



DISCUSSION ITEM

Agenda Item # 11

AGENDA REPORT SUMMARY

Meeting Date: August 24, 2021

Subject: Friends of the Library License Agreement

Prepared by: Manuel A. Hernandez, Maintenance Services Director

Approved by: Gabriel Engeland, City Manager

Attachment(s):

1. Report from Friends of the Library
2. Draft License Agreement

Initiated by:

Staff

Previous Council Consideration:

June 25, 2019

July 9, 2019

January 28, 2020

Fiscal Impact:

The proposed license agreement will permit the Friends of the Library to utilize space on the Civic Center campus at no cost to Friends of the Library. The Friends of the Library will provide for any improvements to the site and utility service for those improvements at no cost to the City.

Environmental Review:

Not applicable

Policy Question(s) for Council Consideration:

- Does the Council wish to provide use of City land to the Friends of the Library (FOL) at the current location?
- If Council wishes to provide the use of the City land to the Friends of the Library, does the Council wish to enter into a license agreement for the use of the land for 10-years or until a new library is built?

Summary:

- The FOL had been utilizing space at the Hillview Community Center for over 40 years at no cost to the Friends.
- The FOL donates approximately \$150k each year to the Los Altos Library.
- The FOL are currently using land at the Government Center for their storage and operations.
- The FOL want to utilize the City's property until the redevelopment of the main library

Reviewed By:

City Manager

GE

City Attorney

JH

Finance Director

JM



Subject: Friends of the Library License Agreement

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- The FOL preference for a long-term location is on the Government Center property.

Staff Recommendation:

If Council agrees that the FOL should stay in their current location on the Government Center property for 10-years, or until a new library is built, staff recommends Council directs staff to execute the draft License Agreement with the FOL.

Purpose

Consider the request for a limited-term License Agreement with the FOL to use city-owned land at the Government Center.

Background

The FOL is a non-profit that provides supplemental funding to the Los Altos Library. The FOL provides approximately \$150,000 annually to the library. The FOL operation was centered around space previously provided by the City at Hillview Community Center at no cost. Currently, the FOL is using space at the Government Center that equates to approximately 1,120 square feet in three temporary units across from the library and behind the Police Department.

At its January 28, 2020 meeting, City Council directed staff to work out an agreement that would allow the FOL to stay in their current location as a long-term solution (defined as after the opening of the new community center, until the opening of a new Los Altos main library). Staff has worked out a draft License Agreement with the FOL for the use of the current space as a long-term solution.

The proposed license agreement provides City-owned property for use at no cost to the FOL, but does not waive fees, require a financial contribution from the City, or limit or reduce any necessary reviews or approvals by City staff, City Boards or Commissions, or the City Council.

Discussion/Analysis

In 2019 an Ad Hoc Committee met seven times to look at alternate locations for the Friends storage and operations. After an extensive search and considering numerous City locations, a suitable location for the Friends was not found for recommendation to Council. A full analysis of the Ad Hoc Committee's work was presented to Council at the January 28, 2020 meeting.

Staff believes the current location being used for the FOL storage and operations is the most logical and functional at this time as well as long-term.

Options

- 1) Option #1



Subject: Friends of the Library License Agreement

City Council directs staff to execute the draft License Agreement with the friends of the Library for long-term usage of space on the Government Center property.

Advantages: Friends of the Library continues their service and financial support to the Los Altos Library through book sale events and the ongoing online and in-library sale of books in a location adjacent to the Library.

Disadvantages: None

2) Option #2

Do not execute License Agreement for the long-term placement of the Friends of the Library at the Government Center.

Advantages: None

Disadvantages: Friends of the library would not have the assurance of a long-term commitment for land use at this location. Decisions to invest into their facilities and operations would be affected.

Recommendation

The staff recommends Option 1.



P.O. Box 212, Los Altos, CA 94022
info@losaltoslibraryfriends.org
losaltoslibraryfriends.org

August 8, 2021

Purpose and Request

Today's request is to approve the initial term of the license agreement for use of City land that the City Council asked City Staff to complete with Friends of the Library. Since January 28, 2020, Friends and the City Staff have worked on a draft license agreement and the parties have now produced a mutually agreeable proposal. Friends is requesting an initial term of 10 years (see Section B.2) and emphasizes that it is not looking for a permanent location, simply a realistic bridge to a long-term home in a new library building or other suitable building in the Civic Center.

