



# NEWPORT BEACH

## City Council Staff Report

January 9, 2024  
Agenda Item No. 13

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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**TITLE:** Lecture Hall Building – Approval of Third Amendment to the Memorandum of Understanding with the Newport Beach Public Library Foundation; and Adoption of Resolution No. 2024-3: Dissolving the Newport Beach Library Lecture Hall Design Committee

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### **ABSTRACT:**

At the November 14, 2023 City Council study session, the Council, staff and representatives of the Newport Beach Public Library Foundation discussed the recent bid opening for a new Lecture Hall (LH) building. After much discussion and review, the City Council directed staff to bring a revised Memorandum of Understanding (MOU) with the Newport Beach Public Library Foundation (NBPLF) back to the Council for its review. At the November 28, 2023 City Council Meeting, the City Council established the Library Lecture Hall MOU City Council Ad Hoc Committee, comprised of Councilmembers Noah Blom and Lauren Kleiman, to negotiate revised terms of a Third Amendment to the MOU (Third Amendment) with the NBPLF for the funding and use of the new LH building. The City Council Ad Hoc Committee met with NBPLF representatives and the revised MOU is ready for the full Council's consideration.

### **RECOMMENDATIONS:**

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly;
- b) Review and Approve the Third Amendment to the Memorandum of Understanding between the City of Newport Beach and the Newport Beach Public Library Foundation for the Lecture Hall Building;
- c) Authorize the City Manager to execute amendments to the existing Donor Agreements that replaces the existing Memorandum of Understanding with this Third Amendment; and
- d) Adopt Resolution No. 2024-1, *A Resolution of the City Council of the City of Newport Beach, California, Dissolving the Newport Beach Library Lecture Hall Design Committee and Repealing Resolution No. 2019-70.*

## **DISCUSSION:**

The Central Library building was built in 1994 and expanded in 2013, to incorporate a second entrance connecting the Central Library to City Hall and the park. Numerous on-going programs and community events are held at the Central Library each year, including those with guest speakers and presentations. Most of the events are held in the Friend's Meeting Room. The Library Services Department reports that annual participation in programming at the Central Library increased from approximately 28,000 participants in FY 2009-10 to over 72,000 participants in FY 2018-19.

At the March 12, 2019 City Council study session, the Council expressed support for the LH project and the architect team selection process. At the meeting, the library's supporters agreed to partner with the City of Newport Beach on this project. The City Council directed staff to return with a recommendation for awarding a Professional Service Agreement (PSA) for developing concept and final design plans.

On July 9, 2019, the City Council adopted Resolution No. 2019-70, establishing the Library Lecture Hall Design Committee (LLHDC) and appointing then Councilmember Diane Dixon as one of the five committee members. The LLHDC formed to undertake selection of an architect, coordinate and meet with the architect and City staff on the project, and to make recommendations, as needed, to the entire City Council.

With the support of the LLHDC, Robert R. Coffee Architect + Associates (RCA) was unanimously selected as the most qualified and responsive firm for this project. On November 19, 2020, RCA was awarded the design contract that includes developing conceptual designs, attending community and LLHDC meetings, and presenting concepts to the City Council.

On April 30, 2021, staff and the project architect presented the project concept to The Irvine Company as stipulated in the amended Special Land Use Restrictions approved by the City Council on November 19, 2019. Following some changes and LLHDC approval, the revised concept plan was approved by The Irvine Company on August 18, 2021. The revised building concept will meet the community's use needs and reflects an architectural style supported by The Irvine Company and the LLHDC.

On September 28, 2021, City staff and LLHDC members returned to a City Council study session and presented the final revised Conceptual Design, project cost estimate, and tentative funding terms for the MOU with NBPLF. After much discussion and review, the City Council provided direction on the project (with a straw vote approval on the Conceptual Design) for completion of the MOU, including raising the City's funding commitment from \$4,000,000 to a 50-50 match, with a maximum City contribution of \$6,500,000, and requested that the Conceptual Design and MOU come back to the City Council for consideration and formal approval.

On November 30, 2021, the City Council approved the current design concept, a \$13,000,000 budget, and an MOU between the City and the NBPLF related to fundraising for the LH building.

