

LIBRARY PARTNERSHIP AGREEMENT

This Library Partnership Agreement (this “**Partnership Agreement**”) is by and between the City of Sedro-Woolley (the “**City**”) and the Central Skagit Rural Partial County Library District (the “**District**”), pursuant to RCW Chapters 27.12 and 39.34.

RECITALS

- A. The City and the District operate and maintain public libraries located in the City of Sedro-Woolley, each open to the public and available for full service use without fees for residents of each entities’ geographical limits.
- B. The existing libraries are inadequately sized to serve the population as it exists today or is projected to grow into the future. The City and the District desire to form a partnership to develop, construct and own a new library (the “**New Library**”) that will be operated by the District for the benefit of both the City and the District.
- C. The City and the District formed a Joint Negotiating Committee which met on four occasions in 2016 and proposed a “Library Partnership Concept” on November 28, 2016.
- D. The Library Partnership Concept was the subject of lengthy public process by both the City Council and the District Board of Trustees (the “**Board**”).
- E. Consistent with Resolution 943-16, the City Council held a special meeting on February 24, 2017, in a workshop format, to answer questions and take input on the proposal. A second meeting was held on March 8, 2017, at which testimony was taken from the public on the proposal and ultimately the City Council voted 6-1 to proceed with the Library Partnership Concept.
- F. At its regular meeting held on March 16, 2017, the Board voted 4-0 to proceed with the Library Partnership Concept.
- G. Consistent with the Library Partnership Concept, the City and the District have documented their intent to work cooperatively to provide library services more efficiently and effectively in the combined territorial limits of the District and the City through three interlocal agreements: (1) this Partnership Agreement; (2) the Building Joint Development and Ownership Agreement; and (3) the Library Services Agreement (collectively, the “**ILAs**”).
- H. The City Council held a public hearing to consider the ILAs on June 14, 2017 and a second meeting with public comment on _____, 2017, after which the City Council voted ___-___ to approve the ILAs.

- I. The Board considered and took public comments on the ILAs at its regular meeting held on _____, 2017, and again took public comment and voted ___-___ to approve the ILAs at its regular meeting held on _____, 2017.

NOW, THEREFORE, in consideration of the foregoing, the parties agree and contract as follows:

AGREEMENT

1. **AGREEMENT**. Part I of this Partnership Agreement shall become effective when both parties have duly executed this Partnership Agreement. Part II of this Partnership Agreement shall become effective when the conditions set forth in Paragraph 2 have occurred.
2. **PRE-DESIGN PROCESS AND EFFECTIVE DATE OF AGREEMENT**. The Pre-Design process is described in detail in Part I of this Partnership Agreement and culminates in a final vote of both the City Council and the Board (each, a **“Governing Body”**) on the New Library project’s conceptual design, budget and location. Following the completion of the pre-design process, each party agrees to take the recommended conceptual design, budget and location to its respective Governing Body for action. In the event that either Governing Body fails to approve the conceptual design, budget and location then this Partnership Agreement shall terminate without further action by the parties. In the event that both Governing Bodies approve the conceptual design, budget and location, this Partnership Agreement will become fully effective and immediately binding on the parties on the latest date that either Governing Body takes action to approve the conceptual design, budget and location (the **“Effective Date”**), consistent with its terms, without further action or consent by the parties hereto. Upon each Governing Body’s action to approve or disapprove, such Governing Body shall provide written notice to the other of the action taken and the date of such action.

PART I – PRE-DESIGN PROCESS

3. **PURPOSE**. The parties desire to share expenses and jointly administer a pre-design process for the purpose of determining the scope of the New Library. Specifically, the parties require professional assistance to engage the public and the parties in a process to determine the conceptual design, budget and location of the New Library building.
4. **FUNDING/BUDGET**. The City and the District agree to share the costs of this pre-design scope in proportion to each entities’ population in the 2010 U.S. Census, as follows: City 10,540 (41%), District 14,933 (59%). These percentages may be altered only by mutual agreement of the parties. The

budget for the pre-design phase shall not exceed \$50,000 without written agreement of the parties.