Discussion

Friends is a long-standing institution in the Los Altos community, having been formed more than 60 years ago to support the Los Altos Libraries. By sorting, pricing, and selling donated books we are able to donate approximately \$150,000 to the libraries each year to pay for: a dedicated collection of best seller and new books for our patrons; almost all children's and teen's programs; adult lectures; additional furniture; events and prizes for the summer reading program; as well as free books for local K-12 public school teachers. Our contributions enable more educational and enrichment opportunities than would be possible from County funds. Thousands of residents enjoy our Community Book Sales, the daily Ongoing Sale in both libraries and the Café in the Main Library (planned to restart in 2022), all operated by Friends volunteers. More than 100 volunteers regularly participate in all our efforts. Residents greatly appreciate having a convenient way to recycle their used books for a good cause.

The locations on the Civic Center campus, as well as within the Los Altos Main Library, that have been assigned to Friends (see images attached to this request) are advantageous in that they are close to the Main Library, the Community Center and LAYC. All of these locations are central to our operations and sales activities. Without easy access to them, Friends would not be able to function successfully.

Why has Friends requested a 10-year term? First, it would provide stability for our organization, allowing us to make operational plans to streamline book processing and accommodate new sales channels knowing that we will not have to start over again in just a few years.

Financially, 10 years allow Friends to optimize our monetary outlays for space, reserving more funding to support the library and community. A detailed cost analysis of our lease and purchase options show that a 10-year initial license term is Friends' most cost-effective option. In essence, it will

- Maximize funding support for library over the initial term,
- Minimize capital expense, and
- Minimize risk of an investment loss.

With the stability that comes from a 10-year agreement, Friends envisions a path to further consolidate our operations that will return Friends' space in the Los Altos Main Library to patrons and eliminate some of the book movement across the parking lot. Friends have begun to work within the City's Design Review process to evaluate our proposal and we plan to use existing reserves or fund raise to cover estimated costs associated with this process. (We estimate that these costs will range from \$21,000 for city fees to \$111,000 including the installation of utilities.) After the completion of the license agreement, we will continue to work with City Staff on this proposal.

Friends of the Library respectfully requests that the Council approve the license agreement with a 10-year initial term.

Background

Friends' operations and space requirements are completely dominated by the logistics of moving books and storing them for sale. Several times each week books are received from the community and stored in our sheds. Once space is available in our portable building for processing, the books are transported there daily. The typical weekly volume of donated books is 5,000. After sorting and pricing, books go five different ways - to ongoing sales in the libraries, to online sales, to storage for large community sales, to other non-profits who pay for marketable books, and to recycling. We have a small number of skilled volunteers who physically move this volume of books several times a week, without whom the operation would not happen. Our operation currently occupies 1,420 square feet of work and storage building space.

Since 1975, the City had provided space at no cost for Friends to operate, just as all other cities in the County do for their Friends of the Library organizations. This arrangement, along with the efforts of our volunteers, enabled us to contribute the vast majority of our annual revenues directly to the Los Altos Libraries.

