



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jane Light

SUBJECT: LEASE AGREEMENT WITH
THE EAST SIDE UNION
HIGH SCHOOL DISTRICT

DATE: 12-19-08

Approved

Date

1-8-09

COUNCIL DISTRICT: 4

RECOMMENDATION

Approval of a ground lease with the East Side Union High School District with an initial term of forty (40) years, with one 5 year option to renew on the same terms and conditions, for the construction of a library on school district property located at Independence High School, 1770 Educational Park Drive, of \$1 per year and a one-time payment of \$10,000 for the relocation of school signage.

OUTCOME

Approval of the ground lease agreement with the East Side Union High School District will allow the award of a contract for the construction of a new 18,000 square foot library facility at this location.

BACKGROUND

The Branch Facilities Master Plan identified the need for a larger branch library to serve the neighborhoods currently served by the Educational Park Branch Library. The existing 14,000 square foot library is located within a building leased from the District on District property at Independence High School. The current lease was entered into on November 1, 1976 and has a term of 50 years expiring on August 31, 2026. However, the District is willing to lease land to the City on which a new, 18,000 square foot branch library could be constructed. On that basis, the parties desire to terminate the current lease on the building and enter into a new lease for the site.

ANALYSIS

On December 11, 2008, the East Side Union High School District Board of Trustees approved a new agreement to lease a site for a new library facility to the City for 40 years at \$1 per year with

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an option to renew. At the end of the lease term, the City and District will have the opportunity to negotiate an additional extension of 25 years to the agreement.

The City, at its own cost, will construct, operate and maintain an approximately 18,000 square foot branch library. The lease will be below market rate and the City will be responsible for all costs associated with the construction and operation of the library. Use of the existing building will revert to the District. A separate settlement agreement regarding utility costs owed on the existing building was agendized for action by the City Council for the January 13th City Council meeting.

The proposed ground lease also has the several typical provisions for such a lease, including mutual indemnification between the City and the District; protection of the District from any mechanic's liens associated with the project; a limitation on the use of the leased premises for library purposes only (District consent required to convert the use to any other purpose, including use as a community center); and certain representations and warranties concerning Hazardous Materials on the property subject to the ground lease. Both parties rely upon the Phase I and II assessments performed for the project, and if significant contamination is found on the property beyond that in the assessment, the City is entitled to terminate the leasehold. Utilities for the new building will be separately metered.

Additionally, while the City is self-insured, the ground lease does provide that the City must require the contractors for the construction of the new library to include the District as an additional insured on the policies obtained by the City.

EVALUATION AND FOLLOW-UP

Approval of this agreement will enable the project to move forward. The project will be completed in fall 2010. At this time, no other issue needs to be followed up with Council.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 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)**
- Criterion 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, however this memorandum will be posted on the City's website for the January 27, 2009 City Council agenda.

COORDINATION

This agreement and memorandum have been coordinated with the City Attorney's Office and the City Manager's Budget Office

FISCAL/POLICY ALIGNMENT

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy. The construction of this branch library will also assist in meeting the General Plan goal of providing 0.43 square feet of library space per capita.

COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: \$10,001

\$1 per year from the General Fund for the lease of the property and a one-time payment of \$10,000 from the Branch Libraries Bond Projects Fund for the relocation of school signage.
2. COST ELEMENTS OF AGREEMENT/CONTRACT: Lump-sum agreement
3. SOURCE OF FUNDING: 001 – General Fund
472 – Branch Libraries Bond Projects Fund
4. OPERATING COSTS: Not applicable

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	RC #	Total Appn	Amt. for Contract	Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
001	0722	Non-personal/ Equipment		\$ 5,190,129	\$1	08-09 Adopted Operating Budget VII-293	
472	5552	Educational Park Branch	146795	\$11,876,000	\$10,000	08-09 Adopted Capital Budget V-269	10/21/08, Ord. #28422
Total Current Funding Available				\$17,066,129	\$10,001		

CEQA

PP08-024 Mitigated Negative Declaration

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A handwritten signature in black ink, appearing to read "Jane Light". The signature is fluid and cursive, with a large initial "J" and "L".

JANE LIGHT

Library Director, Library Department

For questions please contact RICHARD DESMOND, DIRECTOR BRANCH LIBRARY
DEVELOPMENT TEAM, at (408) 793-4101.