



## STAFF REPORT

**Report To:** Board of Supervisors                      **Meeting Date:** July 3, 2019

**Staff Contact:** Diane Baker and Todd Reese

**Agenda Title:** For Possible Action: Discussion and possible action regarding a Joint Operating Agreement between the Carson City Library, Carson City, Northern Nevada Development Authority (NNDA), and Adams Hub, LLC through which the Library will pay NNDA \$60,000 annually from the funds provided to Library from the Hop and Mae Adams Foundation ("HMAF") for the creation and operation of a Business Retention and Expansion program. (Diane Baker, dbaker@carson.org and Todd Reese, treese@carson.org)

Staff Summary: Through the Joint Operating Agreement, NNDA will develop, operate, and staff a Business Retention and Expansion Program ("Program") in cooperation with the Adams Hub for Innovation. The Library will pay NNDA \$60,000 annually from the funds provided to Library from HMAF to enable NNDA to fund a FTE to manage the Program. Separately, NNDA will lease space at the Adams Hub from Adams Hub, LLC and NNDA's lease payments, starting at \$2,000 per month, will support the Library's programming at the Adams Hub to provide support, assistance, and resources to local businesses. The initial term of the Joint Operating Agreement is through June 30, 2024, with automatic one year extensions through June 30, 2039.

**Agenda Action:** Formal Action / Motion                      **Time Requested:** 10 minutes

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### **Proposed Motion**

I move to approve the agreement as presented.

### **Board's Strategic Goal**

Economic Development

### **Previous Action**

None

### **Background/Issues & Analysis**

Under the existing donation agreement between HMAF and the Carson City Library, HMAF agreed to donate funds to the Library, and the Library agreed to fund two positions at the Adams Hub, an Adams Hub manager and a position focused on business expansion and development. NNDA provides complementary services, that if done separately, will likely overlap with the Adams Hub positions. Therefore, the NNDA, Adams Hub, LLC, the Carson City Library, and Carson City have agreed to join forces to fund a Business Retention and Expansion Program.

Under the agreements between the parties, NNDA will develop and operate the Program in cooperation with the Adams Hub for Innovation and the Library. Through the Program, NNDA will develop a tool box of resources for new businesses, identify businesses in the Sierra Region (Carson City, Douglas County, Lyon County, Mineral County, and Storey County) that may be able to make use of the resources, contact the businesses, and assist

them with taking advantage of the various resources. Fifty percent of the visits to businesses are required to be within Carson City. NNDA will have oversight of the program and report metrics back to the Library and Adams Hub, LLC.

NNDA will supply one FTE to manage the Program, and the Library will pay NNDA \$60,000.00 annually, \$5,000 in advance of each month or \$15,000.00 in advance of each quarter, from the funds provided to Library from the HMAF to enable NNDA to fund the Program manager position. This will satisfy the Library’s obligation to HMAF to supply a position focused on business expansion and development. In conjunction with the Joint Operating Agreement, NNDA will be leasing space from Adams Hub, LLC at the Adams Hub, and NNDA’s lease payments, starting at \$2,000 per month for the first year and increasing thereafter, will be directed to the Library’s Adams Hub fund to support programming at the Adams Hub providing support, assistance, and resources to local businesses.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS Chapters 244 and 379.

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** Business Incubator Fund / Professional Services Expense:

232-6200-455.03-09 (\$60,000);

Business Incubator Fund / Lease Revenue: 232-0000-363.01-00 (\$24,000) from separate agreement between NNDA and Adams Hub, LLC for the lease of space at the Adams Hub.

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Through the donation agreement with HMAF, the Library is obligated to use a portion of those funds to fund a business expansion FTE at the Adams Hub. This agreement satisfies that obligation, directing \$60,000 of funds from HMAF per year toward the FTE. NNDA’s lease payments will supply income to the Adams Hub account, beginning at \$24,000 per year (\$2,000 per month) in year one, and scheduled to increase by 3% per year thereafter.