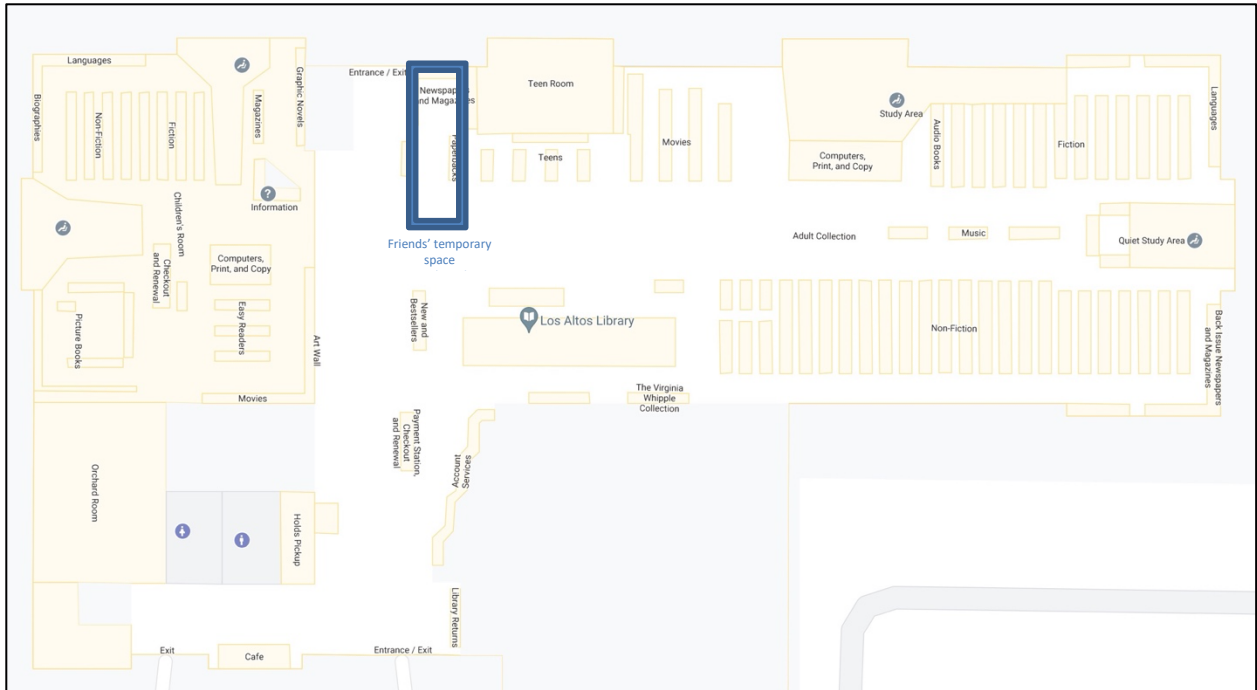
When we learned that Hillview was closing, Friends researched alternatives to the Hillview location that we were losing. We determined that the best way to continue contributing at a similar funding level and provide a meaningful and enjoyable experience for our hundreds of local volunteers each year is to continue to operate from the Civic Center campus. The donation room is in the Main Library, convenient to all. And, due to the extraordinary volume of donations, we wish to continue to move books in the most efficient and expeditious way possible, which necessitates working space in or near this library.

In January 2020 the City Council agreed to let Friends remain in the Civic Center if it bore the cost of its facilities. The Friends assigned space (aka the "Licensed Area") includes a 28' x 48' space near the soccer field, which houses the Friends portable structure and two spaces between the History Museum and Police Department – 12' x 16' and 16' x 18' – used for storage sheds.

In addition, the Los Altos Community Librarian with authorization from the Santa Clara County Library District has loaned Friends temporary workspace in the main library approximately 10' x 30' that used to house the periodical collection and patron seating. This extra space is critical to Friends for its internet sales inventory & processing, as well as the processing of some high-volume book genres. Friends understands that use of this space decreases available space for patrons in our already overcrowded Library. With a long-term license agreement, we may have an opportunity to consolidate all operations into one workspace, while maintaining storage in the existing sheds. Our community and library patrons would benefit not only from the return of the library space to the public but also from the reduced level of book movement across the busy parking lot and driveway.

Friends of the Library Assigned Work and Storage Areas

1. In Main Library (~300 sq. ft.)



2. Next to Soccer Field (1,344 sq. ft) 3. Between History Museum & Police Department (480 sq. ft.)



TEMPORARY LICENSE AGREEMENT

This Temporary License Agreement (“**Agreement**”) is dated for reference purposes only as of _____, 2021, by City of Los Altos, a municipal corporation (“**City**”), and Friends of the Library of Los Altos and Community, Inc., a California domestic nonprofit corporation (“**Licensee**”). City and Licensee are sometimes collectively referred to in this Agreement as the “**Parties**” or individually as a “**Party**”.

RECITALS

A. City is the owner of certain improved real property (“**Property**”) located in the City of Los Altos at 1 North San Antonio Road and commonly known as City Hall.

