DATE & TIME: Tuesday, December 10, 2019, 7:00 p.m.
LOCATION: City Council Chambers, City Hall, 300 Forest Ave., Pacific Grove, CA 93950

MEETING AGENDA

1. Call to Order
2. Roll Call
3. Approval of the Agenda
4. Approval of the Minutes of the November 12, 2019 Meeting
5. Public Comment
   a. Written communications.
   b. Oral communications.

6. Board Announcements

7. Reports
   A. Chair’s Report
   B. Friends of the Library Board Liaison Report
   C. Library Foundation Report
   D. City Council Liaison Report
   E. Library Director Report
8. Ongoing Business

A. Library Renewal Project Report
   a. Financial Agreement Between the City of Pacific Grove, the Friends of the Pacific Grove Public Library and the Pacific Grove Library Foundation
      Reference: Scott Bauer
      Recommended Action: Receive Report
      Attachments: Financial Agreement

9. New Business

A. None

10. Adjournment

This meeting is open to the public and all interested persons are welcome to attend. The City of Pacific Grove does not discriminate against individuals with disabilities and meetings are held in accessible facilities.
Minutes

This Agreement (“Agreement”) is made as of this ____ day of December, 2019, by and among the City of Pacific Grove, a political subdivision of the State of California (the “City”), the Pacific Grove Public Library Foundation, a California public benefit corporation (the “Foundation”), and the Friends of the Pacific Grove Public Library, a California public benefit corporation (the “Friends”) (collectively, the “Parties”).

WHEREAS, the Pacific Grove Public Library (the “Library”) is a department of the City and has continuously provided library services since 1908 for the benefit of the community at 550 Central Avenue, Pacific Grove, California;

WHEREAS, the Foundation is an Internal Revenue Code Section 501(c)(3) tax-exempt organization formed to raise funds for the Library and oversee the investment of funds donated to it for the benefit of the Library;

WHEREAS, the Friends is an Internal Revenue Code Section 501(c)(3) tax-exempt organization formed to raise funds and support the Library;

WHEREAS, the Parties are parties to a certain Agreement executed as of May 21, 2012 (the “First Agreement”), pursuant to which a stewardship fund (the “Stewardship Fund”) was established with Community Foundation for Monterey County (“Community Foundation”) to hold and invest funds previously donated to the City and the Friends for a Community Room project;

WHEREAS, the First Agreement provides that the Stewardship Fund is to be used exclusively for “future Library building capital improvements” (defined to include “structural additions, remodels or new construction…that put the Library Building into an improved condition” and “not ordinary maintenance or repair activities”), and for a committee (referred to herein as the “Stewardship Committee”) to be established, consisting of two (2) representatives of Friends, two (2) representatives of the City, and one (1) Foundation representative, to review the capital improvement requests of the Library;

WHEREAS, pursuant to the First Agreement, the Stewardship Fund was opened in the name of the Foundation, with the Community Foundation, which administers the Stewardship Fund;

WHEREAS, the City and the Foundation are parties to an Agreement that was fully executed as of September 12, 2016 (the “Second Agreement”), pursuant to which all of the Stewardship Funds were disbursed to the Foundation for it to hold in such bank account(s) as the Foundation shall establish in its sole and absolute discretion for purposes of facilitating the disbursement of the Stewardship Funds to the City for the Library Renewal Project approved by the City Council on February 17, 2016 (the “Initial Renewal Project”); and also pursuant to which the City agreed to expend the funds held in the Library Donations Fund (31) and the
Library Building and Equipment Fund (07) (the “Initial City Funds”), as identified in Exhibit B, prior to submitting requests for reimbursement to the Foundation;

WHEREAS, pursuant to a Memorandum of Agreement dated October 24, 2016, the Foundation and the Friends established a Fund for the Future and a Joint Investment Committee to oversee the expenditure of the Fund for the Future, which fund is also held in a stewardship fund with, and invested by, the Community Foundation for the Monterey Peninsula (the “Fund for the Future”);

