

FIRST AMENDMENT TO THE JOINT POWERS AGREEMENT BETWEEN THE CITY OF SANTA CRUZ AND THE COUNTY OF SANTA CRUZ AND THE CITIES OF CAPITOLA AND SCOTTS VALLEY RELATING TO LIBRARY SERVICES

A. In 1996 the City of Santa Cruz and the County of Santa Cruz and the Cities of Capitola and Scotts Valley executed that certain Joint Powers Agreement Between The City Of Santa Cruz And The County Of Santa Cruz And The Cities Of Capitola And Scotts Valley Relating To Library Services with an effective date of June 24, 1996 (the "Agreement").

B. The stated purpose of the Joint Powers Agreement is the provision of extended library services within the Cities of Santa Cruz, Capitola and Scotts Valley and the unincorporated area of Santa Cruz County through the establishment of a Library Services Joint Powers Authority ("JPA").

C. Pursuant to the subsequently executed "Memorandum Of Understanding Library Joint Powers Board And The City Of Santa Cruz Concerning The Business Affairs Of The City/County Library System" dated February 24, 1998 and entered into between the City of Santa Cruz and the JPA after the passage Measure B which assured the funding to make the JPA financially viable, it is understood by the parties that the JPA is authorized, in its own name, to make and enter contracts, to hold or dispose of property, and to incur debts, liabilities and obligations.

D. In light of said authority possessed by the JPA, pursuant to Government Code §6508, the JPA is a public entity having the power to sue and be sued in its own name.

E. Section 10.A.(2) of the Joint Powers Agreement provides "While the City of Santa Cruz shall not be obligated to purchase liability insurance and coverage for the library system, it may do so if such insurance can be obtained at a reasonable rate, and it is recommended by the board. If such insurance is purchased, the cost shall be shared proportionately according to circulation at the time the policy premium is determined."

F. Section 10.A.(3) of the Joint Powers Agreement proceeds to state "All uninsured costs of providing liability defense, including payments for legal fees and costs, and including payment of claims, shall be advanced by the City of Santa Cruz and then billed to the library system. Repayment of such costs and expenses shall be made to the City of Santa Cruz within sixty (60) days after they are billed."

G. Pursuant to the foregoing provisions of the Joint Powers Agreement, the City of Santa Cruz, on behalf of the JPA, in or about October, 1997 acquired a policy of liability insurance naming the JPA as the insured and obligating the insurer to defend, indemnify and hold harmless the JPA, and its agents and employees against and from all covered third party

liability claims.

H. The referenced policy of liability insurance does not name the Cities of Santa Cruz, Capitola or Scotts Valley or the County of Santa Cruz as additional insured parties under the policy.

I. It is the intent of the parties to the Joint Powers Agreement that the JPA created pursuant to that Agreement is to be a separate and discrete legal entity responsible for responding to third party liability claims as evidenced by the procurement of liability insurance on behalf of the JPA.

AGREEMENT

1. Section 12 of the Agreement is hereby amended to read as follows:

12. "Each party to this Agreement, and the Joint Powers Authority created pursuant to this Agreement, shall defend, indemnify and hold harmless one another and their respective officers, employees and agents against any and all claims, actions, losses, liability or expense (including attorney's fee) arising out of, based upon, or resulting from willful or negligent acts or omissions by that entity's officers, employees or agents. For purposes of this mutual hold harmless/indemnification provision, it is hereby understood and acknowledged that the Director of Libraries and library staff referenced in Section 5 of this Agreement are to be considered officers and employees of the JPA only."

2. Except as expressly amended hereinabove, the terms of the Agreement shall remain unchanged.

3. This amendment to the Agreement may be executed in counterparts, each of which shall be deemed to be an original and such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this amendment to the Agreement.

Dated: 6/12/98

Quight L. Hew
Approved as to Form
County of Santa Cruz

[Signature]
County Administrative Officer

Dated: 11-8-99

Approved as to Form
City of Capitola

Kathleen Malloy
Acting City Manager

Dated: ~~3-13-98~~ 7-1-98

Approved as to Form
City of Santa Cruz

[Signature]
City Manager

Dated: _____

Approved as to Form
City of Scotts Valley

City Manager