5. PRE-DESIGN CONSULTANTS. The City retained SHKS Architects on April 28, 2016, following a selection process that included representatives from the District. The parties agree to use SHKS Architects for the pre-design process. Additional professional services may be contracted for during the pre-design phase with the consent of the Mayor and the Chair of the District's Board.
6. CONTRACT ADMINISTRATION/PAYMENTS. The City will administer the professional services agreement with SHKS Architects and other professionals as needed for the pre-design process. The District agrees to reimburse the City for 59% of the costs. Only costs incurred after the Effective Date of this Partnership Agreement shall be reimbursable. The City will invoice the District monthly and the District will remit payment within thirty days of the date of the invoice.
7. JOINT PRE-DESIGN COMMITTEE. The City and the District shall each appoint representatives, in equal numbers, to a Joint Pre-Design Committee whose role shall be to guide the pre-design process. This Committee shall participate in public processes in order to inform its work. The Committee will make pre-design recommendations - including conceptual design, budget and location - to the City Council and District Board of Trustees for their final approval.

PART II – LIBRARY CONSOLIDATION

8. JOINT OPERATIONS. Sixty days following the Effective Date and until the New Library is constructed and opens to the public, the District shall manage, operate and be responsible for all costs of operating the Sedro-Woolley Public Library located at 802 Ball Street, Sedro-Woolley, Washington (the “**City Library**”). The City will provide the City Library building, without rental expense, to the District, and the District shall be responsible for routine City Library building costs including utilities, housekeeping and reasonable maintenance (i.e., routine cleaning and minor repairs). The City will be responsible for major repairs including the building exterior envelope, HVAC systems and the exterior grounds. The City will pay the District for operating the library consistent with the Library Services Agreement, prorated for any partial calendar year.
9. RECIPROCITY. Sixty days following the Effective Date, the parties agree to terminate, in its entirety, the April 20, 2017 agreement establishing reciprocity between the parties.

10. CITY LIBRARY EMPLOYEES. The District agrees to offer employment to and, if accepted, to hire the City's library employees (Debra Peterson, Teresa Johnson, Mary Andersson, Carol Bohmbach and Bobbie Jacobson) who are employed by the City upon the Effective Date ("**Eligible Employees**"). Within five days following the Effective Date, the District will offer the Eligible Employees jobs with the District with no reduction in pay and equivalent benefits. If any Eligible Employee does not accept the offer of employment within five business days of the date of the offer, the District will have no further obligation to hire that employee. If any Eligible Employee fails to accept such offer of employment, the City shall be responsible for the termination process of such Eligible Employee.
11. CITY SPECIAL HISTORICAL COLLECTION. The City agrees to mark books from its Special Historical Collection with a visible indication. This collection of approximately 500 books, primarily on local history, will remain the property of the City, but will be on permanent loan to the District for the benefit of the public as reference materials. Upon request by the City, this collection shall be returned to the City.
12. CITY COLLECTION. Title to the City's collection of materials, other than the Special Historical Collection, shall be transferred to the District along with the furniture, fixtures and equipment at the City Library. The City and the District shall cooperate to provide for the assignment and/or assumption by the District of any contracts used to equip or operate the library including but not limited to leased equipment (photo copier), software agreements (TLC), subscription agreements and service agreements (K-20 network). Any leases or agreements that cannot be assigned shall continue to be the responsibility of the City. Leases or agreements that are assigned shall be performed by the District at its cost and expense and the District shall hold the City harmless from all obligations under such leases and agreements which arise sixty days or more after the Effective Date.
13. DISTRICT COLLECTION/FURNITURE, FIXTURES & EQUIPMENT. The District agrees to contribute approximately \$900,000 for furniture, fixtures and equipment for the New Library, depending on the size of the facility, prior to the opening day of the New Library, and up to an additional \$625,000 for the opening day collection.
14. ANNEXATION. No earlier than November 30, 2032, the City agrees to consider initiating the procedure for annexation of the City to the District pursuant to RCW 27.12.360.
15. INDEMNIFICATION.
 - a. District Indemnification. To the extent permitted by law, the District shall indemnify and hold harmless the City, its officers, agents, and employees