WHEREAS, the Initial Renewal Project has been superseded by an expanded Library Renewal Project as described in Exhibit A attached hereto (the “Renewal Project”) and expenditure of Stewardship Funds for that expanded project was approved by the Stewardship Committee;

WHEREAS, the Renewal Project was approved by City Council on February 21, 2018, along with a City funding commitment of $400,000 for the Renewal Project;

WHEREAS, the cost estimates for the Renewal Project exceeded the funds available in the Stewardship Fund and the City’s funds and funding commitment for the project;

WHEREAS, the Friends and the Foundation agreed to the creation of a fundraising campaign (the “Capital Campaign”) to raise additional funds to supplement the Stewardship Fund and City commitment and further agreed to contribute additional unrestricted funds to bring the total funds for the Renewal Project to $2,500,000; and

WHEREAS, the cost of the final Renewal Project, as approved by the City on August 21, 2019, including contingencies, exceeds the funds raised by the Capital Campaign, the funds previously approved for expenditure on the Renewal Project by the City, and the other funds previously committed to the Renewal Project by the Foundation and the Friends;

WHEREAS, the Joint Investment Committee approved the expenditure of $60,000 from the Fund for the Future, and the Foundation Board approved the expenditure of an additional $86,279 to make up half of the total deficit in the amount of $146,279 (the “Foundation Supplemental Funds”);

WHEREAS, City Council, at its August 21, 2019, meeting, agreed to make up the other half of the deficit in the amount of $146,279 and approved the expenditure of an additional $146,279 of City funds (“City Supplemental Funds”); and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Agreement, the Parties agree as follows:

1. **Funds; Use of Funds.**

   1.1. **Available Funds.** The funds available for the Project, as further described and defined in Exhibit B, comprise the following funds:
1.1.1. The “City Funds,” which for purposes of this Agreement, shall mean the Initial City Funds as defined in the Recital above and the City’s Fiscal-Year funding commitments with the exception of the City Supplemental Funds.

1.1.2. The “City Reserved Funds” shall mean the $212,800 in City funds set aside for the costs associated with the lease of the temporary facilities, tenant improvements, and moving costs. The City’s total estimated cost of the one (1)-year lease, moving costs and tenant improvements is $272,800.

1.1.3. The “Stewardship Funds” which shall mean the existing funds in the Stewardship Fund which the Foundation holds for expenditure subject to the restrictions set forth in the First Agreement.

1.1.4. The “Foundation and Friends Funds” which shall mean $200,000 approved by the Foundation for expenditure from its PGPL Foundation Fund held at Community Foundation, and $200,000 approved by the Friends for expenditure from its general, unrestricted funds.

1.1.5. The “Grant Funds” shall mean funds granted by third party funders to the City and the Friends for use on the Renewal Project; and

1.1.6. The “Community Donations” shall mean funds raised by the City designated as “Community Donations” on Exhibit B, and the Community Donations raised by the Friends, the Foundation and community members.

1.1.7. The “Supplemental Funds” shall mean the Foundation Supplemental Funds in the amount of $60,000 from the Fund for the Future and the $86,279 from the Foundation, and the “City Supplemental Funds” in the amount of $146,279, as referenced in the Recitals above.

1.1.8. The funds listed on Exhibit B are the totality of funds available at the time of this Agreement’s signing for the Library Renewal Project described in Exhibit A. If any additional costs are incurred and/or funding is not sufficient to complete the entire Library Renewal Project, the Parties may enter into an amendment to this Agreement with respect to the agreed funding of such additional costs.

1.2. Funds to be Held by the Foundation. The Parties agree that the Stewardship Funds, the Foundation and Friends Funds, and the Community Donations received by the Friends and Foundation shall be held in the bank account(s) established by the Foundation to be used exclusively for the Renewal Project, on the terms and conditions set forth herein. The Grant Funds shall be held by the City and the Friends as the recipient of such funds.

1.3. Use of Funds.
1.3.1. The Parties agree that the Stewardship Funds shall not be used for any purpose other than “Library building capital improvements” within the meaning of the First Agreement, and that the Stewardship Committee shall determine whether expenditures on the Renewal Project qualify as Library building capital improvements.