B. Licensee sells books through various channels, including periodic book sales on the Civic Center campus that provide the City and the Los Altos residents with a community event that is widely attended by the public. The book sales bring in funds that Licensee then provides to the Los Altos library to fund book and media collections and programs for the entire community. The City currently provides space on City’s Civic Center campus for Licensee, and desires to continue providing space thereon (subject to the terms and conditions set forth herein) to facilitate the Licensee’s support of the Los Altos library for the benefit of the City and community. Therefore, in consideration for Licensee’s services to the community and the benefits to City received by such services, City is willing to grant a temporary license for such use, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. Grant of License. City grants to Licensee a temporary revocable license over the Licensed Area for the sole purpose of installing portable or temporary buildings (which installations shall be subject to City’s prior written consent, which shall not be unreasonably withheld) to (a) receive, process, sort, store, and prepare donated books and materials for sale; (b) sell such books and materials; and (c) hold meetings (the rights granted to Licensee pursuant to this Agreement being the “**License**”) during the License Term described in Section 2 below, and subject to all of the terms and conditions set forth in this Agreement. For purposes of the preceding sentence, it shall be deemed reasonable for the City to withhold its consent to installations if (among other reasons) such installations would (A) be inconsistent with the layout of the Property and/or City’s plans for the use of the Property and/or (B) cause any safety and or maintenance concerns. As used in this Agreement, “**Licensed Area**” means that portion of the Property outlined on Exhibit A attached hereto. The Licensed Area shall be accepted by Licensee in its “AS IS”, and “WITH ALL FAULT” condition existing as of the Commencement Date (defined in Section 2 below), without representation or warranty of any kind, express or implied, and without any obligation of City to perform any work with respect to the Licensed Area, and subject to Section 13 below. Licensee shall not cause any waste or nuisance upon the Licensed Area, shall not do or permit anything to be done in the Licensed Area which will increase the rate of any insurance upon any portion of the Property, or cause a cancellation of any insurance policy covering any portion of the Property. In no event shall City have any obligation to provide any security personnel, patrols or other security services for the benefit of Licensee or any other person or entity, or to ensure the safety of Licensee

or any other person or entity or their property. If City elects to provide any security personnel, patrols or other security services in connection with the Property, Licensee acknowledges that such services shall be solely for City's benefit, and Licensee shall not have to right to rely thereon. During the License Term, Licensee shall be solely responsible, at Licensee's sole cost, for taking all safety and security measures needed to ensure the safety and security of Licensee and any other person or entity coming onto the Licensed Area and for the protection of their property. City agrees that if Licensee shall perform all of the covenants and agreements herein required to be performed by Licensee, Licensee shall, subject to the terms of this Agreement (including, without limitation, the above), at all times during the continuance of this Agreement have the peaceable and quiet enjoyment of the Licensed Area, without ejection by City. Subject to City's prior written consent, which shall not be unreasonably withheld, Licensee may connect to utility hookups on the Property at Licensee's sole cost and expense. Upon Licensee's connection to any such utility hookups, City shall pay for all reasonably utility charges used by Licensee in the Licensed Area. As of the date first stated above, there are three (3) temporary structures located within the Licensed Area (which structures are shown on Exhibit A attached hereto) (the "**FOL Structures**"). City and Licensor hereby agree and acknowledge that Licensee (A) owns the FOL Structures, and (B) shall, on or before the expiration of the License Term (as defined in Section 2 below), (i) remove the FOL Structures from the Licensed Area, and (ii) otherwise restore the Licensed Area to its condition existing as of the date first stated above.

2. License Term; Effective Date. The term of the License granted by this Agreement (the "**License Term**") shall commence on the date of the last signature to this Agreement (the "**Commencement Date**"), and shall terminate at 11:59 p.m. on the date that is () years after the Commencement Date; provided, however, that the License Term shall continue thereafter on a year-to-year basis unless either party delivers at least one (1) year's prior written notice to the other providing that it elects to terminate this Agreement. Notwithstanding the License Term set forth above, if Licensee defaults with respect to any of its obligations under this Agreement (including without limitation Licensee's failure to timely delivery evidence of the insurance required by this Agreement) beyond the notice and cure period set forth in Section 6 below, City shall have the right to terminate this Agreement, and the License granted in this Agreement, immediately upon the delivery to Licensee of written notice of City's election to terminate. In no event shall the License ripen into a permanent right, notwithstanding any improvement made to the Licensed Area or action taken or expense incurred by Licensee pursuant to this Agreement, it being agreed that this License is temporary and terminable in accordance with the terms and conditions of this Agreement. This Agreement shall become effective when it has been signed by City and Licensee (the date of full execution being the "**Effective Date**").

