SW/vv
03/10/16
Item #28

AN ORDINANCE 2016-03-10-0212

AUTHORIZING A FIVE-YEAR AGREEMENT WITH THE MONTE VISTA HISTORICAL ASSOCIATION FOR USE OF SPACE ADJACENT TO THE MAIN BUILDING OF THE LANDA BRANCH LIBRARY, ACCEPTING A ONE-TIME FINANCIAL GIFT TO THE SAN ANTONIO PUBLIC LIBRARY OF $10,000.00 AND SUBSEQUENT ANNUAL FINANCIAL GIFTS OF $7,200.00 FOR THE LANDA BRANCH LIBRARY TO BE PAID AT THE RATE OF $600.00 PER MONTH DEDICATED FOR THE MAINTENANCE AND PRESERVATION OF THE LANDA BRANCH LIBRARY.

* * * * *

WHEREAS, the City of San Antonio through the San Antonio Public Library has had in place an agreement with the Monte Vista Historical Association since July 1994 for the use of space, consisting of a small office and meeting room located in a detached annex adjacent to the main Landa Branch Library (233 Bushnell); and

WHEREAS, the use of space agreement had not been updated since its adoption in 1994 and the Library Department with the support of the San Antonio Public Library Board of Trustees is recommending a new agreement to better align the use of the space with the operations of the Landa Branch Library and the mission of the San Antonio Public Library; and

WHEREAS, furthermore, the space in question is not programmed to be used by the San Antonio Public Library; and

WHEREAS, with City Council approval, the San Antonio Public Library and the Monte Vista Historical Association will enter into a new five-year agreement which will facilitate the efforts of both parties as it relates to the historical preservation of the Landa Branch Library and serving the Monte Vista Community; and

WHEREAS, the agreement provides for a one-time financial gift to the San Antonio Public Library from the Monte Vista Historical Association of $10,000.00 and subsequent annual financial gifts of $7,200.00 payable at the rate of $600.00 per month for the maintenance and preservation of the Landa Branch Library; and

WHEREAS, additionally, the agreement provides a provision for other key stakeholders of the Landa Branch Library such as the Friends of the Landa Branch Library, the San Antonio Public Library Foundation, and the Landa Gardens Conservancy to share the use of the office and meeting space; and

WHEREAS, the agreement will result in added value to the Monte Vista community by facilitating public access to the historical files owned and maintained by the Monte Vista

Historical Association and by partnering with the Landa Branch Library to deliver free and open programs related to the historical significance of the Monte Vista community; and

WHEREAS, the Landa Branch Library, a former private residence located in the Monte Vista Historical District, was gifted by Harry Landa to the City of San Antonio in 1946 for use as a public library; and

WHEREAS, this agreement between the Monte Vista Historical Association and the City of San Antonio is in compliance with the expressed expectations of Harry Landa in the deed for the property; and

WHEREAS, on January 27, 2016, the San Antonio Public Library Board of Trustees approved the Space Use Agreement with the Monte Vista Historical Association; and

WHEREAS, the Monte Vista Historical Association approved the Space Use Agreement on February 9, 2016; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee or the Director of the San Antonio Public Library or his designee, is hereby authorized to approve a five-year agreement with the Monte Vista Historical Association for use of space adjacent to the main building of the Landa Branch Library. A copy of the five-year agreement is attached hereto and incorporated herein for all purposes as **Attachment I**.

SECTION 2. The City Manager or her designee or the Director of the San Antonio Public Library or his designee, is authorized to accept a one-time financial gift from the Monte Vista Historical Association to the San Antonio Public Library of $10,000.00 and subsequent annual financial gifts of $7,200.00 for the maintenance and preservation of the Landa Branch Library.

SECTION 3. Funds generated by this ordinance will be deposited into Fund 29804000, Internal Order 804000000204 and General Ledger 4502220.

SECTION 4. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SW/vv
03/10/16
Item #28

SECTION 5. This ordinance is effective immediately upon the receipt of eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 10th day of March, 2016.

M A Y O R
for Ivy R. Taylor

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

for Martha G. Sepeda, Acting City Attorney

Agenda Item:	**28 (in consent vote: 5, 7, 8, 9, 10, 12, 14, 17, 18, 19, 21, 23, 24, 25, 26, 27, 28)**
Date:	03/10/2016
Time:	09:15:21 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing a five-year agreement with the Monte Vista Historical Association for use of space adjacent to the main building of the Landa Branch Library, accepting a one-time financial allocation to the San Antonio Public Library of $10,000.00 and subsequent annual financial allocations of $7,200.00 for the Landa Branch Library to be paid at the rate of $600.00 per month dedicated for the maintenance and preservation of the Landa Branch Library. [Maria Villagomez, Assistant City Manager; Ramiro Salazar, Director, San Antonio Public Library]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor	x					
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5	x					
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				x
Michael Gallagher	District 10		x			x	

Attachment I

AGREEMENT

This Agreement ("Agreement") dated as of the _____day of February 2016 (the "Effective Date"), is made and entered into by and between the MONTE VISTA HISTORICAL ASSOCIATION ("MVHA"), a Texas non-profit corporation, the SAN ANTONIO PUBLIC LIBRARY ("Library"), a Department of the CITY OF SAN ANTONIO ("City"), a Texas political subdivision and home-rule municipality of the State of Texas, acting by and through the Board of Trustees of the Library ("Board") and the City Manager of the CITY OF SAN ANTONIO pursuant to Ordinance No. 2015-_____ (the "Ordinance") adopted by the City Council of the City ("City Council") on _____, 2016.

