

Pierre Bedard
721 Casita Way
Los Altos, CA 94022
30 November 2020

To: North County Library Authority (NCLA)
cc: City of Los Altos and Town of Los Altos Hills Library Commission
Lynette Lee Eng, Vice Chair, JPA Board
Jon Maginot, Los Altos Assistant City Manager
Jaime Chew, Los Altos City Staff Liaison
Marcie Scott, NCLA Liaison

Re: Comments on North County Library Authority Joint Exercise of Powers Agreement (JPA),
signed 1 August 1985

Commissioners and other interested parties,

I am writing as a Los Altos resident and not as a member of the Library Commission and these comments are my personal opinion. While an attorney may be interested in what I have to say, it should not and cannot replace a practicing attorney's review and learned analysis of the JPA.

I've attended most of the NCLA and Library Redevelopment meetings of the past two years. I have an MBA and JD from Santa Clara University, forty years' experience in negotiations and management, and a knowledge of how the County and the City operate.

I have incorporated the full text of the JPA as an attachment to this letter for reference. I've also included the proposed Amendment to the JPA which was presented to the Los Altos City Council in January 2020, but not adopted.

First, I would be remiss not to thank the NCLA, especially the outgoing members, for their service. It has been a challenging time. My comments follow.

Comments on the JPA (organized by Page # / Section # / Section Title)

Page 2. Section 3. Purpose. The Agency has a purpose which goes beyond just building a new library. The "*augmentation of public library services for the benefit of the inhabitants*" is the Agency's primary purpose and I think we need to focus on that more, especially now.

Libraries serve a community function - we are more than a building. As a resident, I don't want to lose sight of that. We should not shy from helping the inhabitants. But we should also not shy from helping the economy, especially the local one. We need to think of initiatives which bring

together the community for that purpose. There's a fear of spending money. I have a bigger fear - that we sit still without purpose and taking the initiative. We need to be willing to invest where it makes sense.

Page 3. Section 5. Powers. There are very broad rights granted to the Commission to act for the benefit of the inhabitants. I believe that we will require money from the NCLA to bring our libraries back into post-Covid shape. The NCLA needs to be flexible in how it wields its many powers.

The powers specified in this Agreement are not limited to building a new library. For instance, a Woodland remodel, even if only internal, should not be out of the question.

Page 5. Section 8. Duties of Commission. Does the JPA need to be amended to be modified. Can we just change any of the rules? I would argue yes - the intent of the Agreement signed in 1985, gives the Commission plenty of room to maneuver – but the actions are general, and the details are driven elsewhere.

Where does the NCLA leave off and other organizations step in?

Page 7. Section 12. Bonding Persons Having Access to Property. In theory, the charges could be reallocated. I can see why Los Altos doesn't want to provide the service, especially with how the City Manager may consider it to be a large commitment of a permanent employee – he/she would rather see it contracted out.

Comments on Amendment to Agreement on Section 12

My personal opinion is that the presented amendment was overkill, in fact the Amendment introduces language and concepts which needed no introduction. Money and funds are material, I just feel that something might have been done via letter, or frankly, any other mechanism other than spending the amount of time and money necessary to draft and present an ordinance to two city councils.

Reading it, I get the sense the same result might have been accomplished with less administrative effort, but hindsight is often foresight. The Amendment, first presented in January 2020, remains unsigned by Los Altos.

Page 8. Section 15. Operating Fund. I am confused about which fund pays for what and when. If I can't grasp it, others trying to make sense of the situation are likely in the same quandary. There seem to be at least three accounts. I would submit that there is a benefit to one account.

Attorney and Auditor Issue

Two more comments on items discussed in the last NCLA meeting.

NCLA Attorney. Make the break with the old law firm. I don't see any other rational option.

NCLA Audit. Any auditor hired must be independent. I disagree with the concept of hiring someone to try to figure out "interest owed." At this point, I think that may be too granular of an ask, but I have not seen any data or documents. Forensics can be expensive. We need to err on the side of agreement so we can move forward.

