, to recommend to Council Alternative No. 1 which approves the three-year agreement between the City and the Friends of the Sunnyvale Public Library, depicted by Attachment A, and authorizes the City Manager to enter into the agreement by June 30, 2008. Motion carried unanimously.

3. Draft RTC: Authorization to Accept and Expend \$2,500 in Grant Funds from the American Library Association and Nextbook for a *Let's Talk About It: Jewish Literature* Reading and Discussion Series, and Budget Modification No. 44:

Administrative Librarian Susan Denniston provided the Board with a brief overview of the RTC and grant. Discussion ensued regarding publicity for the program.

Chair Griffith opened the public hearing and there being no public testimonies, closed the public hearing.

Boardmember Pathak moved, and Vice Chair Lilly seconded, to recommend to Council Alternative No. 1 which accepts \$2,500 in American Library Association/Nextbook grant funds for a *Let's Talk About It: Jewish Literature* reading and discussion program and approves Budget Modification No. 44. Motion carried unanimously.

4. Status on Study and Budget Issues:

Director Barrow distributed copies of budget supplements for the 1) Elimination of the Library's Reserve Fee and 2) Cost/Benefit of Implementing an RFID/Automated Materials Handling System for Returned Library Materials. She provided an overview on the status of the two budget issues.

Director Barrow also provided an overview on the status of the branch library study issue. A community forum to discuss the study issue will be held on Thursday, May 29 at 6:30 p.m. in the Library Program Room. Sam McBane Mulford will facilitate the community meeting.

Chair Griffith opened the public hearing and there being no public testimonies, closed the public hearing.

5. Legislative Issues Discussion:

This year's annual Library Legislative Day will be held on Wednesday, April 16 at the Sacramento Convention Center. Chair Griffith and Administrative Librarian Steve Sloan will