



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jane Light

SUBJECT: SEE BELOW

DATE: September 27, 2006

Approved

Date

10/3/06

COUNCIL DISTRICT: #3

SUBJECT: SECOND AMENDMENT TO THE AGREEMENT FOR OWNERSHIP AND OPERATION OF JOINT LIBRARY BUILDING AND GRANT OF EASEMENT (DATED DECEMBER 17, 1998) AND SUPPLEMENTAL INFORMATION ABOUT UTILITY CONSUMPTION AT THE KING LIBRARY

RECOMMENDATION

It is recommended that the City Council approve the execution of the Second Amendment to the Agreement between the City and the Trustees of the California State University System on behalf of San Jose State University (SJSU) for the Operation and Maintenance of the new Dr. Martin Luther King, Jr. Library (King Library) in order to update the allocation method for disbursing funds for payment of maintenance and utilities expenses.

OUTCOME

The agreement for ownership and operation of the King Library is amended so that the appropriate city share of maintenance and utilities will be authorized. On September 19, 2006 the City Council gave approval for the City Manager to negotiate this amendment, and asked that the agreement be returned for Council approval. The City Manager and an authorized representative of SJSU are to memorialize any revised contribution rates by the parties for increased maintenance and utility costs.

EXECUTIVE SUMMARY

The King Library has reduced usage of utilities since opening to the public in August, 2003. Increased utility rates, however, make necessary an amendment to provide for a proportionate

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increase in contribution by the City of San José to cover the cost of utilities, maintenance, and operations at the King Library.

BACKGROUND

In December of 1998 the City Council approved an agreement for the joint ownership and operation with SJSU of a new library to function as both the City's Main Library and the University Library (the "Operating Agreement"). The Operating Agreement basically provides a framework for making decisions for operating the joint library. It sets up processes, procedures, and formulas for each party to make its pro-rata contribution to certain operating costs and expenses for the Library.

Fundamentally it describes how the parties jointly work together to establish budgets for the joint library, but no specific dollar amounts are specified, as the document refers to an annual budgetary process to arrive at amounts to be contributed to operate and maintain the joint library. The First Amendment to the Operating Agreement in 2003 finalized a number of issues contemplated in the Agreement, and provided for what was then expected to be adequate contributions for maintenance and utilities at the same square foot rate as SJSU received from the California State University system.

As operation of the library has commenced, the co-managers now determine that utility costs have escalated above the base contribution rates provided at the time of the 2003 Amendment. Therefore, it is recommended to resume, in part, those portions of the 1998 Agreement that clearly provided at that time for additional contributions by the City for utilities costs, above the base rate provided in 2003 for maintenance and utilities. The base rate for maintenance of King Library was allocated to SJSU from the legislature, through the Chancellor's Office, at the rate of \$7.20 per square foot. SJSU's contribution to cover the King Library operating cost today is a combination of the original base budget plus additional university resources.

The basic premise of the Operating Agreement is that each party contributes its pro-rata share of maintenance and utilities costs on a per square foot basis, and the fact that utilities cost have increased beyond the base contribution rates since the 2003 First Amendment merits a Second Amendment to resume the original concept of each party paying its fair share for utilities. Such payment of costs is essentially no different than if the City operated a main library without a joint partner, as it did prior to entering into joint operation of the King Library with SJSU.

Design of the King Library was complete in 1999 and construction began in 2000. Many energy saving features were incorporated in the final building design, not only to create a comfortable library space for customers but also to reap long-term energy efficiencies and cost savings for the operating partners. It was constructed to exceed the "98 Code" (CCR, Title 24, Energy Efficiency Standards) by at least 20% annually.

In 2004, the King Library was awarded a \$250,000 "Savings by Design" award by Pacific Gas and Electric (PG&E), which recognized collaborative design of high-performance non-residential

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building design and construction. According to PG&E, the library’s final energy savings came in at 1,511,100 kwh per year, well above California’s Title 24 Energy Code requirements. These savings were obtained through better glazing and new technology in lighting design and control systems, which reduced the cooling and heating requirements of the building by 44 and 31 percent respectively.

