



**AMENDED AND RESTATED  
MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE COUNTY OF LOS ANGELES  
AND  
THE CITY OF MANHATTAN BEACH  
FOR THE MANHATTAN BEACH LIBRARY**

**MEMORANDUM OF UNDERSTANDING  
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**AMENDED AND RESTATED  
MEMORANDUM OF UNDERSTANDING  
BETWEEN THE COUNTY OF LOS ANGELES AND  
THE CITY OF MANHATTAN BEACH**

This AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING, (hereinafter "MOU") is entered into as of the 11<sup>th</sup> day of February, 2013, by and between the **COUNTY OF LOS ANGELES**, a body corporate and politic and a political subdivision of the State of California, (hereinafter "County"), and the **CITY OF MANHATTAN BEACH**, a municipal corporation, (hereinafter "City").

**RECITALS**

**WHEREAS**, the County of Los Angeles Public Library, (hereinafter "County Library") owns and operates the Manhattan Beach Library, located at 1320 Highland Avenue in the City of Manhattan Beach; and

**WHEREAS**, the County Library and City desire an improved library facility and enhanced services for everyone who uses the facility; and

**WHEREAS**, the County Library and the City both wish for the City to remain within the County Library System; and

**WHEREAS**, the County and the City executed a Memorandum of Understanding on March 31, 2011 regarding library service to the City; and

**WHEREAS**, the County and the City hereby wish to amend and restate such Memorandum of Understanding;

**WHEREAS**, the County Library and the City completed a building program and pre-design study and determined that the most feasible option was to construct a new replacement library and have reviewed financing options for mutual consideration by the County Library and City; and

**WHEREAS**, the County Library and the City both recognize that a majority of the property taxes paid by City property owners reserved for the County Library System are actually used to fund the operations of the Manhattan Beach Library; but that over the past several years, the amount of such property taxes collected from the City property owners, has exceeded the operating costs of the facility; these funds are hereinafter referred to "Set Aside Funds"; and

**WHEREAS**, County Library and City both believe that these Set Aside Funds should primarily be used to implement the recommendations made in the City's 2008 Facility Strategic Plan, which will accomplish the mutually desired improvement in the facility and services of the Manhattan Beach Library; and

**WHEREAS**, the County Library and the City will mutually determine the level of library service to be provided to the City on an annual basis; and

**WHEREAS**, the City desires to partner with the County Library in the design of the new library facility and provide assistance to the County Library in the provision of professional services, logistical support, and financing required to facilitate construction; and

**WHEREAS**, the City desires to assist the County Library by providing logistical support services to facilitate the provision of temporary library services during the construction of the new library, and

**WHEREAS**, the County Library and the City desire to enter into a new agreement for library services and the construction and equipping of a new library facility.

**NOW, THEREFORE**, in consideration of the foregoing and of the promises and covenants set forth herein, the parties agree as follows:

**1. TERM**

The term of this MOU shall be from the date of complete execution of this MOU by both parties until June 30, 2043 unless sooner terminated as provided elsewhere herein. However, the term of this MOU may be automatically extended two (2) times, for five (5) year extension periods, for an additional ten (10) years, unless written objection to extension is given at any time by either party. Objection by any party to the automatic extension provisions of this MOU shall not be considered termination of the MOU. At the expiration of this MOU, the County Library will cease placing Set Aside Funds in a separate account.

**2. SERVICE LEVELS**

The County Library operates the Manhattan Beach Library and provides access to library materials, reference services, public access technology, and adult, children's and young adult programming including regularly scheduled toddler and pre-school story times. The County Library and the City shall meet on an annual basis to determine the services levels for the operation of the Manhattan Beach Library based on available property tax revenue. In the event that the costs of service exceed the available property tax revenue, the County Library and the City will mutually determine any service level reductions that may be necessary. However, the City may also elect to fund any costs directly that exceed available revenue, or fund through the Set Aside Funds account.