**Alternatives**

**Attachments:**

[19.06.10 Joint Operating Agreement.pdf](#)

**Board Action Taken:**

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

\_\_\_\_\_  
(Vote Recorded By)

## JOINT OPERATING AGREEMENT

This Agreement, dated this \_\_\_ day of \_\_\_\_\_, 2019, is entered into by and between Adams Hub, LLC, an Idaho LLC (“Adams Hub, LLC”); Northern Nevada Development Authority; a Nevada Non-Profit Cooperative Corporation (“NNDa”); Carson City, Nevada, a Consolidated Municipality (“City”); and the Carson City Library (“Library”). Adams Hub LLC, NNDa, City, and Library may be individually referred to as “Party” and collectively referred to as “Parties.”

### RECITALS:

WHEREAS, City has authority under NRS Chapter 379 to establish, construct, and maintain a county library and has established the Library and appointed the Carson City Library Board of Trustees (“Trustees”); and

WHEREAS, under NRS Chapter 244 City may enter into contracts and under NRCP Chapter 379 the Trustees may receive and administer gifts, grants, and trusts created for the Library; and

WHEREAS, the Adams Hub for Innovation, which was founded and funded by the Hop and Mae Adams Foundation, and through a grant by the Foundation is operated by the Library, is a business incubator and business development organization that provides business development resources that include advisors, strategists, coaches, and business referrals along with educational events including various speaker series, workshops, and related gatherings; and

WHEREAS, the establishment and operation of a business retention and expansion program is part of the Library’s obligation to the Foundation in operating the Adams Hub for Innovation; and

WHEREAS, NNDa is the State designated Regional Development Authority for the Sierra Region of Nevada which includes Carson City, Douglas, Lyon, Mineral and Storey Counties, and has been conducting business retention and expansion programs in the Sierra Region for the last 39 years; and

WHEREAS Adams Hub LLC and the Library desire to enter into an agreement with NNDa to operate a business retention and expansion program, and this agreement sets forth the understanding of the parties related to the operation of a business retention and expansion program by NNDa for Adams Hub LLC and Library;

NOW, THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement and other good and valuable consideration, the Parties do agree as follows:

**1. Scope of Agreement.**

**1.1. Creation of Business Retention and Expansion Program.**

1.1.1. Library agrees to pay NNDA \$60,000.00 annually, \$5,000 in advance of each month or \$15,000.00 in advance of each quarter, from the funds provided to Library from the Hop and Mae Adams Foundation (“HMAF”), to create and maintain a dedicated Business Retention and Expansion Program (“Program”). Library will allocate said HMAF funds to NNDA before expending the funds for other purposes in support of the Adams Hub for Innovation. In the event that the HMAF funds are insufficient to fund this payment, neither City nor Library shall be required to supplement the HMAF funds, nor shall City or Library be liable for any portion of the \$60,000 payment.

1.1.2. Under a separate agreement between the Adams Hub, LLC and NNDA, NNDA will lease space at the Adams Hub for Innovation and will pay an amount of rent specified by that lease agreement. Until such time as NNDA is notified otherwise by Adams Hub, LLC, the Parties agree that said rent payments shall be made out to “Adams Hub” and delivered to the Library Director. The rent payments will be used solely to operate and support the Adams Hub for Innovation.

1.1.3. NNDA will provide a dedicated employee (the Program Manager) to run the Program.

1.1.4. NNDA will further provide a full-time effort to the Program, which in NNDA’s discretion, may include assigning additional staff to the Program as needed. At NNDA’s discretion, it may also hire a new employee that will be cross trained to allow continuity of the Program.

1.1.5. All parties will use reasonable efforts to create a cooperative spirit in their joint effort.

1.1.6. Sections 1.2 and 1.3 set forth the Parties’ general agreements concerning the Program goals and operation. As an independent contractor, however, NNDA may accomplish the Program goals using its own methods and means. NNDA will not be subject to the supervision or control of the City, Library, or Adams Hub, LLC, except that NNDA must provide a report of the metrics and results, as required by section 1.4.

**1.2. Program Development and Information.**

1.2.1 Through the Program, NNDA will establish a toolbox of programs and resources for companies and businesses and their affected employees. Resources in the toolbox should include the services of the Adams Hub for Innovation, the Library, NNDA, Western Nevada College, and any other community resources that are available.