1.3.2. The Parties agree that only City Funds will be used for the cost of temporary relocation and continued library services (a) unless the Foundation and/or Friends approve expenditure of any portion of the Foundation and Friends Funds for this purpose, and (b) except for Grant Funds and Community Donations that are restricted to such purposes or as that may otherwise be used for such purposes as reflected in Exhibit B (e.g. $5,000 grant from Pebble Beach Company Foundation; $1,000 gift from Rotary to the City for youth/children services; and $27,500 of grant funds from Hayward Family Foundation).

1.3.3. If the City determines the Project will not proceed, or if there are unexpended funds after completion of the Project, any funds not returned to donors will revert to the Foundation and be held by the Foundation in the Stewardship Fund at the Community Foundation, excepting Grant Funds required to be returned to grant funders if not used for the purposes for which granted. In that event, the Stewardship Fund will no longer be governed by the Stewardship Committee (which will cease to exist at the end of the Renewal Project), and disbursements from the Stewardship Fund shall henceforth be approved by the Joint Investment Committee established by the October 2016 Memorandum of Agreement between the Friends and the Foundation to administer the “Fund for the Future.” These remaining Stewardship Funds will be used exclusively for Library building capital improvements. No part of these Stewardship Funds shall be used for Library operating expenses, ordinary maintenance/repair, or other City expenses.

2. HOLDING AND DISBURSEMENT OF THE FUNDS.

2.1. Parties Holding Funds. The Parties agree that the City shall hold and disburse the City Funds as well as Community Donations and Grant Funds received by the City as reflected on Exhibit B; that the Friends shall hold the Grant Funds received by it as reflected on Exhibit B for disbursal to the City by the Friends to reimburse the City for funds expended by the City on the Renewal Project; and that the Foundation shall hold the Stewardship Funds, Foundation and Friends Funds, and all Community Donations made to the Friends and/or the Foundation for disbursal to the City by the Foundation to reimburse the City for funds expended on the Renewal Project. Disbursements shall be made as expenditures qualify, depending on restrictions on and stated purposes for the funds, as determined by the Party disbursing the funds and in accordance with the terms and conditions of this Agreement, as follows:
2.2. **Order of Disbursement.** Funds for the Renewal Project shall be disbursed in the following order:

2.2.1 **Initial City Funds and FY 2018-2019 and FY 2019-2020 Funds.** Except as provided in Section 2.2.2 below, the City shall expend the following funds first prior to submitting requests for reimbursement to the Foundation or Friends: (a) the entirety of any remaining Initial City Funds held in the Library Donations Fund (31) and in Library Building and Equipment Fund (07); and (b) the City’s FY 2018-2019 and FY 2019-2020 general fund commitments for this Renewal Project less the City Reserved Funds and the City Supplemental Funds.

2.2.2 **City Reserved Funds and Certain Grant Funds held by the Friends.** The following Grant Funds held by the Friends shall next be disbursed as follows: (a) $27,500 of the Hayward Family Foundation grant upon receipt by the Friends of invoices from the City reflecting that the City has expended funds to (i) relocate books and programming to the temporary location; (ii) pay rent or other charges due under the lease for the temporary facilities, or (iii) incurred costs related to the storage of furniture, fixtures, equipment, books and other Library personal property, materials and supplies as permitted by such grant; (b) $27,500 of the Foundation and Friends Funds, as defined in Section 1.1.4, and (c) the Pebble Beach Company Foundation grant ($5,000) for sustaining youth services during the Renewal Project upon receipt by the Friends of evidence that such youth services are operating. The City shall disburse the City Reserved Funds set aside for the lease of temporary facilities and moving costs concurrently as needed to pay the rent and all other charges due under the lease for the temporary facilities and moving costs.