3. License Fee. No fee is due from Licensee for the License granted by this Agreement.

4. Personal Nature of License. The License is personal to Licensee, and may not be assigned, transferred or encumbered by Licensee voluntarily, by operation of law or otherwise. Any assignment, transfer or encumbrance by Licensee shall be void. The use of the Licensed Area by Licensee and other users expressly permitted by this Agreement in accordance with the terms and conditions of this Agreement is expressly acknowledged to be, and shall remain, with the permission of City.

5. General Requirements. The License is subject to the following requirements and conditions, all of which shall be complied with by Licensee at Licensee's sole cost and expense:

Licensee's use of the Licensed Area (which for the purpose of this Agreement includes use by anyone claiming by, through or at the direction of Licensee, including without limitation Licensee's employees and couriers (collectively, the "**Licensee Related Parties**")) shall be conducted in compliance with all applicable laws. All permits and other governmental authorizations required in connection with Licensee's use of the Licensed Area shall be obtained by Licensee prior to any use of the Licensed Area or entry onto the Property.

Licensee shall maintain the Licensed Area in good, clean and safe condition throughout the License Term. Before the expiration or sooner termination of this Agreement, Licensee shall remove all of its property and the property of the Licensee Related Parties from the Licensed Area, repair all damage to the Property caused by the activities, negligence or willful misconduct of Licensee or any of the Licensee Related Parties, and shall surrender the Licensed Area to City at the end of the License Term clean and free of rubbish, and otherwise in at least as good a condition as it was in before the Effective Date. Licensee's obligations pursuant to this subsection (b) shall survive expiration or sooner termination of this Agreement.

In no event shall Licensee or any of the Licensee Related Parties generate, release, store or otherwise use on or about the Property any substance, material or waste which is regulated as a hazardous or toxic substance, material or waste under any applicable law.

In no event shall Licensee or any of the Licensee Related Parties have the right to improve or modify the Property.

Licensee shall keep the Property free and clear of all liens resulting from the activities of Licensee and the Licensee Related Parties upon the Property.

6. Events of Default. Any failure by Licensee or any of the Licensee Related Parties to comply with any other term, provision or covenant of this Agreement, within sixty (60) days written notice from the City, shall constitute a default under this Agreement. In the event of a default by Licensee hereunder, City, in addition to having the right to immediately revoke this Agreement and the License granted hereunder by written notice to Licensee, shall have the right to remove any persons claiming rights under this Agreement and Licensee's property from the Licensed Area, and to bar Licensee and all persons claiming rights under this Agreement from access to the Licensed Area, in accordance with applicable laws. In addition, City shall have all other remedies available to City at law or in equity. All rights and remedies of City are cumulative. To the fullest extent allowed by law, Licensee further agrees that City shall not be liable for any damages resulting to Licensee from such action, whether caused by the negligence of City or otherwise.

7. Insurance. Licensee shall maintain in full force throughout the License Term the following insurance:

Commercial General Liability. Commercial general liability insurance (at least as broad as the most commonly available ISO Commercial General Liability policy form CG 00 01), or such successor comparable form of coverage in the broadest form then available, for the mutual benefit of City and Licensee, against any and all claims and liabilities arising out of the activities of

Licensee and the Licensee Related Parties pursuant to this Agreement, providing coverage on an occurrence form basis with limits of not less than One Million Dollars (\$1,000,000) each occurrence for bodily injury and property damage combined, and One Million Dollars (\$1,000,000) annual general aggregate.