from any and all claims, actions suits, liability, loss, costs, expenses and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the District, its officers, agents and employees, or any of them relating to or arising out of the performance under this Partnership Agreement and the other ILAs. In the event that any such claim, action or suit is brought against the City, the District shall defend the same at its sole cost and expense, including attorney fees. THE DISTRICT SPECIFICALLY AND EXPRESSLY WAIVES THE IMMUNITY THAT MAY BE GRANTED IT UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51, FROM THE REVISED CODE OF WASHINGTON. FURTHER, THE INDEMNIFICATION OBLIGATIONS UNDER THIS PARTNERSHIP AGREEMENT SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE TO OR FOR ANY THIRD-PARTY UNDER WORKMAN'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS; PROVIDED, THAT THE DISTRICT'S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS PARAGRAPH EXTENDS ONLY TO CLAIMS AGAINST THE DISTRICT BY THE CITY, AND DOES NOT INCLUDE OR EXTEND TO ANY CLAIM BY THE DISTRICT'S EMPLOYEES DIRECTLY AGAINST THE DISTRICT. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

- b. City Indemnification. To the extent permitted by law, the City shall indemnify and hold harmless the District and its officers, agents, and employees from any and all claims, actions, suits liability, loss, costs, expenses, and damages of any nature whatsoever, by any reason or arising out of any negligent act or omission of the City, its officers, agents, and employees, or any of them relating to or arising out of the performance under this Partnership Agreement and the other ILAs. In the event that any such claims, action, or suit is brought against the District, the City shall defend the same at its sole cost and expense, including attorney fees. THE CITY SPECIFICALLY AND EXPRESSLY WAIVES THE IMMUNITY THAT MAY BE GRANTED IT UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51, FROM THE REVISED CODE OF WASHINGTON. FURTHER, THE INDEMNIFICATION OBLIGATIONS UNDER THIS PARTNERSHIP AGREEMENT SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE TO OR FOR ANY THIRD-PARTY UNDER WORKMAN'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS; PROVIDED, THAT THE CITY'S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS PARAGRAPH EXTENDS ONLY TO CLAIMS AGAINST THE CITY

BY THE DISTRICT, AND DOES NOT INCLUDE OR EXTEND TO ANY CLAIM BY THE CITY'S EMPLOYEES DIRECTLY AGAINST THE CITY. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

- c. Concurrent Negligence. If any claims are caused or result from the concurrent negligence of the City and the District these indemnity provisions shall be valid and enforceable only to the extent of the negligence of each entity.
16. TERM. This Partnership Agreement shall remain in effect from the Effective Date until the bonds issued to finance and/or refinance costs related to the acquisition, design, construction, and equipping of the New Library (the "**Bonds**") are no longer outstanding, which shall not be more than 20 years in duration from the date of issuance. Once the Bonds are no longer outstanding, this Partnership Agreement shall not automatically terminate, but from and after such date this Partnership Agreement shall be terminable by either party on one (1) year's written notice to the other. The City shall give written notice to the District one (1) year prior to the final date on which the principal amount of the Bonds shall be paid in full. Pursuant to Section 6 of the Building Joint Development and Ownership Agreement, the City will not extend or renegotiate the Bonds beyond their original final maturity date without the consent of the District. The City reserves the right to refund and/or defease the Bonds without the consent of the District when the final maturity will not be extended and there will be aggregate debt service savings. The term "Bonds" as used herein shall include any debt issued to refund and/or defease the bonds originally issued by the City to finance costs of the New Library.
17. SURVIVAL. The provisions of paragraphs 3, 4 and 6 shall continue until all obligations incurred prior to termination pursuant to such paragraphs are satisfied. The provisions of paragraphs 10, 11, 14, 15, and 18 shall survive the termination or expiry of this Partnership Agreement.
18. VENUE AND DISPUTE RESOLUTION. This paragraph establishes the sole and exclusive remedy for disputes arising under this Partnership Agreement, except as otherwise set forth herein. In the event of any dispute arising under this Partnership Agreement, the parties shall, as a material condition precedent to any suit under this Partnership Agreement, provide formal written notice of the dispute to the other party, and engage in formal mediation using a mutually agreed upon mediator. If the parties are unable to agree on a mediator within fifteen (15) days of written notice, either party may bring suit in Skagit County Superior Court for the sole purpose of seeking appointment of a mediator. If the parties are unable to resolve their differences within thirty (30) days after mediation, venue and jurisdiction for any action arising under this Partnership Agreement shall lie in the Courts of Skagit County, Washington. In the event of any dispute arising under this Partnership Agreement, the Court shall award