On September 12, 2022, the City Council approved Amendment No. One to the MOU between the City and the NBPLF related to fundraising for the LH Building.

On November 15, 2022, the City Council approved Amendment No. Two to the MOU between the City and the NBPLF related to fundraising for the LH Building.

On November 14, 2023, the Council held a study session to review and discuss the construction bids for the new Lecture Hall, the overall project cost, and whether to proceed with construction of the project. The Council voted 4-3, via a straw poll, in favor of moving forward with an amendment to the MOU that increases the Foundation's commitment to \$11.7 million dollars so that the project could advance. Additionally, at this meeting, then Mayor Blom recommended creating a City Council Ad Hoc Committee to negotiate the third amendment to the MOU with the NBPLF. On November 28, 2023, the City Council approved establishing the Library Lecture Hall MOU City Council Ad Hoc Committee comprised of Council Member Blom and Councilmember Kleiman.

After several meetings and much discussion between the members of the City Council Ad Hoc Committee and the NBPLF, Amendment No. Three to the MOU is being provided to the full City Council for its review and consideration. Should the Council desire to move forward with constructing the LH building, staff recommends the City Council first approve Amendment No. Three of the MOU between the City and the NBPLF related to the NBPLF contribution of funds for the LH Building prior to awarding the construction contract for the LH Building.

The significant changes to the existing MOU proposed in this Third Amendment include:

- **Update to Total Project Cost:** Section 1.3 is revised to reflect the new project cost of \$23.5 million.
- **City and NBPLF Financial Commitment and Timing of Payment:** Sections 2.1 and 3.1 have been revised to increase the City's financial commitment and the NBPLF's financial commitment to 50% or \$11.7 million. In Section 2.4, NBPLF agrees to place \$7.1 million into escrow within 10 business days of approval of this Third Amendment. The remainder of NBPLF's financial commitment is due within two years or upon completion of the LH building. In the event of delay in payment of the remainder, NBPLF provides additional assurances set forth in Section 3.6 that the remainder will be repaid to the City.
- **Controls on spending:** To limit cost overruns, several provisions of the MOU were revised including Section 1.1.2 (Definition of furniture, fixtures and equipment) (FF&E) which makes clear that FF&E is limited to those fixtures included in the construction drawings, Section 1.5 (Change Orders) which now requires any party requesting an optional change order to cover its cost, and Section 2.5 which previously authorized allowed the NBPLF to request future project enhancements now only allows future project enhancements once the full NBPLF commitment of \$11.7 million has been paid to the City.

- **City Facility/Priority of Use:** The priority of use of the LH has been modified significantly as reflected in Section 3.6. Whereas previously, the use of the LH building was governed by Board of Library Trustees Policy NBPL 15, Section 3.6 allocates 50 calendar days each year to NBPLF with the remainder of the programming scheduled by the City.
- **Fundraising and Future Operational Costs:** Additions to the MOU were made in order to facilitate the NBPLF's fundraising, including an amendment to Section 12.3 which provides additional naming opportunities for audience seats subject to compliance with Council Policy B-17, as well as Section 3.6 which authorizes user fees based upon a fee study approved by the City Council for use of the Lecture Hall.

Since the purpose and responsibilities of the LLHDC have been satisfied in that the architectural design is complete and the City Council will consider awarding a contract for construction of the Lecture Hall, staff recommends adopting Resolution No. 2024-3 dissolving the LLHDC.

**FISCAL IMPACT:**

This Third Amendment to the MOU between the City and the NBPLF if approved, provides for the lesser of either \$11,743,968 or 50% of the total project cost, in private funding contributions from the NBPLF for the design and construction of the LH Project. \$7.1 million must be placed into escrow within 10 business days of approval of this amendment. The remaining \$4.6 million, as it is collected as specified in the MOU, will be deposited into the City's General Fund as a reimbursement to City funds advanced to pay for the design and construction of the LH.

**ENVIRONMENTAL REVIEW:**

This action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

**ATTACHMENTS:**

- Attachment A – Location Map
- Attachment B – Third Amendment to the Memorandum of Understanding
- Attachment C – Resolution No. 2024-3