

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Mary K. Lindley, Parks, Recreation & Community Services Director 

**DATE:** March 27, 2009 (CC Meeting of May 6, 2009)

**SUBJECT:** Consider Library Withdrawal Agreements Between the City of Moorpark and the County of Ventura

**DISCUSSION**

Previously, the City Council considered and approved in concept, three separate agreements, finalizing the withdrawal of the City from the Ventura County Library System. The two following Agreements were subsequently approved by the Board of Supervisors.

Agreement Finalizing the Transfer of the Moorpark Library – Transfers the Library to the City along with all personal property, furnishings, collections; ends Moorpark's membership on the Library Services Commission; and satisfies outstanding amounts owed to Moorpark for its share of the Moorpark Library Fund Balance (\$467,538.00).

Joint Resolution of the Board of Supervisors of the County of Ventura and the City Council of the City of Moorpark Agreeing to the Exchange of Property Tax Revenues for the Transfer of Library Service Responsibility Between the County and the City – Beginning July 1, 2007, permanently transfers 100 percent of the County Free Library System's share of the property tax revenue from within incorporated Moorpark.

The third Agreement, The Distribution of Redevelopment Tax Increment Agreement, addressing the distribution of the tax increment funds from the Moorpark Redevelopment Agency, to have been executed by the Board, Fire Protection District, Flood Control District, and the City, was not provided to the Board. County staff did not believe this Agreement was necessary since the Board of Supervisors acts as the Board of the other aforementioned County districts. This information was presented to

the City Council, which directed the City Attorney to work with the County to draft an Agreement protecting the City from potential actions by future Boards.

The City Attorney and County staff prepared the following Agreement:

Indemnification Agreement and Covenant Not to Sue – Both parties agree to defend, indemnify, and hold the other party harmless.

The County Board of Supervisors has approved the third Agreement which the City Council has not yet discussed. The City Council is now being asked to approve all three agreements provided under this Agenda Report.

### **FISCAL IMPACT**

Upon approval of the three Agreements, the City will receive a one-time payment of \$467,538.00. The transfer of the annual Library property tax took place beginning July 1, 2007.

### **STAFF RECOMMENDATION**

Approve the three Agreements identified in the Agenda Report and authorize the Mayor to sign on behalf of the City.

Attachments: Exhibit A – Indemnification Agreement and Covenant Not to Sue  
Exhibit B- Agreement Finalizing the Transfer of the Moorpark Library  
Exhibit C- Joint Resolution of the Board of Supervisors of the County Of Ventura and the City of Moorpark Agreeing to the Exchange of Property Tax Revenues for the Transfer of Library Service Responsibility Between the County and the City

**EXHIBIT A**

**INDEMNIFICATION AGREEMENT AND COVENANT NOT TO SUE**

1. On January 27, 1993, the County of Ventura, the City of Moorpark (“Moorpark”), the Redevelopment Agency for the City of Moorpark, the Ventura County Library District, the Ventura County Fire Protection District, and the Ventura County Flood Control District executed an Agreement for Distribution of Tax Increment Funds from the Moorpark Redevelopment Project (the “Agreement”).

2. Among other provisions, the Agreement in section 3, subdivision “E” provided that of the County’s share of the Moorpark Redevelopment Project Tax Increment, 4.20 percent would be disbursed to the “Ventura County Library District,” which is now known as the “Ventura County Free Library System” (“the Library System”).

3. Moorpark participated in the Library System but withdrew from the Library System effective January 1, 2007. Following Moorpark’s withdrawal, Moorpark and the County entered into both a Settlement Agreement Finalizing the Transfer of the Moorpark Library as well as a Joint Resolution Agreeing to the Exchange of Property Tax Revenues for the Transfer of Library Service Responsibility Between the County and Moorpark.

4. Under the terms of a 1998 Memorandum of Understanding among the County

and cities in the Library System, which included Moorpark, Moorpark will receive those Library System property taxes and other revenue directly attributable to the incorporated area of Moorpark. This includes the 4.20 percent of the County's share of the Tax Increment disbursed to the Library System.

5. The County agrees to defend, indemnify and hold Moorpark and its officers, officials, and employees harmless from any claims, demands, lawsuits, or actions brought by the Ventura County Library District, the Ventura County Fire Protection District, or the Ventura County Flood Control District challenging the payment to Moorpark of the 4.20 percent of the County's share of the Tax Increment previously distributed to the Ventura County Library District.

6. Moorpark agrees to defend, indemnify and hold the County and its officers, officials, and employees harmless from any claims, demands, lawsuits, or actions brought by the Redevelopment Agency for the City of Moorpark challenging the payment to Moorpark of the 4.20 percent of the County's share of the Tax Increment previously distributed to the Ventura County Library District.