WITNESSETH:

WHEREAS, Library owns that certain real property (the "Property") and all improvements thereon, known as Landa Library, located at 233 Bushnell, San Antonio, Bexar County, Texas; and

WHEREAS, this real property was deeded to the City by Harry Landa in 1946 for use as a "non-sectarian free public library and with the surrounding grounds dedicated for use as a children's playground, with the right to establish and enforce reasonable rules and regulations for the use and enjoyment thereof. Both the library and playground are to be maintained in a manner in keeping with good practices and national standards."

WHEREAS, Library practice, for many years has been to work closely with neighborhood associations at its many branch libraries, allowing the free use of meeting spaces in support of its library principle of sponsoring and fostering civic engagement; and

WHEREAS, Library also has a general practice of forming partnerships with various non-profit entities to leverage the volunteer efforts to enhance and maximize the provisions of public library services, including a current agreement with the Landa Gardens Conservancy for the maintenance of the playground and other grounds surrounding the Landa branch library; and

WHEREAS, consistent with both of those practices, the Library has since 1993 allowed MVHA to make use of the annex office and meeting room ("Annex") at Landa Branch Library for which Library has no current plans to convert to direct Library use; and

WHEREAS, MVHA has, among other things, utilized this space for storage of its extensive historical files which it provides public access to; and

WHEREAS, MVHA has great expertise in the area of historic preservation of structures in the Monte Vista Historic District, of which the Landa Branch Library and Annex building are important examples; and

WHEREAS, over the years MVHA has invested tens of thousands of dollars

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in maintaining and improving the Annex and has assisted in fundraising efforts for Landa Library; and

WHEREAS, MVHA desires to continue provide the maintenance for the Annex and to continue its activities benefiting the public and serving the goals and public library purposes of Library from this space; and

WHEREAS, Library is open to allowing this continuing use of the Landa Annex subject to its supervision and MVHA continued public service; and

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and for good, fair and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by MVHA, Library, City, Board and City Manager; agree as follows:

1. The Parties hereto acknowledge and agree that MVHA has been a key partner for Library in the promotion of public library goals and objectives at the Landa Branch Library.

2. MVHA shall be allowed to make use of the Annex for the storage of its historic files related to the City of San Antonio declared Monte Vista Historic District.

3. MVHA shall be allowed to make use of the Annex for its regular meetings, public presentations and routine administrative activities, subject to mutually agreed upon operating procedures. MVHA shall also be allowed the use of the middle bay in the Landa Garage.

4. Term: This agreement shall commence upon its execution and shall terminate five (5) years after that date (the "Termination Date"). At any time during the term either party may terminate this agreement by providing six (6) months prior written notice to the other party. If no party has exercised its right of termination by the date (3) months prior to the Termination Date then the parties shall enter into good faith negotiations to renew or extend this agreement before the Termination Date.

5. Library shall continue to have control of the Annex space and may elect to use such space as may reasonably be needed for Library purposes-.

6. MVHA agrees that it shall purchase insurance in an amount specified in Texas Charitable Immunity and Liability statute, Texas Civil Practice and Remedies Code, Section 84.007.

7. In furtherance of the mutual goal of the historic preservation of the Landa Library building, MVHA shall make a onetime financial gift to the Library of ten thousand dollars ($10,000) and subsequent annual financial gifts of seven thousand two hundred dollars ($7,200), payable at the rate of $600 per month, to be placed by the Library into a special restricted fund to be used solely for the maintenance and

preservation of the Landa Library. This payment obligation will cease to accrue upon the termination of this Agreement whether on the Termination Date or upon early termination.

8. MVHA shall be responsible for routine maintenance and minor repairs to the Annex. MVHA shall not commence planning for any physical improvements to the Landa Library until it has discussed and coordinated such proposed improvements with Library in accordance with established procedures and protocols. MVHA understands and agrees that Library has no current plans or commitments to make any changes to the Annex. Library makes no commitment regarding the suitability of the Annex for any of MVHA purposes. However, Library does agree to make any required major repairs to the Annex including, but not limited to roof, foundation, electrical, plumbing, HVAC and structural.