1.2.2. The Adams Hub for Innovation and the Library will be responsible for the information and language for their portions of the toolbox, and will provide the information and language to NNDA on or before June 30, 2019. The Adams Hub for Innovation and the Library will update their information and language in a prompt manner as services are modified or added.

1.2.3. NNDA will make information about the tools in the toolbox available on its website. NNDA will develop a toolbox page which will be uploaded to the Adams

Hub for Innovation and Library websites. All web pages will include, as applicable, cross-links to the NNDA, Adams Hub for Innovation, and Library websites.

1.2.4. NNDA or the Program Manager will also create an informational marketing brochure or packet that can be left at a company or business after each meeting. The brochure or packet should refer companies to the NNDA, Adams Hub for Innovation, and/or Library websites for more information.

1.2.5. The Program Manager and, in NNDA's discretion, other NNDA representatives, will receive in-depth training from the Adams Hub for Innovation and the Library on the programs at the Adams Hub For Innovation and the Library that will be promoted as part of the Program so that the Program Manager and NNDA's other representatives can speak knowledgeably about these programs.

### 1.3 **Program Outreach.**

1.3.1. The Program Manager and NNDA will identify companies and businesses doing business in the Sierra Region that could benefit from the resources in the Program.

1.3.2. When such a company or business is identified, the Program Manager or NNDA should contact the company or business and, if warranted, set up a meeting or make other arrangements to offer assistance to the company or business in connecting the company or business to resources in the Sierra Region, or Northern Nevada generally.

1.3.3. The Program Manager or NNDA should inform company or business and their affected employees about the resources in the toolbox. It is understood by the Parties that increasing awareness of these programs will lead to the successful retention/expansion of companies and as such, the Program Manager or NNDA should encourage participation in the available programs.

1.3.4. Any companies that wish to further pursue Adams Hub for Innovation or Library programs should be put in direct contact with the Adams Hub for Innovation and/or the Library.

1.3.5. The Adams Hub for Innovation will continue to have sole discretion and full review of potential Adams Hub for Innovation clients seeking to take advantage of Adams Hub for Innovation programs.

1.3.6. NNDA and the Library will work with the various other library systems within the Sierra Region to promote the Adams Hub for Innovation as a connector for companies and businesses in the region. Adams Hub for Innovation and the Library will be the referral point for NNDA for inquiries regarding library systems in the Sierra Region.

1.3.7. At least 50 percent of the company or business visits should take place within Carson City.

1.3.8. Travel, mileage, per diem, and lodging costs will not be charged to the Adams Hub, LLC, the Adams Hub for Innovation, the Library, or the City.

### 1.4. **Program Reporting.**

1.4.1. The Program Manager or NNDA should conduct a short survey with each company or business that is visited to gather information about companies doing business in the region.

1.4.2. The Program Manager or NNDA will track the following information on the Program:

- o the number of companies or businesses identified that are doing business within the Sierra Region;
- o the number of companies contacted by phone or email;
- o the number of company visitations (including a notation as to whether they are located in Carson City or elsewhere in the Sierra Region);
- o the number of referrals to a resource; and
- o the number of follow up meetings.

1.4.3 The Program Manager or other designated NNDA staff will compile the survey data and the tracking information and provide it to NNDA, Adams Hub, LLC, and the Library, via mail, email, or other appropriate means, in a monthly tracking report due on the 15th of each month for the previous month. The intent of the above is to satisfy the requirements of Business Retention portion of the grant given by the Hop & Mae Adams Foundation.

2. **Effective Date.** This Agreement becomes effective on June 1, 2019.

3. **Term.** This Agreement shall have an initial term lasting until June 30, 2024. After the initial term, the contract shall automatically renew for successive one-year terms until June 30, 2039.