7. The County and Moorpark covenant and agree not to initiate any civil action or proceeding against each other arising out of or relating to the County's agreement to pay

Exhibit A

Moorpark the 4.20 percent of the County's share of the Tax Increment under the 1993 Agreement, excepting any failure by the County to make payment.

CITY OF MOORPARK

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_

ATTEST: DEBORAH TRAFFENSTEDT,  
Clerk of the City of Moorpark,  
County of Ventura, State of California.

By: \_\_\_\_\_  
City Clerk

COUNTY OF VENTURA

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_

ATTEST: MARTY ROBINSON,  
Clerk of the Board of Supervisors,  
County of Ventura, State of California.

By: \_\_\_\_\_  
Deputy Clerk of the Board

**AGREEMENT FINALIZING THE TRANSFER  
OF THE MOORPARK LIBRARY**

The County of Ventura, through its Ventura County Free Library System (“System”), owned and operated the Moorpark Library, located within the City of Moorpark. In June 2006, however, the City of Moorpark (Moorpark) decided it wished to withdraw from the System, as Moorpark was entitled to do under Education Code section 19104 and the 1998 Memorandum of Understanding (“MOU”) among the System and various cities. On January 1, 2007, Moorpark withdrew from the System and assumed ownership and operation of the Moorpark Library. On December 22, 2006 the County transferred title to the Moorpark Library via quitclaim deed.

This Agreement resolves the outstanding issues associated with the Moorpark’s withdrawal from the Free Library and assumption of ownership of the Moorpark Library.

The County and Moorpark therefore agree as follows:

**1. Personal Property and Furnishings:**

The County has given to Moorpark the following property: the books and other materials in the Moorpark Library collection, except for system-wide resource books and materials not available in any other system library, all furniture within the Moorpark Library, all fixtures within the Moorpark Library, and all computers within the Moorpark Library, except all software and equipment related to the County’s automated circulation system, which the County removed. The County has no future obligations in or liability for any damages or defects known or unknown in the personal property given to Moorpark.

**2. “Stray” Books and Other Materials:**

The County and Moorpark understand that the County may continue to receive books and other materials in the Moorpark Library collection, and Moorpark may continue to receive books and materials belonging to other libraries within the System.

The parties agree to forward these “stray” books to each other.

**3. Maintenance, Services, and Utilities:**

As of January 1, 2007, the County ceased having any responsibility for providing or contracting for any services supporting the Moorpark Library, including but not limited to landscaping, water, electricity, heating, air conditioning, computer circulation system and associated equipment, telephone service, and internet service. Effective January 1, 2007, Moorpark became solely responsible for all costs for all services supporting the Moorpark Library.

**4. Library Services Commission:**

As of January 1, 2007, Moorpark was no longer a member of the Library Services Commission and thereafter ceased having any voting rights on the Commission.

**5. Amounts Owed:**

In satisfaction of all outstanding amounts owed to Moorpark for its share of the Moorpark Library Fund Balance prior to December 1, 2006, the Moorpark Library Capital Trust Account, Library Property Tax generated between January 1, 2007 and June 30, 2007 attributed to the incorporated City of Moorpark, and interest on such amounts owed, County agrees to pay Four Hundred, Sixty-Seven Thousand, Five Hundred, Thirty-Eight dollars (\$467,538, herein the “Transfer Payment”) to Moorpark within thirty (30)

days of execution of this Agreement. City waives all rights to seek any additional moneys from the County and/or System with respect to the Moorpark Library Fund, Library Property Tax, and the Moorpark Library Capital Trust Account. County and System agree to waive any and all claims in and to the Transfer Payment once made.

**6. Releases:**

The execution of the following documents is intended to resolve all issues related to the withdrawal of Moorpark from the System: This Agreement and The Joint Resolution of the Board of Supervisors of the County of Ventura and the City Council of the City of Moorpark Agreeing to the Negotiated Exchange of the Property Tax Revenues for the Transfer of Library Service Responsibility Between the County and Moorpark. Upon the execution of these documents, by all parties thereto, the parties agree to the following:

**a) Mutual Releases:**

Moorpark releases the County and its officers, employees, agents, attorneys, representatives, directors, successors and assignees of any and all claims, causes of action, liabilities, and costs or expenses (including any attorney fees), whether known or unknown, accrued or not accrued, fixed or contingent, that Moorpark has or may have against the County related to Moorpark's prior participation in and withdrawal from the System and the transfer of the Moorpark Library from the County to Moorpark. The County releases Moorpark and its officers, employees, agents, attorneys, representatives, directors, successors and assignees of any and all claims, causes of action, liabilities, and costs or expenses (including any attorney fees), whether known or unknown, accrued or

not accrued, fixed or contingent, that the County has or may have against Moorpark related to Moorpark's prior participation in or withdrawal from the System and the transfer of the Moorpark Library from the County to Moorpark.