2.2.3 **Grant Funds held by the City.** When the totality of the funds described in 2.2.1 has been expended, the City will expend any restricted Grant Funds in accordance with the granting requirements (e.g. $500 Gordon Foundation and $100,000 Monterey Peninsula Foundation grants) as reflected on Exhibit B. If the Grant-funded activities have commenced, the above funds held by the City shall be expended prior to the City submitting additional requests for reimbursement to the Friends or the Foundation. If the City has expended all funds in Section 2.2.1 and the Grant-Funded activities have not occurred, the Friends or the Foundation shall reimburse the City for capital improvements in accordance with the following sequence set forth in 2.2.4 through 2.2.7. The City shall expend the Grant Funds as soon as the Grant Funded activity occurs.

2.2.4 **Additional Grant Funds held by the Friends.** When the totality of the funds described in Sections 2.2.1 and the Grant Funds described in Section 2.2.2 have been expended, the remaining Hayward Family Foundation Funds in the amount of $27,500 and the Packard Foundation grant funds held by the Friends in the amount of $200,000 shall be expended. When the totality of the funds described in 2.2.1 and 2.2.3, and the Grant Funds described in this Section 2.2.4 have been expended, the City may commence submitting requests for
reimbursement to the Foundation as provided below.

2.2.5 **Stewardship Funds.** The Foundation shall disburse the Stewardship Funds next for qualified expenses (i.e. for “Library building capital improvements”) as determined by the Stewardship Committee within the meaning of the First Agreement as set forth in the Recitals hereto.

2.2.6 **Community Donations and Friends and Foundation Funds.** When the totality of the funds described in Section 2.2.5 has been expended, the City will expend funds from its Community Donations. When the totality of those funds has been expended, the Foundation shall disburse funds first from Community Donations held by the Foundation and then from the Friends and Foundation Funds; provided that the Foundation may approve prior disbursement of the Foundation and Friends Funds to pay for temporary relocation costs and services as needed.

2.2.7 **Supplemental Funds.** When the totality of the funds described in Sections 2.2.1 and 2.2.3 through 2.2.6 has been expended, the City shall expend City Supplemental Funds, with 50% of the invoiced costs reimbursed from the Foundation Supplemental Funds as described in the Recitals hereto. Notwithstanding the above, to the extent funds are reserved by the City for deposits required by Contractors in advance of work being completed, there shall be no requirement that the funds held by the City for such deposits be expended by the City prior to submitting requests for reimbursements to the Foundation or the Friends.

3. **THE CITY’S OBLIGATIONS.**

3.1. The City shall use its best efforts to ensure that the contractors or other third parties performing services for or relating to the Renewal Project (the “Contractor(s)”) shall submit invoices to City on a regular and timely basis, and, whenever possible, on not less than on a monthly basis.

3.2. The City shall be solely responsible for ensuring that all Contractor invoices are correct and accurately reflect the work completed for (or to be completed) or related to, the Renewal Project.

3.3. The City shall be solely responsible for ensuring that the invoices paid by the City are as to work completed to the City’s satisfaction;

3.4. The City shall pay invoices approved by it, and shall notify the Friends or Foundation of the invoices paid by it for which it desires reimbursement from the Friends or Foundation on a monthly basis (each a “Monthly Reimbursement Request”), with such Monthly Reimbursement Request to include the name(s) of the Contractors paid and a brief description of the work performed by each Contractor. Upon the request of the Foundation or the Friends, the City shall provide copies of the contractor invoices or other supporting documentation with
respect to its Monthly Reimbursement Requests.

4. **OBLIGATIONS OF THE FOUNDATION AND THE FRIENDS.**

4.1. The Foundation and the Friends shall reimburse the City on a monthly basis with respect to all Monthly Reimbursement Requests submitted as to work completed (and qualifying for reimbursement where the funds to be next disbursed are restricted as to use) and paid for by the City during the prior month. The Foundation or the Friends, as applicable, shall issue a check (or arrange for electronic transfer of funds) within ten (10) business days of the Monthly Reimbursement Request.

4.2. Nothing in this Agreement shall give the Friends or Foundation the right to deny or dispute payment of invoices, certify the completion of work on the Project, or otherwise interfere with any City decision pertaining to the Renewal Project. The City shall remain solely responsible for overseeing the Renewal Project and determining whether the work performed has been performed to the City’s satisfaction and whether Contractor invoices are to be paid.