9. MVHA shall throughout the term of this agreement develop and maintain open lines of communication with Library.

10. MVHA shall, in coordination with Landa Library staff, throughout the term of this agreement initiate and provide services to the public including effective community outreach regarding historic preservation and the Monte Vista Historic District.

11. MVHA shall establish procedures and protocols to allow for Library and public access to its historic files and share those procedures with Library so that Library can promote such utilization to the public.

12. MVHA shall on an annual basis initiate and coordinate with Library a reasonable number of free public programs on topics of public interest, including topics related to historic preservation and the Monte Vista Historic District.

13. MVHA shall establish a formal relationship with the Landa Gardens Conservancy to facilitate joint endeavors on behalf of the Landa Library

14. MVHA shall establish, in coordination with Library, a process to facilitate the reasonable use of the annex office and meeting room by other key library stakeholders such as: the Landa Gardens Conservancy, Landa Friends, and the San Antonio Public Library Foundation as deemed appropriate by the Library Director.

15. MVHA shall provide quarterly reports to the Library documenting all activity sponsored by MVHA occurring in the Annex

16. MVHA agrees that it shall continue to maintain its 501(c)(3) non-profit status during the term of this Agreement.

17. MVHA shall be liable for any damages it causes to the Annex or the Landa Library. Any damages caused by MVHA will be promptly repaired. Library shall not be obligated nor liable under this Agreement to any party for payment of any

monies or provision of any goods or services.

18. MVHA covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the LIBRARY and the elected officials, employees, officers, directors, volunteers and representatives of the LIBRARY, individually or collectively, from and against any and all costs, including cost of defense, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage (the "Damages"), made upon the LIBRARY directly or indirectly arising out of, resulting from or related to this Agreement and to the extent covered by MVHA 's insurance, including any acts or omissions of MVHA , any agent, officer, director, representative, employee, consultant or subcontractor of MVHA , and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT; provided, however, that in no event shall the indemnity provided for herein apply to Damages caused as a result of acts or negligence of any third parties using the Annex, or other facilities on the Property, as provided for under Section 14 of this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the acts or the negligence of LIBRARY, its officers or employees, in instances where such acts or negligence causes personal or bodily injury, death, or property damage. IN THE EVENT MVHA AND LIBRARY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE LIBRARY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. The provisions of this INDEMNIFICATION are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractually or otherwise, to any other person or entity. MVHA shall promptly advise the LIBRARY in writing of any claim or demand against the LIBRARY or MVHA known to MVHA related to or arising out of MVHA's activities under this AGREEMENT. As a condition of the agreement to hold LIBRARY harmless under the provisions of this paragraph 18, and as to any costs, including cost of defense, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage claim, action, causes of action or demand of any kind or nature whatsoever to which LIBRARY seeks or will seek indemnity from MVHA , LIBRARY agrees to provide prompt notice of and will tender any costs, including cost of defense, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage claim, action, causes of action or demand of any kind or nature whatsoever to MVHA and LIBRARY further agrees that it/they will not take any action which might limit the ability of MVHA to defend or respond to any costs, including cost of defense, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage claim, action, causes of action or demand of any kind or nature whatsoever.

19. It is expressly understood and agreed that MVHA is and shall be deemed to be an independent contractor and operator responsible to all Parties for its respective acts or omissions.

20. MVHA agrees to cooperate with Library, at no charge to Library, to satisfy, to the extent required by law, any and all requests for information received by Library under the Texas Public Information Act or related laws pertaining to this Agreement.

21. Any breach or violation by either party to this Agreement of the provisions herein contained shall give rise immediately to the right on the part of the non-violating party, at its option, upon thirty (30) days' written notice to violating party, unless such breach or violation is cured prior to the expiration of the notice period, to cancel this Agreement or to seek any remedy which now is or may be provided by law, whether or not stated herein. No waiver by either party of a breach or violation shall be construed or held to be a waiver of any succeeding or preceding breach or violation of the same or any other provision herein contained.

22. All notices to be given under this Agreement shall be in writing, and shall either be personally served against written receipt therefore or given by certified mail or registered mail, return receipt requested, postage prepaid and addressed to the proper party at the address which appears below, or at such other address as the Parties hereafter designate. All notice given by mail shall be deemed to have been given at the time of deposit in the United States mail and shall be effective from such date.

If to City: San Antonio Public Library
Attn: Library Director
600 Soledad
San Antonio, Texas 78205

With copy: City Clerk
P.O. Box 839966
San Antonio, Texas 78283-3966

If to MVHA: Monte Vista Historical Association
President
P.O. Box 12386
San Antonio, Texas 78212

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23. This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral arguments between the Parties respecting the subject matter of this Agreement.

Executed in duplicate this _____ day of _____, 2016.

CITY

_____

Assistant City Manager
City of San Antonio

APPROVED AS TO FORM:

_____

City Attorney

MONTE VISTA HISTORICAL ASSOCIATION

_____

By:

Title:

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