4. **Termination.**

4.1 The Parties may mutually agree to terminate this Agreement, with or without cause, at any time.

4.2. In the event that any Party is unsatisfied with the performance of any other party as it relates to this Agreement, the Party must utilize the dispute resolution procedures in this Agreement. If the dispute resolution procedures are unable to produce an agreed upon resolution, any Party may terminate this Agreement by giving the other Parties six months prior written notice of its election to terminate this Agreement.

4.3. In the event that HMAF ceases to provide funds to the Library for the operation and support of the Adams Hub for Innovation, the Library's and City's obligations in this agreement shall terminate and Library and City shall be released from this Agreement. Library's and City's obligations shall be assumed by Adams Hub, LLC, and this Agreement shall continue between Adams Hub, LLC and NNDA, unless otherwise agreed by Adams Hub, LLC and NNDA.

5. **Dispute Resolution.** If at any time a dispute should arise under this Agreement, the dispute must be set forth in writing and will be subject to the following procedures:

5.1. The dispute will initially be sent to all parties under the notice provision below.

5.2. Upon receipt of notice of a dispute, the President and CEO of NNDA and the Library Director of the Library must meet within 14 calendar days to discuss the

dispute and identify a resolution plan. The resolution plan or notice of the failure to reach a resolution must be provided to all parties.

5.3. In the event that the President and CEO and Library Director fail to reach a resolution, the dispute will be referred to a committee consisting of the President and CEO of NNDA; the Executive Board Chairman of NNDA; Library Director of the Library; Managing Member of Adams Hub, LLC, and the Mayor of City, or the Mayor's designee. The committee must meet within 21 days of notice of the failure to reach a resolution under the prior step and attempt to reach a resolution. Notice of any resolution must be provided to all parties.

6. **Renegotiation.** The terms of this Agreement may be renegotiated any time after the initial term by giving the other Parties 30 days prior written notice of a request to renegotiate the terms.

7. **Public Records Requests Made to City or Library.** Pursuant to NRS 239.010, City or Library information or documents may be open to public inspection and copying. City or Library will have the duty to disclose particular information or documents, unless they are made confidential by law or a common law balancing of interest. Adams Hub, LLC or NNDA may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 332.061, provided that the designating Party thereby agrees to indemnify and defend City or Library for honoring such a designation. The failure to so label any document that is released by City or Library shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

8. **Indemnification.** To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each Party shall indemnify, hold harmless and defend, not excluding the other's right to participate, any other Party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying Party, its officers, employees and agents.

9. **Limited Liability.** City and Library do not waive and intend to assert any and all available NRS chapter 41 immunity in all cases. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Agreement. The contract liability of the Parties under this Agreement does not include punitive damages.

10. **Insurance.** NNDA and the Program Manager are independent contractors, not employees of City, Library, or Adams Hub, LLC. All parties must carry their own policies of insurance and pay all applicable taxes and fees. The Parties shall have no liability except as specifically provided in this Contract. The general liability insurance policy that NNDA is required to maintain under the lease between NNDA and Adams Hub, LLC, must by endorsement name the Carson City Library and Carson City, Nevada, and their officers, employees and immune contractors as additional insureds for all liability arising from this Agreement. NNDA must submit an Additional Insured

Endorsement (CG20 10 or C20 26) signed by an authorized insurance company representative to Carson City Purchasing and Contracts.

11. **Breach.** Failure of any 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 are not exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages and reasonable attorney's fees and costs.

12. **Waiver.** No waiver of any right or remedy shall be effective unless in writing. A waiver of any right or any party's failure to insist on strict compliance with the terms of this Agreement shall not operate as a waiver of any other right or remedy.

13. **Remedies.** 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, without limitation, actual damages. Except when using the dispute resolution procedures detailed above, in any dispute or lawsuit between the parties in connection with this Agreement, the prevailing party will be entitled to recover its' reasonable attorney fees and costs in such proceeding from the other party. The Parties agree that, in the event a lawsuit is filed and a Party is awarded attorney's fees under this Agreement or by the court, for any reason, the rate applied to recoverable attorney's fees shall not exceed the rate of \$125 per hour.