Each policy of insurance required under this Section 7 shall: (i) be in a form, and written by an insurer, reasonably acceptable to City, (ii) be maintained at Licensee's sole cost and expense, (iii) have a deductible amount not more than Twenty Five Thousand Dollars (\$25,000), and (iv) require at least thirty (30) days' written notice to City prior to any cancellation, nonrenewal or modification of insurance coverage, provided that if the insurance company is unable or unwilling in accordance with standard industry practice to give the requested notices, then Licensee shall be required to provide such notices to City. Insurance companies issuing such policies shall have rating classifications of "A" or better and financial size category ratings of "VII" or better according to the latest edition of the A.M. Best Key Rating Guide. All insurance companies issuing such policies shall be licensed to do business in the State of California. Licensee shall provide to City, upon request, evidence that the insurance required to be carried by Licensee pursuant to this Section 7, including any endorsement effecting the additional insured status, is in full force and effect and that premiums therefor have been paid. Licensee's liability insurance policy or policies shall: (i) include premises and operations liability coverage, broad form property damage coverage including completed operations, blanket contractual liability coverage including, to the maximum extent possible, coverage for the indemnification, defense and hold harmless obligations of Licensee under this Agreement, and personal injury coverage; (ii) provide that defense costs are paid; (iii) cover liabilities arising out of or incurred in connection with Licensee's use of the Licensed Area; and (iv) extend coverage to cover liability for the actions of Licensee's employees and other representatives. Each policy of liability insurance required by this Section 7 shall: (i) contain a cross liability endorsement or separation of insureds clause; (ii) provide that any waiver of subrogation rights or release prior to a loss does not void coverage; (iii) provide that it is primary to and not contributing with, any policy of insurance carried by City covering the same loss; (iv) provide that any failure to comply with the reporting provisions shall not affect coverage provided to City, its partners, members, affiliate, property managers and mortgagees; and (v) name City as additional insured. In no event shall the limits of any policies maintained by Licensee or required by this Agreement be considered as limiting the liability of Licensee under this Agreement. Licensee shall be solely responsible for insuring that the amount of insurance maintained by Licensee is sufficient for Licensee's purposes.

8. Attorneys' Fees. If either Party hereto brings any legal action or proceeding to enforce, protect, interpret, or establish any term, condition, or covenant of this Agreement or right or remedy of either Party hereunder, the prevailing Party shall be entitled to recover, as a part of such action or proceeding, reasonable attorneys' fees and court costs, including reasonable attorneys' fees and costs for appeal.

9. LIMITATION ON LIABILITY. TO THE FULLEST EXTENT ALLOWED BY LAW, CITY SHALL HAVE NO LIABILITY TO LICENSEE FOR LOSS OR DAMAGE TO ANY VEHICLES USED ON THE LICENSED AREA OR ANY CONTENTS IN SUCH VEHICLES OR ANY OTHER PROPERTY OF LICENSEE OR ANY LICENSEE RELATED PARTIES OR FOR ANY INJURIES OR DEATH TO ANY PERSON IN OR ABOUT THE LICENSED AREA. TO THE FULLEST EXTENT ALLOWED BY LAW, THE LIABILITIES AND OBLIGATIONS OF

CITY AND LICENSEE UNDER THIS AGREEMENT OR RELATING TO THE LICENSED AREA SHALL NOT CONSTITUTE THE LIABILITIES OR OBLIGATIONS OF ANY OF CITY'S AGENTS, EMPLOYEES (AND/OR MEMBERS OF THE GENERAL PUBLIC) OR ANY OF LICENSEE'S AGENTS, AND/OR EMPLOYEES. TO THE FULLEST EXTENT ALLOWED BY LAW, THE LIABILITY OF CITY TO LICENSEE, ANY LICENSEE RELATED PARTIES OR ANYONE ELSE SHALL BE LIMITED TO THE INTEREST OF CITY IN THE LICENSED AREA OVER WHICH THE LICENSE HAS BEEN GRANTED, AND LICENSEE, THE LICENSEE RELATED PARTIES AND OTHERS SHALL LOOK SOLELY TO CITY'S INTEREST IN THE LICENSED AREA FOR THE RECOVERY OF ANY JUDGMENT OR AWARD AGAINST CITY. TO THE FULLEST EXTENT ALLOWED BY LAW, NEITHER CITY NOR ANY OF CITY'S MEMBERS, EMPLOYEES, PRINCIPALS, PARTNERS, SHAREHOLDERS, OFFICERS, DIRECTORS, TRUSTEES, BENEFICIARIES, CITIZENS OR AFFILIATES SHALL BE PERSONALLY LIABLE FOR ANY JUDGMENT, DEFICIENCY OR OTHER LIABILITY IN CONNECTION WITH THIS AGREEMENT OR THE LICENSED AREA. LICENSEE COVENANTS THAT, PRIOR TO THE FILING OF ANY SUIT FOR AN ALLEGED BREACH BY CITY, LICENSEE SHALL GIVE CITY NOTICE AND REASONABLE TIME TO CURE THE ALLEGED BREACH BY CITY.