For the first several years, the sharing of maintenance and utilities costs (borne first by San José State University’s Facilities Development and Operations Division [SJSU FD&O], and then billed back on a proportional basis to the University Library and to San José Public Library for operation of the King Library) has operated well and within budget.

As indicated in the chart below, costs have increased to a point where the cost share funds of \$7.20 per square foot, the original base allocation from the California State University system to San José State University for this facility when it began construction in 2000, no longer covers basic maintenance and utilities.

	FY 2003-2004	FY 2004-2005	FY 2005-2006	FY 2006-2007
Maintenance, Custodial, Trades, Supplies and Services	\$ 1,719,936	\$ 2,233,561	\$ 2,334,395	\$ 2,307,013
Utilities	<u>1,555,000</u>	<u>1,422,742</u>	<u>1,765,331</u>	<u>1,679,495</u>
Total	<u>\$ 3,295,702</u>	<u>\$ 3,656,303</u>	<u>\$ 4,099,726</u>	<u>\$ 3,986,508</u>
City share (35.49% of total)	1,169,645	1,297,622	1,454,993	1,414,812
Allocation at \$7.20 share	<u>1,224,540</u>	<u>1,224,540</u>	<u>1,224,540</u>	<u>1,224,540</u>
Balance	<u>\$ 54,895</u>	<u>(\$ 73,982)</u>	<u>(\$ 230,453)</u>	<u>(\$ 190,272)</u>

Both the City and the University have worked continuously to achieve reduction in utility use or other cost savings. SJSU currently supplements the base rate of \$7.20 with other general funds to cover its share of the maintenance, operations and utilities of the King Library, and SJSU continues to pay its 64.51% share of costs. City Council approval of the Second Amendment to the Operating Agreement is necessary to clarify and update the ability of the City to pay for its share (35.49%) of approved budgeted expenses for maintenance, operations and utilities for the King Library.

ANALYSIS

The University and City amended the Operating Agreement in June, 2003 to update space allocation, cost sharing for technology, and other issues which necessitated the First Amendment. The City share of space for the King Library is designated at 35.49% of the total 479,226 square feet, and this 35.49% is used to calculate the City’s contribution to overall operations and maintenance costs, including utilities, at King Library.

Under the Operating Agreement as amended by the First Amendment, a separate interest-bearing maintenance and utility account is established by the University, and the City deposits into that account, on a per square foot basis, an amount that equals the amount paid to the University by the state for library maintenance and expenses. SJSU FD&O supplements the base rate with funds allocated from other resources in order to fully cover its share of annual expenses relating to the King Library. Each year, meetings occur to review and agree on services and the budget required for maintenance, operations, and utilities. In the past eighteen months, utility costs have spiked even while usage has dropped, resulting in cost increases, even though actual consumption has been reduced. (See *Attachment A* for detailed information about the SJSU energy management program and the King Library utilities.)

After a year's experience in the new library, SJSU pursued and received a PG&E incentive in 2005 which funded a monitoring based commissioning project. SJSU hired Cogent Energy, Inc. to evaluate campus collected building operating data and identify ways to further fine-tune and document the systems at King Library. The study identified low-cost operating and maintenance improvements, energy retrofit opportunities, and diagnostic protocols that both the Library staff and FD&O's operating staff can use to sustain an energy efficient operation. The systems reviewed included HVAC and lighting systems. Recommended changes were implemented to ensure that the features of the facility's energy management system were implemented and that the equipment performed properly and effectively to optimize system performance to improve energy efficiency. Measures implemented to date include:

- Lighting occupancy sensor (photo cell) calibrations
- Terminal box airflow calibration
- Temperature and humidity sensor calibration
- Economizer repair (operations of rooftop dampers)

Project results reported to the UC/CSU/IOU Partnership Program, and ultimately to the California Public Utilities Commission, indicate the monitoring based commissioning measures reduced energy consumption at the King Library by at least 7%, and the \$184,900 PG&E "Public Good Funds" incentive funds that covered 2/3 of the total project cost was obtained. The net payback period for this project is 1.86 years. Utility rate increases have risen over time, however, to the point that both entities must contribute more than the original base \$7.20 per square foot for annual expenses.