Thank you for your attention.

Sincerely,

A handwritten signature in blue ink that reads "Pierre Bedard". The signature is written in a cursive style with a large initial 'P'.

Pierre Bedard
Writing as a resident

NORTH COUNTY LIBRARY AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated for convenience as of August 1, 1985, by and between the City of Los Altos, a municipal corporation and the Town of Los Altos Hills, a municipal corporation, both situated in the County of Santa Clara, State of California.

R E C I T A L S

WHEREAS, it will enhance the general welfare and be to the cultural advantage of the inhabitants of each of the parties hereto to provide for the acquisition, operation, maintenance and support of certain public library facilities and the expansion of certain public library activities in connection with the two branch libraries located in the City of Los Altos which are currently being operated by the County of Santa Clara, to the end that the hours of library service may be extended through additional funding to be raised via the levy of special taxes and or charges to be imposed by the proposed Library Commission;

WHEREAS, the parties hereto possess the common power to aid in the provision of increased public library services and functions for the benefit of their respective inhabitants and to provide for solutions to related problems which are of direct concern to the parties hereto in the performance of their constitutional and statutory functions, and to join associations and expend public funds for such purposes, including funds contributed by the parties to this agreement or by any person or any subventions or grants which may be obtained from the federal and/or state governments;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein contained, said parties, acting by and through their respective governing bodies, do hereby agree as follows:

Section 1. Definition of Terms.

"ACT" means the provisions of Chapter 5 of Division 7 of Title 1 of the Government Code (commencing with Section 6500) pertaining to joint powers agreements.

"AGENCY" means the North County Library Authority.

"COMMISSION" means the governing board of the North County Library Authority.

"MEMBER ENTITY" means any city party to this agreement.

Section 2. Creation of Agency. There is hereby created a public agency to be known as the "North County Library Authority". The Agency is formed by this Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California relating to the joint exercise of powers common to public agencies. For the purposes of this Agreement, the Agency is a public agency separate from the parties hereto and shall be the agency to administer or execute this Agreement.

Section 3. Purpose. The purpose of this Agreement is to create an agency which will plan, support, acquire, maintain and operate programs and facilities for the extension of public library services for the benefit of the inhabitants within the collective boundaries of the Member Entities.

Section 4. Term and Effect. This Agreement shall become effective when all eligible Member Entities have approved and authorized its execution by their respective governing bodies and shall

continue in full force and effect until such time as the parties agree in writing to terminate the same.

Section 5. Powers. The Agency shall have the power and authority to plan, support, acquire, construct, maintain and operate programs and facilities for the augmentation of public library services for the benefit of the inhabitants of the Member Entities.

The Agency is hereby authorized, in its own name, to do all acts necessary to exercise said power for said purposes, including but not limited to any or all of the following: to make and enter into contracts; apply for and accept grants, advances, and contributions; to employ agents, consultants and employees; to acquire, construct, manage, maintain and operate any buildings, works or improvements; to acquire, hold or dispose of property (real and personal), including but not limited to books, tapes, records, furniture, furnishings and equipment; to sue and be sued in its own name; to conduct elections; to incur debts, liabilities, or obligations; to levy special taxes and/or service charges including but not limited to the power to levy charges and/or to seek approval for the levy of a special tax pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982; to issue revenue bonds, notes, warrants, and other evidences of indebtedness to finance the costs and incidental expenses of the projects of the Agency; to exercise all powers conferred by the Act; and to exercise all other powers common to the Member Entities not herein specifically mentioned which may be necessary to carry out the purpose of this Agreement.

No debt, liability or obligation of the Agency shall constitute a debt, liability or obligation of any Member Entity.

Section 6. Governing Body of the Agency. The Agency shall be governed by the North County Library Commission.

The Commission shall consist of five members each of whom shall have one vote. Each Member Entity shall appoint two commissioners as its representatives on the Commission. A fifth Commissioner shall be appointed by the Los Altos Library Commission. Each Commissioner shall serve for a term of four years, except the first appointees, who shall classify themselves by lot so that two of them shall hold office for two years from the date of organization and three of them shall hold office for four years from the date of organization.