10. RELEASE, INDEMNITY. LICENSEE, ON BEHALF OF ITSELF AND ALL LICENSEE RELATED PARTIES, AS A MATERIAL PART OF THE CONSIDERATION TO BE RENDERED TO CITY UNDER THIS AGREEMENT AND TO THE FULLEST EXTENT ALLOWED BY LAW, WAIVES AND RELEASES ALL CLAIMS AGAINST CITY FOR DAMAGES TO ALL PERSONAL PROPERTY IN, ON OR ABOUT THE LICENSED AREA, AND FOR INJURIES OR DEATH TO PERSONS IN OR ABOUT THE LICENSED AREA, FROM ANY CAUSE (INCLUDING WITHOUT LIMITATION THE ACTS OR OMISSIONS OF CITY) ARISING AT ANY TIME. FURTHER, TO THE FULLEST EXTENT ALLOWED BY LAW, LICENSEE AGREES TO INDEMNIFY, DEFEND AND HOLD CITY HARMLESS FOR, FROM AND ON ACCOUNT OF ALL CLAIMS, DAMAGES, LOSSES, EXPENSES, LIABILITIES, SUITS, LEGAL PROCEEDINGS OR JUDGMENTS (INCLUDING WITHOUT LIMITATION THOSE RELATING TO PERSONAL INJURY, DEATH OR PROPERTY DAMAGE), ARISING FROM OR RELATED TO THE USE OF THE LICENSED AREA BY OR ON BEHALF OF LICENSEE OR ANY OF THE LICENSEE RELATED PARTIES, INCLUDING ANY CLAIMS ASSERTING CITY'S ACTIVE NEGLIGENCE, BUT EXCLUDING LOSS OR DAMAGE ARISING DIRECTLY FROM CITY'S SOLE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT TO THE EXTENT NOT COVERED BY INSURANCE MAINTAINED BY LICENSEE OR REQUIRED TO BE INSURED AGAINST UNDER THIS AGREEMENT BY LICENSEE. TO THE FULLEST EXTENT ALLOWED BY LAW, CITY SHALL NOT BE LIABLE TO LICENSEE FOR ANY DAMAGE BY OR FROM ANY ACT OR NEGLIGENCE OF ANY OTHER USER OF THE LICENSED AREA OR ANY CITY, TENANT, OCCUPANT OR USER OF ADJOINING OR CONTIGUOUS PROPERTY. LICENSEE AGREES TO PAY FOR ALL DAMAGES TO THE LICENSED AREA CAUSED BY THE MISUSE OF THE LICENSED AREA BY LICENSEE OR ANY OF THE LICENSEE RELATED PARTIES OR OTHERS CLAIMING THROUGH LICENSEE. THE PROVISIONS OF THIS SECTION 10 SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

11. Notices. Except as otherwise provided hereunder; any notice or communication to Landlord or Tenant shall be in writing and be mailed by certified mail, postage prepaid or given by personal or overnight delivery. Notices or communications shall be addressed to Landlord at:

City:

City of Los Altos
Attn: City Manager
Los Altos City Hall
1 N. San Antonio Road
Los Altos, CA 94022
Phone: (650) 947-2740
Fax: (650) 947-2731
Email: administration@losaltos.ca.gov

Friends of the Library of Los Altos
P.O. Box 212
Los Altos, CA 94023-0212
Email: president@losaltoslibraryfriends.org

12. Assignment. Licensee's rights under this Agreement and the License granted hereunder are personal to Licensee, and Licensee shall not assign, transfer or encumber this Agreement or the License or any interest therein or grant any license, concession or other right of occupancy of the Licensed Area or any portion thereof or otherwise permit the use of the Licensed Area or any portion thereof by anyone other than Licensee and the Licensee Related Parties (any of which events is hereinafter called a "**Transfer**"). Any attempted Transfer in violation of this Section shall be void. No legal title, easement or leasehold interest in the Property (including the Licensed Area) is created or vested in Licensee by the grant of the License. Subject to this Section 12 above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns, and subsequent owners of the Property.

13. Signs and Advertising. Licensee shall not place or permit to be placed anywhere on or in or about the Property, any sign, decoration, lettering, advertising matter or descriptive material without City's prior written approval, which approval may be withheld in City's sole and absolute discretion. Subject to the foregoing, Licensee shall submit to City reasonably detailed drawings of its proposed signs for review and approval by City prior to utilizing same.

