



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** June 6, 2019

Staff Contact: Carol Akers and Diane Baker

Agenda Title: For Possible Action: Discussion and possible action regarding Contract No. 1920-008, a Cooperative Agreement with Nevada Library Cooperative, for a total not to exceed amount of \$236,000, through June 30, 2023, and authorization of the Library Director to execute the contract. (Carol Akers, Cakers@carson.org and Diane Baker, DBaker@carson.org)

Staff Summary: This is a multi-year cooperative agreement with Nevada Library Cooperative. The total not to exceed contract amount of \$236,000 will be paid annually over the next 4 years: \$55,250 in year 1 (July 1, 2019-June 30, 2020); \$57,750 in year 2 (July 1, 2020-June 30, 2021); \$60,250 in year 3 (July 1, 2021-June 30, 2022) and \$62,750 in year 4 (July 1, 2022-June 30, 2023). The amount budgeted for FY 2020 is \$ 55,250.

Agenda Action: Formal Action / Motion **Time Requested:** 5 minutes

Proposed Motion

I move to approve and authorize the Library Director to execute Contract No. 1920-008.

Board's Strategic Goal

Efficient Government

Previous Action

On February 7, 2019, the Board of Supervisor's approved the FY19 payment of \$58,184.16: \$52,033.70 for Integrated Library catalog/access services plus \$6,150.46 for electronic content available through a cooperative agreement. The increase for the electronic content from the previous year was due to the Library purchasing additional electronic content this year. Downloadable content demand has increased from library users and the NV Library cooperative improved the negotiated options to purchase from OverDrive, the vendor that provides the content.

Background/Issues & Analysis

As a group, the cooperative takes advantage of sharing resources and revenues, making it economically feasible to do more together than any one library could ever afford to do on its own. For example, provide: reference and research services; special events; children's and family programs; books on tape, in print, CD and on-line; music; newspaper; magazines; videos; microfilm; and maps; also access to electronic databases; library catalogs; reference assistance; and government information. Finally, it allows Carson City Library to keep secure patron records and interactive on-line public library catalog access to all patrons.

The Carson City Library has been a member of the Nevada Library Cooperative (formerly Cooperative Libraries Automated Network) under a multi-year cooperative agreement under NRS 379.147 through 379.149 and NRS 277.110. The expiring agreement was a five-year agreement effective from July 1, 2014 to June 30, 2019.

Previous annual costs for the cooperative library services have been: FY 2017 = \$58,485.72; FY 2018 = \$51,900.76; FY 2019 = \$52,033.70.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 277.110; NRS 379.147 through 379.149.

Financial Information

Is there a fiscal impact? Yes

If yes, account name/number: Library Professional Services-Contracts Account / 101.6200-455.03-49

Is it currently budgeted? Yes

Explanation of Fiscal Impact: If approved, the \$55,250 for FY20 will come out of the Library Professional Services-Contracts Account / 101.6200-455.03-49 as provided in the fiscal year 2019/2020 budget. The following three years will be appropriated in the budget annually.

Alternatives

Do not approve contract or provide alternative direction to staff.

Attachments:

[NV Coop - Cooperative Agreement - Carson City Library.pdf](#)

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)

COOPERTIVE AGREEMENT BETWEEN PUBLIC AGENCIES

An Agreement Between the State of Nevada
Acting by and through Its

Department of Administration
Nevada State Library Archives and Public Records
Nevada Library Cooperative
100 N. Stewart Street
Carson City, Nevada 89701
Phone: 775-431-0097

and

Carson City Library
900 N. Roop Street
Carson City, Nevada 89701
Phone: 775-887-2244

WHEREAS, NRS 277.110 authorizes any one or more public agencies to enter into agreements for joint or cooperative action; and

WHEREAS, it is deemed that the cooperative action of Nevada State Library, Archive and Public Records and Nevada Cooperative Library hereinafter set forth between the parties is the best interest of the State of Nevada;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS.** "State" means the State of Nevada and any state agency identified herein, its officers, employees and immune contractors as defined in NRS 41.0307.
3. **AGREEMENT TERM.** This Agreement shall be effective July 1, 2019 upon approval to June 30, 2023, unless sooner terminated by either party as set forth in this Agreement.
4. **TERMINATION.** This Agreement may be terminated by either party prior to the date set forth in paragraph (3), provided that a termination shall not be effective until 90 days after a party has served written notice upon the other party. This Agreement may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Agreement shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.
5. **NOTICE.** All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
6. **INCORPORATED DOCUMENTS.** The parties agree that the scope of the cooperative action shall be specifically described in accordance with State Administrative Manual 0308.0; this Agreement incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT A: SCOPE OF COOPERATIVE ACTION

The parties agree that Carson City Library will pay Nevada Library Cooperative to provide the services specified in the attachments at a total cost of not more than an estimated per fiscal year of \$55,250 in FY20; \$57,750 in FY21; \$60,250 in FY22 and \$62,750 in FY23. Payments to be made an annual basis upon receipt of Nevada Library Cooperative invoice at rates established by Nevada Library Cooperative for each fiscal year. Total contract is not to exceed an estimated \$236,000 over the four (4) year period.

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Agreement are also specifically a part of this Agreement and are limited only by their respective order of precedence and any limitations expressly provided.

8. INSPECTION & AUDIT.

a. Books and Records. Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. Period of Retention. All books, records, reports, and statements relevant to this Agreement must be retained a minimum three years and for five years if any federal funds are used in this Agreement. The retention period runs from the date of termination of this Agreement. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

9. BREACH; REMEDIES. Failure of either party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall not exceed \$150 per hour.

10. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Agreement, but not yet paid, for the fiscal year budget in existence at the time of the breach.

11. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, acts of public enemy, acts of terrorism, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

12. INDEMNIFICATION. Neither party waives any right or defense to indemnification that may exist in law or equity.

13. INDEPENDENT PUBLIC AGENCIES. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement, and in respect to performance of services pursuant to this Agreement, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Agreement, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

14. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

15. SEVERABILITY. If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

16. ASSIGNMENT. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

17. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Agreement), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Agreement shall be the joint property of both parties.

18. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

19. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Agreement.

20. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Agreement on behalf of each party has full power and authority to enter into this Agreement and that the parties are authorized by law to perform the services set forth in paragraph (6).

21. GOVERNING LAW; JURISDICTION. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the exclusive jurisdiction of and venue in the First Judicial District Court, Carson City, Nevada for enforcement of this Agreement.

This section left blank intentionally

22. ENTIRE AGREEMENT AND MODIFICATION. This Agreement and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an

**SCOPE OF COOPERATIVE ACTION
A NETWORK OF COMPUTER AND TELECOMMUNICATION SERVICES
KNOWN AS THE NEVADA LIBRARY COOPERATIVE**

1. WHEREAS, NRS 379.147-.149 and NRS 379.150 permit the parties agreed hereto to maintain a regional network of libraries through written joint agreement for the improvement of library services; and
2. WHEREAS, those libraries as defined in NRS 379.147 have joined to develop a cooperative network; and
3. WHEREAS, these parties have purchased a shared computer system and telecommunications network to be used by this regional network from federal, state, and local funds; and
4. WHEREAS, these parties have developed a joint database of bibliographic and circulation information and a telecommunications network; and
5. WHEREAS these parties desire to formalize the terms by which each may participate in said network;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter expressed, the parties agree that a cooperative network known as Nevada Library Cooperative is established. These parties agree that the network will be referred to as "The CoOp" and that the network will provide computer service and support the extension of library services beyond the jurisdiction of any single member library. The parties agree that network policies and procedures will be established by a board composed of one representative of each of the members as defined in Section I below. These policies and procedures shall be adopted at regular meetings held no less often than quarterly. Participating libraries will abide by all such policies and procedures unless prohibited by their local governing bodies.

The parties understand and agree that funds for this network will arise from fees collected from members, the State, and other grants and gifts. The amount provided for these services and expenditure of funds shall be in accordance with the budget agreed upon by the CoOp board. The parties agree that the undersigned shall designate the member director/administrator or a designee meeting the established requirements as a voting member of the CoOp board. The board shall adopt bylaws, create a five-year plan, establish a planning committee and other such committees as necessary, and approve a budget that provides for staffing and the purchase of equipment, services, personal property, and supplies used in the CoOp network.

- I. The parties agree they shall:
 - a. Be defined as:
 - i. A library per NRS 379.147 or
 - ii. An entity as defined in NRS 277.080 – .180
 - b. Have at least one designated technical Integrated Library System (ILS)/ public access support staff member who participates in CoOp technology meetings
 - c. Have at least one designated Cataloging Committee member who participates in cataloging meetings
 - d. Participate in CoOp board meetings
 - e. Participate in the annual CoOp planning meeting
 - f. Add bibliographic records to the database for the use of all members
 - g. Pay the CoOp system account a sum to be determined each year by the board for use of the computer, maintenance of central computer hardware, supplies, postage, telephone, insurance, fire protection, and salaries. Payments will be renegotiated on an annual basis in accordance with the procedures established by the board.
 - h. Maintain an inventory of any CoOp-owned equipment on the premises
 - i. Hold one vote on all decisions made by the network regarding funding and operations if they have met the requirements as outlined in the CoOp By-laws.
- II. Fiscal and Personnel Agent. The parties agree to contract for fiscal and personnel services from a fiscal agent with the experience and capacity to manage CoOp funds and personnel. Said contract shall detail fiscal management and personnel management as mutually agreed upon by the voting members and the contractual fiscal agent.
- III. Physical Space. The parties agree to contract for computer room and office space from a provider with the capability to provide climate-controlled computer space as well as office space to house personnel and equipment for effective operation of the CoOp network and suite of applications.
- IV. Payment for Services. The CoOp may pay the aforementioned contractors for fiscal and personnel services and operations space. Costs must be submitted for approval during the CoOp budget approval process.
- V. Rights: The CoOp retains sole authority for the following:
 - Approval of the annual CoOp budget; approval of CoOp grants; creation, cancellation or modification to CoOp projects; authorization of expenditures; cancellation or modification of contracts
 - Acceptance of donations, contributions, sponsorships and grants; establishment of fees charged to members and collection of income; and the adoption, deletion or modification of policies and procedures governing the operations of the CoOp.

- Ownership of all assets
- VI. Requests for grants of money related to regional services as allowed in NRS 379.1485 shall be processed through the appropriate CoOp committee.
 - VII. Any party may cancel and terminate this agreement upon ninety days' written notice to the board. If party's participation in the agreement is terminated, any property held by the party that was purchased with CoOp funds shall be returned to the CoOp.
 - VIII. If the system is disbanded or sold, capital monies invested for up to the past five years may be returned to the participating library proportional to their investment and limited to actual payment of capital monies. The CoOp board will determine the disposition of all CoOp properties, including but not limited to hardware, software, and operational funding.
 - IX. The parties agree that, as members of the board, their respective library directors or their designees may administer the terms and provisions of this agreement which must be approved by their respective governing boards.
 - X. Nothing contained in this agreement shall be construed to permit any one participating entity to determine administrative policies for the circulation and other functions of any other participating entity.
 - XI. Other libraries or institutions may be added to the CoOp as outlined in the CoOp bylaws.