Section 7. Officers and Duties. A President, a Vice-President and a Secretary shall be elected by the Commission from its own members, the term of office for each such office to be one year and until a successor is elected to such office.

The President shall sign all contracts on behalf of the Agency and perform such other duties as may be imposed by the Commission. The Vice-President shall act in the absence of the president. The Secretary shall countersign all contracts on behalf of the Agency; perform such other duties as may be imposed by the Commission; and keep minutes of all meetings and cause a copy of the minutes to be forwarded to each of the members of the Commission and each of the Member Agencies.

The Commission may appoint and employ an Administrative Officer or any acting Administrative Officer who shall perform such duties as may be imposed by the Commission and who shall report to the Commission in accordance with such rules and regulations as the Commission may adopt.

In the absence of an Administrative Officer, the President shall perform the duties of the Administrative Officer.

The Commission shall appoint one of its members or employees, other than the Administrative Officer, as Treasurer of the Agency to be the depository and have custody of all the money of the Agency from whatever source. The Commission shall appoint one of its members or employees, other than the Administrative Officer, as Auditor-Controller of the Agency to draw warrants to pay demands against the Agency when the demands have been approved by the Commission. The same officer or employee may be appointed as both Treasurer and Auditor-Controller and the Treasurer and Auditor-Controller shall have the duties and obligations set forth in Section 6505.5 and 6505.6 of the Government Code of the State of California.

Section 8. Duties of the Commission. The duties of the Commission shall be:

(a) To make all policy decisions and exercise all of the powers of the Agency;

(b) To submit full and regular reports to the Member Entities; and

(c) To adopt from time to time such rules and regulations for the conduct of its affairs as may be required.

The members of the Commission shall receive no compensation except as may be provided by the respective Member Entities which they represent.

Section 9. Meetings of the Commission. Regular meetings of the Commission shall be held at such time and place as shall be established by the Commission by resolution.

All meetings of the Commission including regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950 et seq of the Government Code of the State of California.

Section 10. Quorum. A majority of the members of the Commission shall constitute a quorum. Any action of the Agency shall require the affirmative vote of a majority of the entire membership of the Commission.

Section 11. Accountability of Funds, Reports and Audits. There shall be strict accountability of all funds and a report of all receipts and disbursements of the Agency. The auditor-controller of the Agency shall cause annual audits of the accounts and records of the Agency to be prepared in accordance with the requirements contained in Section 6505 of the Government Code of the State of California. Should the Agency terminate prior to the expiration of any fiscal year, the auditor-controller shall cause a final audit of the accounts and records of the agency to be prepared. The fiscal year of the Agency shall terminate June 30th of each year. The Agency shall establish and maintain all necessary funds and accounts which shall be open to inspection at all reasonable times.

Section 12. Bonding Persons Having Access to Property. Officers or person or persons who have charge of, handle or have access to any money of the Agency, shall be required to file an official bond with the Agency in such amount as may be established by the Commission. Should an existing bond of any of said officer or officers or person or persons be extended to cover the obligation provided herein, said bond

shall be the official bond of said officers or officer or person or persons required to be posted herein. The premium of any such bond or bonds shall be an appropriate expense of the Agency. Any payment to the treasurer or auditor-controller required in the operation of the Agency shall be an appropriate charge against the Agency.

The administrative Officer shall have the responsibility of any and all property of Agency and shall indicate approval of all claims and demands for the disbursement of Agency funds prior to submittal of said claims and demands to the Commission for approval.

The City of Los Altos shall provide staff and basic services at no cost to the Agency. All costs and expenses of an outside nature such as auditing, legal, consultants or the like, shall be apportioned equally among the Member Entities.

Section 13. Bonds. The Agency shall have power and authority to issue and sell revenue bonds in accordance with the following:

(a) Article 2, Chapter 5, Division 7, Title 1 of the Government Code, commencing with Section 6540; and

(b) Chapter 6, Division 2, Title 5 of the Government Code, commencing with Section 54300.