14. Bus Barn. In the event the structure located on the Property which is commonly known as the "Bus Barn" is no longer needed by City for its use (and/or its designee's use), then City shall endeavor to provide Licensee with notice of the Bus Barn's vacancy, and the opportunity for Licensee to propose terms on which Licensee may desire to lease (or obtain a license to use) the Bus Barn. Notwithstanding the foregoing and/or anything to the contrary contained herein, in no event shall Licensee be deemed to have a right of first offer, right of first refusal and/or any other right with respect to the Bus Barn, it being the intent of the parties that (A) City may elect to use (or not use) the Bus Barn for any reason (in City's sole and absolute discretion), and (B) City's sole

obligation under this Section 14 shall be to endeavor to provide Licensee with the notice described in the preceding sentence.

15. Relationship of Parties. The Parties hereto acknowledge and agree that Licensee is not an agent, employee or partner of City. The relationship between City and Licensee under this Agreement is that of owner/licensee and not that of principal/agent. In no event shall this Agreement or any acts of City or Licensee with respect to the Licensed Area or the property of Licensee or any Licensee Related Party located at the Licensed Area be construed as a bailment or be deemed to create the relationship of bailor or bailee between City and Licensee or any of the Licensee Related Parties.

16. Miscellaneous. If any term or provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law. Use of words of a specific gender shall include other genders, as appropriate. Licensee shall not record this Agreement or any memorandum of this Agreement. This Agreement and the rights and obligations of the Parties shall be interpreted, construed, and enforced in accordance with the laws of the State of California, without regard to choice of law principles. Time is of the essence for all acts required of Licensee under this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the termination or revocation of the License Term, whether by lapse of time or otherwise, shall not relieve Licensee from Licensee's obligations accruing prior to the termination or revocation of the License Term, and such obligations shall survive any such termination or revocation of the License Term. The headings and titles to the paragraphs of this Agreement are for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, together, shall constitute one and the same instrument. Signatures and initials to this Agreement created by the signer by electronic means and/or transmitted by telecopy or other electronic transmission shall be valid and effective to bind the Party so signing. Each Party agrees to promptly deliver an execution original to this Agreement with its actual signature and initials to the other Party, but a failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each party to this Agreement shall be bound by its own electronically created and/or telecopied or electronically transmitted signature and initials and shall accept the electronically created and/or telecopied or electronically transmitted signature and initials of the other Party to this Agreement. There shall be no presumption against a Party by reason of any rule or conclusion that a document should be construed more strictly against the Party who itself or through its agent prepared the same, it being agreed that all Parties have participated in the negotiation of this Agreement and that legal counsel was consulted by each Party (or each Party was given the opportunity for such legal consultation) before signing this Agreement. This Agreement may be modified only in writing by City and Licensee.

LICENSEE EXPRESSLY ACKNOWLEDGES AND AGREES THAT CITY HAS NOT MADE AND IS NOT MAKING, AND LICENSEE, IN EXECUTING AND DELIVERING THIS AGREEMENT, IS NOT RELYING UPON, ANY WARRANTIES, REPRESENTATIONS, PROMISES OR STATEMENTS, EXCEPT TO THE EXTENT THAT THE SAME ARE EXPRESSLY SET FORTH IN THIS AGREEMENT. ALL UNDERSTANDINGS AND

AGREEMENTS MADE BETWEEN THE PARTIES WITH RESPECT TO THE LICENSED AREA ARE MERGED IN THIS AGREEMENT WHICH ALONE FULLY AND COMPLETELY EXPRESSES THE AGREEMENT OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF, NEITHER PARTY RELYING UPON ANY STATEMENT OR REPRESENTATION NOT EMBODIED IN THIS AGREEMENT. CITY AND LICENSEE EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, SUITABILITY OR FITNESS ARISING OUT OF THIS AGREEMENT, ALL OF WHICH ARE WAIVED BY LICENSEE, AND THAT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below their signatures.

CITY:

CITY OF LOS ALTOS, a municipal corporation

By: _____

Name: _____

Its: _____

Dated: _____, 2021

LICENSEE:

FRIENDS OF THE LIBRARY OF LOS ALTOS
AND COMMUNITY, INC., a California domestic nonprofit corporation

By: _____

Name: Catharine Kristian

Its: President

Dated: _____, 2021

EXHIBIT A