### 3. LIBRARY CONSTRUCTION

- A. CEQA. The City, as the lead agency, conducted an environmental impact report (“EIR”) for the Civic Center/Metlox Development, which includes the library project. The County is the lead agency for an Addendum to the EIR that updates information specifically related to the new library. The City will continue to facilitate the entitlement process which includes the coastal review process for the new library. The City and the County will mutually address mitigation measures of impacts that may result from the library project.
- B. Architect. The City awarded an agreement for the project architect which was subsequently assigned to the County to provide architectural and engineering services for the development of scoping documents for the design of the new library.
- C. Design. The City has managed the pre-design process, and the County will manage the design process for the new library. The County will permit the City’s Library Project Subcommittee to participate in the design process for the new library. The City will be allowed to provide input on the exterior design of the building and selection of finishes, and the final selections will be mutually approved by the County and City. The County will have sole responsibility for the interior layout and the selection of furniture, fixtures and equipment for the building to ensure that the facility meets the County’s operational requirements.
- D. Construction. The County will manage and supervise the construction. The City’s Public Works Director, or his designee, may attend construction meetings facilitated by the County. The County and the City will mutually agree upon a schedule for construction meetings as needed throughout the duration of the construction phase of the project. The County agrees that the City may have on site at its own expense, at any time during the Work, the City’s Public Works Director, or his designee, who shall have a right of access to said construction work to ascertain that the work is being performed in accordance with the drawings and specifications upon checking in with the County’s on site project manager. The designated representatives of the City shall communicate solely through the County’s project manager and shall not communicate directly with the project contractor or subcontractors.
- E. Construction Staging Area. The City agrees to provide use of the City-owned parking lot commonly known as Lot 6 on Highland Avenue to be used as a staging area for the project and related project management modular facilities. The schedule for use of this area will be mutually developed by the City and County.
- F. LEED. The County agrees to design the new library to achieve the United

States Green Building Council's Leadership in Energy and Environmental Design Gold level certification, which is the adopted standard of the City.

- G. Plans. All plans for construction of the Manhattan Beach Library are subject to the mutual approval of the City and County. The County retains ownership of all construction documents including all drawings and specifications.

#### **4. TEMPORARY LIBRARY SERVICE**

The County Librarian and the City Manager agree to mutually develop a limited temporary library service from the time the existing library is closed for construction until the new library is opened to the public. The County will provide a stationary bookmobile and the City will provide a space to park the bookmobile on City-owned or controlled property and the City will provide electrical service. The County agrees to provide for all telecommunications services required to support the operation of the temporary library service and to pay all installation and usage charges. The City agrees to grant access to City facilities by telecommunications providers and County personnel to establish and maintain the required telecommunication services. The operating schedule for the temporary library service will be mutually developed by the County and the City. The City further agrees to provide meeting space at no cost to the County for the provision of story times on a schedule mutually developed by the County and the City.

#### **5. SET ASIDE FUNDS**

- A. Currently, approximately 2.45% of the ad valorem property tax revenue generated from property located within the City is reserved for the support of the County Free Library System in accordance with the provisions of Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code.
- B. For purposes of this MOU, Set Aside Funds shall refer to the yearly difference in the amount of property tax received from City property owners and reserved for the County Library, and the cost of providing Library and debt services at the Manhattan Beach Library.
- C. In each fiscal year since 2006-07, County Library has placed Set Aside Funds in a separate budgetary fund with the intent of improving the library facilities and providing more enhanced services and programs at the library. The parties agree that the current amount of Set Aside Funds accumulated is **\$6,204,000**. The parties mutually acknowledge that the amount of Set Aside Funds varies from year to year and will continue to do so in the future. Further, the parties agree that Set Aside Funds as defined will continue to accumulate during the term of this MOU and may be utilized across fiscal and calendar years for those purposes authorized by this MOU.
- D. Absent extraordinary circumstances the County Library shall, for the

duration of this MOU, continue to place Set Aside Funds in a separate fund within the County Library's budget. However, the parties acknowledge that in case of a countywide fiscal emergency, the County may, after notice to the City, discontinue placing Set Aside Funds in the separate fund. The parties acknowledge that a countywide fiscal emergency could necessitate a reduction in funding for all branches of the County Library. County therefore agrees that any reduction in Set Aside Funds made in response to a countywide fiscal emergency under this section shall be made fairly and in a manner consistent with reductions at other County Library branches.

- E. All Set Aside Funds currently in the separate account and those which will be placed in the separate account during the term of this MOU, will be used solely to improve library facilities and services within the City unless this MOU is unilaterally terminated by one of the parties before expiration. If this MOU is terminated, any unexpended Set Aside Funds remaining in the separate account shall be spent in accordance with the "Termination" section of the MOU. The provisions of this section shall survive the natural expiration of this MOU and shall continue in effect until all Set Aside Funds so accrued have been spent in accordance with the process established in the "Set Aside Fund Expenditures" section of this MOU.
- F. The parties agree that during the term of this MOU any facility, furnishings, equipment and collection improvements purchased with Set Aside Funds for the Library shall remain the property of the County Library.

