

**Council Meeting: June 7, 2011****SUBJECT: Agreement Between the City of Sunnyvale and the Friends of the Sunnyvale Public Library for FY 2011/12 – FY 2013/14****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 bimonthly book sales, a lobby sale area and online. 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. 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.

Staff provides the proposed new three-year Friends agreement dated July 1, 2011, for Council consideration (Attachment A). Besides edits for clarifications, the proposed agreement is largely unchanged from the previous agreement.

The existing agreement between the City and the Friends has been in effect since July 1, 2008, and is due to expire on June 30, 2011. The Friends will contribute to the Library at least 90% of total monetary donations. The Friends may make monetary donations of up to 10% of the total monetary donations distributed to the City in the previous fiscal year to other 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, physical space to collect, sort and store books and other donated and discarded materials for Friends book sales;
- A location within the Library for an ongoing Friends book sale when appropriate;
- The following staff assistance: collect money from Friends' lobby area 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
- A space to hold Friends book sales in the Library, when possible.

The Friends are defined as independent contractors to the City and are not considered to be City volunteers. The Friends 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.

## **FISCAL IMPACT**

The Friends raise funds to enhance Library services to the community. In the past two fiscal years, the Friends group has donated more than \$100,000 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 monetary donations 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, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site. The Board of Library Trustees reviewed the report at their meeting on May 16, 2011.

### **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, 2011.
2. Do not approve the Friends agreement.
3. Other action as determined by Council.

### **RECOMMENDATION**

At their May 16, 2011 meeting, the Board of Library Trustees voted unanimously to recommend to Council Alternative 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, 2011.

Staff recommends Alternative #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, 2011.

By raising funds to enhance Library services and serving as advocates for the Library in the community, the Friends of the Sunnyvale Public Library perform an invaluable service. Entering into another three-year agreement with the Friends, the City ensures the ongoing support of the Friends.

Reviewed by:

Lisa G. Rosenblum, Director, Libraries  
Prepared by: Steve Sloan, Administrative Librarian

Approved by:

Gary M. Luebbers  
City Manager

**Attachments**

- A. Agreement Between the City and the Friends of the Sunnyvale Public Library for FY 2011/12 – FY 2013/14
- B. Draft Board of Library Trustees Meeting Minutes of 5/16/11

# Attachment A

**AGREEMENT BETWEEN CITY OF SUNNYVALE AND THE FRIENDS OF THE  
SUNNYVALE PUBLIC LIBRARY FOR 2011-2014**

THIS AGREEMENT dated June 30, 2011 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 to collect, sort and store books and other donated and discarded print and non-print materials for FRIENDS book sales.

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' lobby sale area 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 Board 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 total monetary donations. Donation may be for special equipment/furniture, programs, materials and services and other library needs as requested by Library staff.

FRIENDS may make monetary donations, not to exceed 10% of the total monetary donations it distributed to the CITY in the previous fiscal year, to other organizations which promote literacy, after prior discussion with the Director of Libraries or his/her designated representative. Materials purchased for donation to an organization are included as part of the 10% of total monetary donations. FRIENDS may make donations of materials to other organizations and individuals, provided the materials have been determined to have no resale value.

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, 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.



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")

\_\_\_\_\_

By \_\_\_\_\_

Kathleen Franco Simmons  
City Clerk

Gary Leubbers  
City Manager

APPROVED AS TO FORM:

GROUP

\_\_\_\_\_

By \_\_\_\_\_

David Kahn  
City Attorney

Kathy Broquard  
President, Friends of the Sunnyvale Public  
Library

# Attachment B



## DRAFT MINUTES

### SUNNYVALE BOARD OF LIBRARY TRUSTEES MAY 16, 2011

The Board of Library Trustees met in special session in the Library Program Room, 665 West Olive Avenue at 7:03 p.m. with Ray Su presiding.

#### **ROLL CALL**

**PRESENT:** Chair Ray Su  
Boardmember Narendra Pathak  
Boardmember Jill Shanmugasundaram  
Vice Chair Tom Flaherty  
Boardmember Judi Miller

**STAFF PRESENT:** Lisa G. Rosenblum, Director of Library and Community Services

**PRESENTATION:** Mayor Hamilton presented Chair Su with a certificate of appreciation for his services on the Board during 2007-2011.

**PUBLIC ANNOUNCEMENTS:** Boardmember Pathak provided an overview of an event he attended on Saturday, May 7.

#### **CONSENT CALENDAR:**

1. Approval of Draft Minutes of 04/04/11
2. Draft RTC: Agreement Between the City of Sunnyvale and the Friends of the Sunnyvale Public Library for FY 2011/12 – FY 2013/14

**Boardmember Shanmugasundaram moved, and Vice Chair Flaherty seconded, approval of the consent calendar as presented. Motion carried unanimously.**

**PUBLIC COMMENT:** None.

#### **PUBLIC HEARINGS/GENERAL BUSINESS:**

3. Sunnyvale Options in Reaction to Santa Clara County Library System Charging Non-Residents and Annual Fee for a Library :

Director Rosenblum announced that effective July 1, 2011 the Santa Clara County Library System will implement an \$80 annual library card fee for non-residents of the district. The County's decision is due to the State budget proposal to eliminate or decrease Transaction Based Reimbursement (TBR) funds. Santa Clara County Library System is considered a net loaner to Sunnyvale residents which qualifies the County for TBR funds from the State. Director Rosenblum provided the Board with an overview of Sunnyvale residents' use of County libraries and options in reaction to the County fee. Options include no fee, fee for