This Second Amendment includes the following changes:

- The City is to pay the University its allocable share, based on square footage, of maintenance and utility costs, even if such costs are in addition to the base contribution.
- The City Manager and an authorized representative of the University are to memorialize any revised contribution rates by the parties for increased maintenance and utility costs.

The Operating Agreement is meant to serve the two parties over a number of decades. Dollar limits are not set, as each entity's budget process is the annual review for ongoing operating allocations. At every step in managing the King Library over the next fifty years, consultation and joint concurrence in the use and expense of the facilities is contemplated and provided for in the Agreement. It is

recommended that the City Council adopt the execution of this Second Amendment to the Agreement for Ownership and operation of the Joint Library.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item does not meet any of the above criteria.

COORDINATION

This report has been coordinated with the City Attorney's Office and San José State University.

CEQA

CEQA: Not a project.



JANE LIGHT
Director, Library Department

For questions please contact Jane Light, Director, at (408) 808-2150.

San José State University Overview of Campus Energy Management Program, Including King Library

The King Library, the fourth largest building at San José State University and also the fourth in consumption of energy on campus, is a prominent player within the campus energy management program. Improvement potential of the library's energy usage is key to SJSU success in meeting the California State University Executive Order for energy conservation, while building on the prior Chancellor's Office Executive Order to reduce consumption, enforce energy conservation and Physical Plant Management practices in buildings, and address sustainable building practices.

Energy Procurement

Even as the fourth largest user of energy on campus, King is one of forty-three buildings served by the campus central plant, and represents a fraction of the total energy consumption the campus manages through a total program that includes energy procurement, efficiency improvements (also known as demand side management), and sustainable building practices, as mandated by the Chancellors Office Executive Orders. A key component of the campus energy management strategy is to operate a "purchased utilities budget" that represents all utilities purchased, including electricity, gas, water, and sewer, that the campus must pay to an outside utility service provider.

The purpose of the purchased utilities concept is to isolate the utilities budgets from labor and equipment operations elements that have more predictability in expenditures. Once isolated, the campus and CSU can employ management strategies and procurement policies to mitigate the volatility of the current energy markets. In practice the campus procures natural gas through the California Department of General Services (DGS) Gas Pool. The campus gas portfolio includes long term gas contracts to achieve price stability. Because of the volumes of gas involved, and the purchasing power of the State's DGS Gas Pool, gas is procured at deep discount over what any single building would have been able to qualify for. Similarly, purchased electrical power is aggregated between all UC and CSU campuses who participate in the jointly managed UC/CSU electrical procurement contract (SJSU is a participating campus) as "Direct Access" customers where at least 17% of the power procured is green power.

Cogeneration Plant

Within the campuses overall purchased utilities budget is a subset of energy (electricity, gas, water, sewer) that serves the campus central plant, where there is a mix of equipment types, including a cogeneration system, steam boilers, electric and steam driven chillers. When the cogeneration system is operated the waste heat off the system serves two purposes: to heat all the buildings, including the King Library, connected to the central plant district steam system, and to operate the central plant steam driven chiller. When the cogeneration system is off the central plant boilers must operate to supply the steam normally supplied by the cogeneration system (a byproduct of the generation process hence the term co-generation).

**San José State University Overview of
Campus Energy Management Program,
Including King Library**

To determine the least cost of operation for the campus (to operate the cogeneration system or not), the campus conducts a monthly preview commonly termed “business as usual” (BAU) and “business with cogen” (BWC). The analysis looks at campus usage in the previous month and previous year, weather data and status of equipment maintenance in the central plant and projects total monthly usage and loads on the central plant connected systems (King Library is one of forty-three connected buildings), to determine if it would be more cost efficient to operate the cogeneration system, or if it is more cost efficient to operate solely on the public utility grid.

The SJSU energy management programs serve to provide energy rates to all facilities including King Library at or better than the PG&E A10 electrical rate, and GND gas rate, including consideration for the avoided costs King benefited from by not having to allocate space within the building for its own central plant, and for not having to invest in PG&E's capital improvements that would have been required if King had been provided with a dedicated energy plant.