5. **INDEMNIFICATION.**

5.1. **City Indemnification Obligation.** Except as provided in Section 5.2 below, the City shall indemnify, defend and hold harmless the Friends and the Foundation and such Parties’ officers, directors, agents, employees and volunteers against any loss, cost, damage, expense, claim, suit, demand, or liability of any kind or character, including but not limited to reasonable attorney fees and costs (collectively “Claims or Losses”), arising from or relating to any negligent or wrongful act or omission of the Indemnifying Party, its officers, agents or employees (including, without limitation, its contractors and subcontractors), which occurs in the performance of, or otherwise in connection with, this Agreement and the Renewal Project, including without limitation, all Claims or Losses arising out of or related the City’s failure to pay any contractor or subcontractor for services performed or materials provided in connection with the Renewal Project and all Claims or Losses arising out of any alleged defect in the work performed by the City and its contractors and subcontractors.

5.2. **Friends and Foundation Indemnification Obligation.** The Friends and the Foundation shall indemnify, defend and hold harmless the City and its officers, agents and employees from and against all Claims or Losses arising out of any alleged negligent act or omission of the Friends or Foundation in administering or disbursing any funds that were donated or granted to such Parties, including, without limitation, any Claims or Losses asserted by any donor or grantor and any Claims or Losses arising out any alleged breach of fiduciary duty by the officers or directors of the Friends or the Foundation in approving the expenditure of funds of the Friends or the Foundation.

6. **REPORTING.** The City shall provide monthly updates to the Foundation and the
Friends on City Funds remaining for disbursement. The Foundation shall provide monthly reports to City with respect to Stewardship Funds remaining for disbursement at such time as such funds are to be disbursed and shall promptly notify the City if the Stewardship Committee determines any expenditures submitted for reimbursement are determined not to qualify for reimbursement from Stewardship Funds (i.e. such expenses are determined by the Stewardship Fund not to qualify as “Library building capital improvements). The Friends shall provide monthly updates to the City and the Foundation as to the remaining Grant Funds available for disbursement at such time as such funds are to be disbursed and shall promptly notify the City if the Friends determines that any expenditures submitted do not qualify for disbursement from the Grant Funds based upon the stated purposes of such funds. Thereafter, the Foundation shall provide monthly updates to the City and the Friends as to the remaining Community Donations and Foundation and Friend Funds available for disbursement.

7. NOTICES. Notices required under this Agreement shall be delivered to the City, the Foundation, and the Friends at the addresses listed below:

For the CITY: For the FOUNDATION:

City of Pacific Grove Pacific Grove Public Library
300 Forest Ave P.O. Box 2025
Pacific Grove, CA 93950 Pacific Grove, CA 93950
Attn: City Manager Attn: President

For the FRIENDS:

Friends of the Pacific Grove Public Library
P.O. Box EH
Pacific Grove, CA 93950
Attn: President

8. DISPUTE RESOLUTION. In the event of a dispute arising out of the performance of this Agreement, the Parties shall make good faith efforts to resolve the dispute. Any of the three Parties may, as soon as a conflict is identified, submit a written statement of the conflict to the other Parties. Within five (5) business days of receipt of such a statement of conflict, the second and third Parties shall respond, and a meeting will be arranged within ten (10) business days thereafter to arrive at a negotiated settlement or procedure for settlement. If, within thirty (30) business days from the initial filing of a statement of conflict, a settlement cannot be reached, the Parties agree to submit the matter to the Stewardship Committee established in accordance with the First Agreement for resolution. No party shall file any action with respect to any dispute until the Stewardship Committee has had twenty (20) business days to resolve such dispute.

9. MISCELLANEOUS PROVISIONS.
9.1. **Amendment.** This Agreement may be amended or modified only by an instrument in writing signed by the Parties. The Parties agree that the Prior Agreements is amended in part by this Agreement.

9.2. **Waiver.** Any waiver of any terms and conditions of this Agreement must be in writing and signed by all of the Parties. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

9.3. **Headings.** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.

9.4. **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of California. Venue shall be in Monterey County.