The Agency shall have and exercise all powers conferred on "local agencies" by the provisions of the law with respect to revenue bonds mentioned in (a) and (b) of this section.

Section 14. Elections. For purposes of conducting elections and voting on an Agency-wide basis, the boundaries of the Agency shall be the consolidated boundaries of its Member Entities. All elections shall be conducted pursuant to the Uniform District Election Law and applicable provisions of the Elections Code of the State of California.

Section 15. Operating Fund. An operating fund shall be established and maintained which shall be used to pay all administrative and incidental expenses incurred by the Agency. Revenues for the operating fund shall be derived from the levy and collection of special taxes and/or service charges, contributions from member entities, contributions from the public, grants and subventions, and any other lawful source.

Section 16. Settlement of Disputes. If a dispute arises as to the construction, interpretation or implementation of any provision of this Agreement, the issues in dispute or matter requiring action shall be submitted to binding arbitration. For such purpose, and agreed arbitrator shall be selected by all members of the Commission, or in the absence of unanimous agreement, the Commission, by majority vote, shall select an arbitrator and the members of the Commission in dissent shall select an arbitrator. The two arbitrators so selected shall select a third arbitrator. The arbitrator, or three arbitrators acting as a panel, shall proceed to arbitrate the matter in accordance with the provisions of Title 9 of Part 3 of the Code of Civil Procedure.

Section 17. Withdrawal or Dissolution. Upon withdrawal of a Member Entity from the Agency or upon dissolution of the Agency, there shall be partial or complete distribution of assets and discharge of liabilities as follows:

(a) Withdrawal. A Member Entity may withdraw from the Agency only with the unanimous consent of the remaining Member Entities and upon mutually agreeable terms and conditions. Upon withdrawal of any Member Entity from the Agency, the withdrawing Member Entity shall receive its proportionate share of the assets of the Agency and shall

contribute its proportionate share toward discharge of any enforceable liabilities incurred by the Agency as the same appear on the books of the Agency.

(b) Dissolution. Upon dissolution of the Agency, each member Entity shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share toward discharge of any enforceable liabilities incurred by the agency as the same appear on the books of the Agency.

The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to a Member Entity at the time of withdrawal or to all Member Entities at the time of dissolution, provided that all facilities and rights in facilities assigned or transferred by any Member Entity to the Agency shall be reconveyed to said Member Entity free and clear of all encumbrances and liens of any kind.

Upon withdrawal of a Member Entity from the Agency or upon dissolution of the Agency, the responsibility of the Member Entity or Members Entities to contribute to the discharge of enforceable liabilities incurred by the Agency shall be limited to the proportion that the contributions made by each Member Entity bears to the total contributions made by all of the Member Entities to the agency from the effective date of this Agreement to the date of withdrawal or dissolution.

Section 18. Miscellaneous. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

This Agreement is made in the State of California and under its Constitution and laws, and it is to be so construed.

To preserve a reasonable degree of flexibility, many parts of this Agreement are stated in general terms. It is understood that the Commission may from time to time adopt and implement rules and regulations to further define the rights and obligations of the Member Entities and of the Agency to carry out the purposes of this Agreement.

This Agreement may be amended in any particular, from time to time, by unanimous action of the Member Entities, provided, however, that no authority on which action has been taken by the Agency shall be limited or withdrawn.

Section 19. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 20. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.

Section 21. Effective Date. The effective date of this Agreement shall be August 1, 1985.