**b) City's Claim for Damage or Injury:**

Moorpark withdraws its Claim for Damage or Injury filed with the County of Ventura on December 28, 2006, and agrees that it will not institute any civil proceedings against the County of Ventura or any of its agencies, officers, or employees by reason of any claim, liability or cause of action, whether known or unknown, arising out of or related to Moorpark's prior participation in and withdrawal from the System.

**c) Civil Code Section 1542:**

Moorpark and the County expressly waive all rights under section 1542 of the California Civil Code, which reads as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.”

**d) Civil Code Section 1541:**

The parties understand and agree these agreements are in full accord, satisfaction, and discharge of doubtful and disputed claims, and that these agreements have been executed with the express intention of effectuating the legal consequences provided for in section 1541 of the California Civil Code, i.e., the extinguishing of all obligations herein described. Section 1541 reads as follows:

“OBLIGATION EXTINGUISHED BY RELEASE”

“An obligation is extinguished by a release therefrom given to the debtor by the creditor, upon a new consideration, or in writing, with or without new consideration.”

**e) Attorney’s Fees:**

The parties agree that each party shall bear its own attorney’s fees and costs relating to the matters subject to this Agreement.

CITY OF MOORPARK

Dated: \_\_\_\_\_, 2008      By: \_\_\_\_\_

ATTEST: Deborah Traffenstedt,  
Clerk of the City of Moorpark,  
County of Ventura, State of California.

By: \_\_\_\_\_  
City Clerk

COUNTY OF VENTURA

Dated: \_\_\_\_\_, 2008      By: \_\_\_\_\_

ATTEST: MARTY ROBINSON,  
Clerk of the Board of Supervisors,  
County of Ventura, State of California.

By: \_\_\_\_\_  
Deputy Clerk of the Board

**JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF  
THE COUNTY OF VENTURA AND THE CITY COUNCIL OF THE  
CITY OF MOORPARK AGREEING TO THE EXCHANGE OF  
PROPERTY TAX REVENUES FOR THE TRANSFER OF LIBRARY  
SERVICE RESPONSIBILITY BETWEEN THE COUNTY AND THE  
CITY.**

WHEREAS, section 99 of the Revenue and Taxation Code requires that prior to the effective date of any jurisdictional change, all agencies whose service areas or service responsibilities would be altered by such change shall determine the amount of property tax revenues to be exchanged between and among such affected agencies; and

WHEREAS, it is specified that such jurisdictional change shall become effective only after each affected county and city agrees by resolution to accept a negotiated exchange of property tax revenues; and

WHEREAS, in the event a jurisdictional change affects the service area or service responsibility of one or more special districts, the Board of Supervisors of the county in which such districts are located shall negotiate any exchange of property tax revenues on behalf of the districts; and

WHEREAS, the adopting agencies shall notify the County Auditor-Controller who shall adjust the amount of property tax revenue determined for each local agency whose service area or service responsibility would be altered by such jurisdictional change; and

WHEREAS, as of December 31, 2006, the City of Moorpark (Moorpark), under Education Code section 19104, has withdrawn from the Ventura County Free Library System and is now operating its own municipal library to serve the residents of Moorpark

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED as follows:

(1) Beginning on July 1, 2007, with the start of Fiscal Year 2007-2008, for territory within the corporate limits of Moorpark, the County Free Library System's share of real property tax revenue shall be permanently transferred to Moorpark; this amount shall be equal to 100 percent of the amount of real property tax revenue allocated to the County Free Library System from territory within Moorpark, commencing with the beginning of the Fiscal Year 2007-2008.

(2) For all territory subsequently annexed to Moorpark, the total of 100 percent of the real property taxes allocated to County Free Library System from the annexed area shall be permanently transferred to Moorpark, commencing from the date the annexation to Moorpark is final.

(3) An executed copy of this resolution shall be submitted to the County Auditor-Controller, who shall make the appropriate adjustments as provided in subdivision (c) of section 99 of the Revenue and Taxation Code.

On motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing resolution was passed and adopted on \_\_\_\_\_, 2008.

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CHAIR, BOARD OF SUPERVISORS

ATTEST: MARTY ROBINSON,  
Clerk of the Board of Supervisors,  
County of Ventura, State of California.

By: \_\_\_\_\_  
Deputy Clerk of the Board

CITY OF MOORPARK

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_

ATTEST: Deborah S. Traffenstedt,  
Clerk of the City of Moorpark,  
County of Ventura, State of California.

By: \_\_\_\_\_  
City Clerk