9.5. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

9.6. **Authority.** Any individual executing this Agreement on behalf of the City, the Friends, or the Foundation represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

9.7. **Integration.** The First Agreement, Second Agreement, and this Agreement represent the entire Agreement between the Parties with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between or among the Parties as of the Effective Date of this Agreement, which is the date that the City signs the Agreement.

9.8. **Severability.** If any of the provisions contained in the Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. If a part of this Agreement is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

9.9. **Successors and Assigns.** This Agreement shall be binding on, and inure to the benefit of, the Parties’ successors and assigns.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written below.

Dated: __________________________
EXHIBIT A

DESCRIPTION LIBRARY RENEWAL PROJECT

The Library Renewal Project will include the following:

All construction, design (including, without limitation, architectural), engineering and systems costs and expenses related to the following improvements and alterations to the Library building, and the installation of the furnishings, fixtures and equipment described below, and detailed in the project manual and plans developed by Karin Payson architecture + design dated May 31, 2019:

All Areas: Complete Safety and ADA compliance updates

Carnegie Area:
- Reveal and refinish 1908 Rotunda, including removal “drop” ceiling
- Refinish arches, windows and coved ceiling
- Repair and re-finish built-in shelving
- Install replica chandeliers and wall sconces
- Uncover and refinish original wood floor
- Install new carpeting
- Purchase and install new furnishings and refurbish historic furnishings
- Create dedicated space for local history and community memories, including installation of new locked cabinets

Patron Utility and Computer Area:
- Repair and update ceilings and floors
- Update counters and storage
- Renovate restrooms

Collections Area:
- Reorient service desk to face patrons when entering
- Re-Paint shelving in children’s area
- Install new lighting
- Installation of clerestory windows

Library Technology:
- Audio/Visual System for Library Programs**
- Additional Self-Checkout Machine**
- Laptop Vending Kiosk*

*Laptop Vending Kiosk to be implemented if City funds for the Library Renewal Project allow.
** To be purchased through City’s technology budget rather the City funds reflected on Schedule B.

**EXHIBIT B**

**FUNDS AVAILABLE/PLEDGED FOR LIBRARY RENEWAL PROJECT**

A) CITY FUNDS
   1) INITIAL CITY FUNDS (Donated): $266,810
      (FUND 31)
      (FUND 07)

      2) CITY GENERAL FUNDS FY 2018-2019: $200,000
      3) CITY GENERAL FUNDS FY 2019-2020: $281,000

      * CITY RESERVE FUNDS for the lease of temporary facilities, tenant
      improvements, and moving costs in the amount of $212,800 are a subset of the above
      City General Funds

   4) CITY SUPPLEMENTAL FUNDS $146,279
   5) COMMUNITY DONATIONS TO CITY $ 6,890
      ($1,000 gift from Rotary restricted to youth/children services)

B) STEWARDSHIP FUNDS
   $586,000
   (Restricted for use on Library building capital improvements)

C) FOUNDATION AND FRIENDS FUNDS
   Friends Donation to Project $200,000
   Foundation Donation to Project $200,000

D) SUPPLEMENTAL FUNDS
   Fund For The Future $ 60,000
   Foundation Donation to Project $ 86,279

E) GRANT FUNDS
   1) HELD BY CITY
      a) Betsy Gordon Foundation $ 500
      b) Monterey Peninsula Foundation $100,000
         (restricted for use for restroom renovation)
   2) HELD BY FRIENDS
      a) Packard Foundation $200,000
b) Hayward Family Foundation* $ 55,000
For Library Renewal Project and cost of relocating books, programing and services to a temporary location; costs associated with leasing temporary space; and costs associated with storage of furniture, fixtures, equipment, books and other Library personal property, materials and supplies.

  c) Pebble Beach Company Foundation $ 5,000
   (For sustaining youth library services during renewal project)

F) COMMUNITY DONATIONS TO FRIENDS AND FOUNDATION
   Donations/pledges received from other donors $679,405
   (Restricted: $25,000 gift from Rotary for construction of Circulation/Reference desk)

TOTAL PROJECT FUNDS $3,099,013