14. **Notices.** All notices or other communications required or permitted to be given under this Agreement must be in writing and shall be deemed to have been duly given if delivered personally by hand, by email with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other Parties at the address set forth below:

**FOR CITY AND LIBRARY:**

Library Director  
Carson City Library  
900 North Roop St.  
Carson City, NV 89701  
Tel: (775) 887-2244

**FOR ADAMS HUB, LLC:**

Steve Neighbors  
Managing Member  
Adams Hub, LLC  
111 W Proctor St,  
Carson City, NV 89703  
Tel: (208) 562-4100

**FOR NNDA:**

President and CEO  
Northern Nevada Development Authority  
704 W. Nye lane, Suite 201,  
Carson City, NV 89703  
Tel: (775) 883-4413

Any Party may from time to time, by notice in writing served upon the other Parties as described above, designate a different mailing address to which or a different person to whose attention all such notices or demands are thereafter to be addressed.

15. **Entire Agreement; Modification.** This Agreement, together with the Exhibits, constitutes the entire agreement of the Parties and is the 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. The term "agreement" as used herein shall be deemed to include all Exhibits. All Exhibits attached hereto are hereby incorporated by reference and made a part of this Agreement. Where the terms of any Exhibits conflict with the provisions of this Agreement, this Agreement shall govern. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement is binding upon the Parties unless the same is in writing and signed by the Parties.

16. **Severability.** If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement will be construed as if the provision did not exist, the provisions will not be construed to render any other provision or provisions of this Agreement unenforceable, and the remaining terms of this Agreement will continue in full force and effect.

17. **Nevada Law; Jurisdiction.** The law of the State of Nevada applies in interpreting and construing this Agreement. Except for the dispute resolution procedures detailed above, the Parties consent to the jurisdiction of, and agree that disputes will be resolved by, the courts of the First Judicial District Court of the State of Nevada in Carson City.

18. **Ownership of Property.** This Agreement does not contemplate a transfer of any real or personal property or ownership interest between the Parties. Any and all real and personal property presently owned by either Party will remain owned by that Party's upon completion or termination of this Agreement.

19. **No Third-Party Beneficiary.** It is specifically agreed between the Parties that none of the provisions this Agreement create in the public or any member thereof a third-party beneficiary, or grant anyone not a Party to this Agreement any right to maintain a suit for personal injuries or property damage under the terms or provisions of this Agreement.

20. **Records.** Each Party agrees to keep and maintain, under general accepted accounting principles, full, true and complete records and documents pertaining to this Agreement and to present, at any reasonable time, such information for inspection, examination, review, audit and copying at any office where such records and documentation is maintained.

21. **Separate Entities; Independent Contractor.** The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Nothing contained in this Agreement may be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, to convey ownership of any asset, or to otherwise create any liability for one Party whatsoever with respect to the indebtedness, liabilities, and obligations of another Party. Each Party is and continues to be separate and distinct from any other Party. NNDA is an independent contractor that agrees to perform the services herein according to its own methods and without subjection to the supervision or control of the City, Library, or Adams Hub, LLC, except as to the results, and not as to the means by which the services are accomplished. NNDA shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement. Neither NNDA or Adams Hub, LLC, nor any of their employees, agents, or representatives, shall be considered employees, agents, or representatives of City or Library.

22. **Successors; Assignment.** This Agreement shall bind the heirs, executors, administrators, successors, and assigns of the respective parties. No Party may assign, transfer or delegate any rights, obligations, or duties under this Agreement without the prior written consent of the other Parties.

23. **Authority to Sign.** The Parties represent and warrant that the person executing this Agreement on behalf of each respective 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 herein.

24. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same Agreement.

25. **Force Majeure.** No 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, 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.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates written below.

**CITY AND LIBRARY:**

\_\_\_\_\_  
Diane Baker, Interim Library Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert Crowell, Mayor

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Deputy District Attorney

\_\_\_\_\_  
Date

**NNDA:**

\_\_\_\_\_  
Rob Hooper, President and CEO

\_\_\_\_\_  
Date

**ADAMS HUB, LLC:**

\_\_\_\_\_  
Steve Neighbors, Managing Member

\_\_\_\_\_  
Date