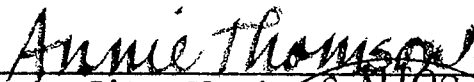
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

CITY OF LOS ALTOS,
a municipal corporation

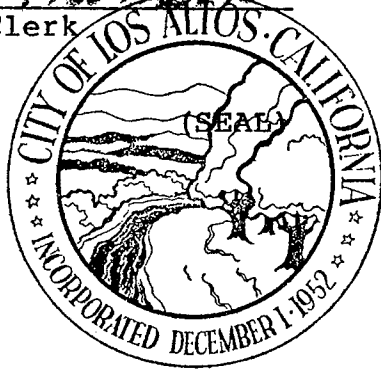


Mayor

ATTEST:



City Clerk



TOWN OF LOS ALTOS HILLS,
a municipal corporation



Mayor

ATTEST:



Town Clerk

(SEAL)



TO: North County Library Authority (NCLA) Commission

FROM: Liaison Marcie Scott

DATE: January 13, 2020

SUBJECT: Consideration of Amendment to JPA Agreement for General Administrative Support

At the November 26, 2019 Board meeting Board President Courtenay Corrigan and Board Secretary Jan Pepper discussed their prior meeting with the City Managers of the two Member Entities to discuss staff support for NCLA. The Board concurred with the recommendation resulting from said meeting and requested JPA amendment language be placed on agenda at the next meeting.

Authority Attorney Chris Diaz prepared the proposed JPA Agreement language for your review. If the language is acceptable to the NCLA Board, the next step is to propose this language to the Town Council of Los Altos Hills for adoption, and the City Council of Los Altos for adoption. Upon approval from both Member Entities, the JPA Amendment will become final.

Attachments:

- a. JPA Amendment

**FIRST AMENDMENT TO THE JOINT POWERS AGREEMENT OF
NORTH COUNTY LIBRARY AUTHORITY**

This First Amendment to the Joint Powers Agreement (“First Amendment”) is made and entered into on the ___ day of _____, 2020, by and between the City of Los Altos, a municipal corporation and the Town of Los Altos, a municipal corporation, both situated in the County of Santa Clara, State of California (collectively the “Parties”).

RECITALS

WHEREAS, on August 1, 1985, the City of Los Altos and the Town of Los Altos Hills, both located in Santa Clara County, entered into a Joint Powers Agreement (the “JPA”) to form the North County Library Authority (the “Agency”); and

WHEREAS, pursuant to Government Code sections 6500 *et seq.*, the parties to the JPA desire to amend the JPA to provide clarifying language changes with regard to the use of Agency funds.

MUTUAL UNDERSTANDINGS

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

1. Section 12. “Bonding Persons Having Access to Property” is hereby amended as follows:

“Section 12. Bonding Persons Having Access to Property. Officers or person or persons who have charge of, handle or have access to any money of the Agency, shall be required to file an official bond with the Agency in such amount as may be established by the Commission. Should an existing bond of any said officer or officers or person or persons be extended to cover the obligation provided herein, said bond shall be the official bond of said officers or officer or person or persons required to be posted herein. The premium of any such bond or bonds shall be an appropriate expense of the Agency. Any payment to the treasurer or auditor-controller required in the operation of the Agency shall be an appropriate charge against the Agency.

The Administrative Officer shall have the responsibility of any and all property of Agency and shall indicate approval of all claims and demands for the disbursement of Agency funds prior to submittal of said claims and demands to the Commission for approval.

The City of Los Altos shall provide staff and basic services at no cost to the Agency. All costs and expenses of an outside nature such as auditing, legal, consultants or the like, shall be apportioned equally among the Member Entities.

If Agency chooses to hire a consultant or consultants solely for administrative support staff to serve the Agency, those costs shall be paid for with the Agency's Operating Fund funded from a special tax or any other lawful revenue sources. Neither Member Entity shall be obligated to pay for such support staff out of its General Fund.

Section 5: This amendment is to become effective upon execution by all of the parties that are currently signatories to the JPA.

Section 6: All other provisions and terms of the JPA are to remain unchanged.

Section 7: This Amendment may be executed in counterparts.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

[SIGNATURES ON FOLLOWING PAGES]

ATTEST:

City Clerk
City of Los Altos

City of Los Altos

By: _____

By _____
Mayor

Dated: _____

ATTEST:

Town Clerk
Town of Los Altos Hills

Town of Los Altos Hills

By: _____

By _____
Mayor

Dated: _____