## **6. SET ASIDE FUND EXPENDITURES**

- A. Set Aside Funds may be used for both one-time improvements such as capital improvements, materials, furniture, and equipment purchases; for payment of debt service on bonds issued by the County to design, construct and furnish the new library facility; and for on-going service enhancements at the Library (such as increased Library hours on Sunday or increased staffing levels or additional programs), and for additional needs as mutually agreed. Of these eligible purposes, the payment of debt service shall be given the first and highest priority.
- B. The City and County Library, for the duration of this MOU, shall meet in June of each year to discuss the use of Set Aside Funds in excess of the amount necessary to fund debt service payments in the fiscal year beginning on the following July 1. No less than four (4) weeks before each of the required June meetings, the City Manager shall submit a prioritized list of issues to be discussed at the yearly meeting. If the City Manager fails to submit such a list, the County Library shall assume that City issues and priorities remain unchanged from the most recent previously approved list provided by the City. Prior to implementation of library service level changes, the City must review and acknowledge in

writing the proposed service plan. The purpose of these meetings is to reach agreement on an expenditure program for the Set Aside Funds in the next fiscal year; however, these meetings are advisory in nature and nothing in this section is intended to divest the County Library, or the County of Los Angeles, of any authority to control or use Set Aside Funds. The parties hereby acknowledge that the expenditure of Set Aside Funds are subject to, and conditioned upon, ongoing approval by the County Board of Supervisors and that such approval is not certain. This section shall not be construed as a limit to the frequency of meetings between the parties, and the parties hereby express a willingness to meet as frequently as necessary to resolve issues related to Set Aside Funds or the library services.

- C. Except as specifically provided herein, pursuant to section 6(E) or section 7, all costs associated with the pre-design, design, construction and furnishing of the facility will be paid primarily by the County from Set Aside Funds or proceeds from the issuance of leasehold revenue bonds by the County. Any bonds issued to fund the design, construction, and furnishing of the facility will be repaid solely from future Set Aside Funds.
- D. In the event the amount of available Set Aside Funds is insufficient to fund the next succeeding debt service payment, the City agrees to fund an amount to the Set Aside Funds account not to exceed \$225,000 per annum, unless otherwise approved by the City Council, such that the balance in such account following such contribution, will be sufficient to fund the next succeeding debt service payment on the bonds issued by the County to fund design and construction of the new library facility. The City may also fund an amount necessary to maintain current library service levels through the Set Aside Funds account, in the event that the dedicated amount of property tax revenue in any year is insufficient to maintain library services for the next fiscal year.
- E. City advances to the Set Aside Funds account will be repaid, with interest, from the next available Set Aside Funds that are not required to meet the next succeeding debt service payment. Interest on City advances will be calculated at the overall rate of return earned by the City treasury's investment portfolio at the time of the City's payments and will be calculated on the basis of a 365 day year. The City and County will execute a repayment schedule for each advance.

## 7. TERMINATION

- A. Either party may unilaterally terminate this MOU for any reason upon 120 days' written notice, provided: 1) any bonds issued by the County for purposes of design and construction of the new library facility have been fully redeemed and are no longer outstanding; 2) the balance of available Set Aside Funds at the time of termination is sufficient to fully defease any outstanding bonds, or 3) if there is outstanding indebtedness exceeding the amount of the Set Aside Funds, the City will assume all such debt in accordance with California Education Code section 19116. Upon termination of this MOU, any remaining Set Aside Funds will be used as follows:
- (1) If County terminates the MOU, any remaining Set Aside Funds will be used to first, fully redeem or defease any outstanding bonds that were issued by the County to design and construct the new library facility; and second, to improve facilities, services, and programs at the Library within the City.
  - (2) If City terminates the MOU, any remaining Set Aside Funds in excess of the amount necessary to fully redeem or defease any outstanding bonds that were issued by the County to design and construct the new library facility will remain in the control of the County Library to spend in its sole discretion, including at other County Library facilities.
  - (3) If the MOU is terminated by mutual written agreement of the City and the County, the parties shall agree upon the use or uses of the remaining Set Aside Funds in excess of the amount necessary to fully redeem or defease any outstanding bonds that were issued to design and construct the new library facility as part of the termination agreement.
- B. Moreover, if during the duration of this MOU or anytime thereafter, the City notifies the County Board of Supervisors that the City no longer desires to be a part of the County Free Library System (pursuant to California Education Code section 19116 or any other means), the City agrees to maintain the annual allocation of property taxes received from City property owners that are reserved for library service in an amount sufficient to fully fund annual debt service costs attributable to bonds that were issued by the County to design and construct the new library facility, or to make a one-time contribution of funds that would be sufficient to fully redeem or defease any such outstanding bonds.