attorney fees, costs, expert witness fees, mediation costs, and all other costs related to the dispute to the prevailing party.

19. NO THIRD PARTY BENEFICIARIES. This Partnership Agreement is not intended to benefit any person, entity or municipality not a party to this Partnership Agreement, and no other person, entity or municipality shall be entitled to be treated as beneficiary of this Partnership Agreement. This Partnership Agreement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but limited to, any agent, contractor, subcontractor, consultant, volunteer, or other representative of either party. No agent, employee, contractor, subcontractor, consultant, volunteer or other representative of the parties hereto shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer or other representative of any other party hereto.
20. SEVERABILITY. In the event any term or condition of this Partnership Agreement or application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other terms, conditions or application of this Partnership Agreement which can be given effect without the invalid term, condition or application. To this extent and end the terms and conditions of this Partnership Agreement are declared severable.
21. COMPLIANCE WITH LAWS. The parties to this Partnership Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Partnership Agreement. The parties shall obtain and comply with any and all necessary permits, approvals, consents and notice from or to all applicable jurisdictions prior to commencing any work or action related to this Partnership Agreement.
22. CAPTIONS AND COUNTERPARTS. The captions in this Partnership Agreement are for convenience and reference only, and do not define, limit, or describe the scope or intent of this Partnership Agreement. This Partnership Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute one agreement.
23. NO SEPARATE LEGAL ENTITY. This Partnership Agreement establishes a cooperative undertaking, and it is not the intention of the parties to create a new or separate legal entity by this Partnership Agreement. Notwithstanding the title of this Partnership Agreement and the use of the term “partnership” herein, this Partnership Agreement does not establish or create a joint venture or partnership entity between the parties, and no party shall be responsible for the liabilities and debts of the other parties hereto.

24. INTEGRATED AGREEMENT. This Partnership Agreement is one of the three ILAs between the parties that were negotiated and executed simultaneously. Neither party has relied on any representation other than those expressly set forth in the three ILAs in entering this Partnership Agreement.
25. NEUTRAL AUTHORSHIP. Each of the terms and conditions of this Partnership Agreement have been reviewed and negotiated with resort to legal counsel, and represents the combined work product of the parties hereto, and this Partnership Agreement shall not interpreted for or against any party hereto. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Partnership Agreement, and have either done so or have voluntarily chosen not to do so. The parties represent and warrant that they and their authorized representatives executing this Partnership Agreement have fully read this Partnership Agreement, that they understand its meaning and effect, and that they enter into this Partnership Agreement with full knowledge of its terms.
26. FURTHER ACTS. The parties agree to take such further actions and to execute documents as in their reasonable judgment may be necessary or desirable in order to carry out the terms of, and complete the transactions contemplated by, this Partnership Agreement.
27. FILING. A copy of this Partnership Agreement shall be filed with the Skagit County Auditor or, alternatively, listed by subject on the City's web site or other electronically retrievable public source.
28. AMENDMENT. This Partnership Agreement may not be amended except by an agreement in writing executed by both the City and the District.

[signature pages to follow]

DATED this _____ day of _____, 2017.

**CENTRAL SKAGIT RURAL PARTIAL
COUNTY LIBRARY DISTRICT**

Mary Alice Grobins, Chair

DATED this _____ day of _____, 2017.

CITY OF SEDRO-WOOLLEY

Mayor Keith L. Wagoner

Attest:

Patsy Nelson, Finance Director

Approved as to form:

Eron Berg, City Attorney