**8. INDEMNIFICATION**

- A. The City shall indemnify, defend and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the City's acts and/or omissions arising from and/or relating to this MOU.
- B. The County shall indemnify, defend and hold harmless the City, its elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with the County's acts and/or omissions arising from and/or relating to this MOU.

**9. NOTICES**

All notices of matters under this MOU shall be given in writing by first class mail, personal delivery or facsimile. Mailed notices shall be addressed as set forth below, but either party may change its address by giving written notice thereof to the other in accordance with the provisions of this section:

CITY: City of Manhattan Beach  
ATTN: City Manager  
1400 Highland Avenue  
Manhattan Beach, California 90266

COUNTY LIBRARY: County of Los Angeles Public Library  
ATTN: County Librarian  
7400 East Imperial Highway  
Downey, California 90242

**10. OTHER PROVISIONS**

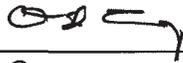
- A. This MOU shall not be construed to place any limitations on the City's ability to raise funds for contribution to the library services within the City, nor shall it limit the right of City or County Library to apply for and receive grants or State bond proceeds for library purposes. Grants funds would implement library services programs or projects consistent with the terms of the grant and will not affect the County's obligations as to Set Aside Funds.
- B. In the performance of its obligations under this MOU, the parties shall comply with all applicable laws, regulations, standards and ordinances.
- C. The laws of the State of California shall govern the interpretation and enforcement of this MOU. Any action, suit or proceeding related to or

arising from this MOU shall be filed in the Los Angeles County Superior Court.

- D. Any amendments to this MOU shall be in writing and executed by both parties.
- E. This MOU is made and entered into for the sole benefit of the parties hereto. No other person or entity shall have any right of action based upon any provision of this MOU.
- F. This MOU shall be deemed to have been prepared jointly and equally by the parties, and none of its terms shall be construed against any party on the ground that the party prepared the MOU or caused it to be prepared.
- G. If any provision of this MOU or the application thereof to any person or circumstance is held invalid, the remainder of this MOU and the application of such provision to other persons or circumstances shall not be affected thereby.
- H. The persons executing this MOU on behalf of each of the parties warrant and represent that they have the authority to execute this MOU on behalf of the party for whom they execute and have the authority to bind the party to the obligations hereunder.
- I. This MOU is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all other agreements between the parties with respect to the matters contained in this MOU, including that certain MOU dated March 31, 2011. Any waiver, modification, consent or acquiescence with respect to any provisions of this MOU shall be set forth in writing and duly executed on behalf of the party to be bound thereby. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.
- J. Neither party shall assign or transfer any rights or obligations in this MOU whether by assignment or novation, without the prior written consent of the other party. Any purported assignment without such consent shall be void and without effect.

**IN WITNESS WHEREOF**, the County and the City have executed this Agreement as of day, month and year first above written.

CITY OF MANHATTAN BEACH



David Carmany  
City Manager

Dated: 2-6-13

ATTEST:



2-6-13

Liza Tamura  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Quinn M. Barrow  
City Attorney

COUNTY OF LOS ANGELES

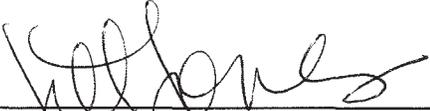


Margaret Donnellan Todd  
County Librarian

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

John F. Krattli  
County Counsel

By 

Jill Jones  
Deputy County Counsel

CITY OF MANHATTAN BEACH

*[Handwritten signature]*

David Carmany  
City Manager

Dated: 2-6-13

ATTEST:

*[Handwritten signature]* 2-6-13  
Liza Tamura  
City Clerk

APPROVED AS TO FORM:

*[Handwritten signature]*  
Quinn M. Barrow  
City Attorney

COUNTY OF LOS ANGELES

*[Handwritten signature]*  
Margaret Donnellan Todd  
County Librarian

Dated: 2-11-13

APPROVED AS TO FORM:

John F. Krattli  
County Counsel

By *[Handwritten signature]*  
Jill Jones  
Deputy County Counsel