

LIBRARY SERVICES AGREEMENT

This Library Services Agreement (this “**Library Services 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) the Library Partnership Agreement; (2) the Building Joint Development and Ownership Agreement; and (3) this 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. **EFFECTIVE DATE.** This Library Services Agreement shall become effective when the conditions set forth in Paragraph 2 of the Library Partnership Agreement have occurred (the “**Effective Date**”).
2. **OPERATION OF LIBRARIES.**
 - a. Beginning sixty days following the Effective Date, 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**” and, collectively with the New Library, the “**Libraries**”). 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.
 - b. Once the New Library is constructed and open to the public, the District shall vacate and cease operating the City Library and shall staff, manage, operate and be responsible for all costs of operating the New Library, including all New Library building costs, at its sole expense.
3. **LIBRARY SERVICES.** The District agrees to provide library services at the Libraries. Such services currently include the following:
 - a. Access to and circulation of physical items, such as books, DVDs, CD audiobooks and other materials,
 - b. Digital access to e-books, e-audiobooks, e-magazines, journals and other research databases,
 - c. Free Internet access,
 - d. Provision of computer equipment,
 - e. Provision of early literacy programs,

- f. Provision of adult programs to stimulate lifelong learning,
- g. Copy, fax and printing services,
- h. Safe areas to study, collaborate or work individually, and
- i. Access to professionals for research assistance and reader's advisory.

The Library shall have full discretion to change such library services or provide such other library services in the Libraries as the Board shall determine from time to time; provided, that in no event shall the District discontinue providing library services at the New Library during the Term (hereinafter defined).

4. USE OF THE LIBRARIES. The District agrees to make library services at the Libraries and other facilities owned or operated by the District available to the residents of the City free of charge and on the same basis as residents of the District.
5. CONTRACT FEE. The City agrees to pay to the District in each calendar year during the Term, for library services for the calendar year in which such payment is made, a fee equal to the remainder of (a) the product of (i) the District's regular levy rate for rural library purposes for that year, multiplied by (ii) the assessed valuation used for levies collectible in that year of all property, including new construction, within the City boundaries, divided by (iii) \$1,000, less (b) (i) that year's debt service on the bonds issued by the City to finance the New Library as described in Paragraph 6 of the Building Joint Development and Ownership Agreement (the "**Bonds**"), (ii) any payments into the Library Construction Fund due from the City during that year under Paragraph 7 of the Building Joint Development and Ownership Agreement, and/or (iii) any payments into the Joint Reserve Fund due from the City during that year under Paragraph 8 of the Building Joint Development and Ownership Agreement. Each calendar year's fee shall be paid in four equal, quarterly installments, to be remitted on or before the first day of [March, June, September and December] of that year. A hypothetical example of the computation of such annual fee as of a date following the issuance of the Bonds is set forth in Schedule A hereto. The fee shall be prorated but payable in equal, quarterly installments over the remainder of any partial calendar year during the Term.
6. 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 of services pursuant to this Library Services Agreement and the other ILAs. In the event that any such claim, action, loss of damages 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 LIBRARY SERVICES 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 of service pursuant to this Library Services Agreement and the other ILAs. In the event that any such claims, action, loss or damages 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 LIBRARY SERVICES 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.
7. TERM. In the event the City is annexed into the District, this Library Services Agreement shall terminate automatically as of the end of the calendar year immediately preceding the first calendar year during which the District shall be authorized to levy property taxes within the City boundaries. Otherwise, this Library Services Agreement shall be effective until the date that is twenty years from the Effective Date, or, if later, the date the Bonds are no longer outstanding (the “Term”). Three years prior to the anticipated end of the Term, the City and the District shall begin negotiating an extension of this Library Services Agreement. The parties agree to prepare a plan or plans to ensure adequate library services no later than one year before the anticipated end of the Term if an extension of this Library Services Agreement is not reached.
8. SURVIVAL. The obligation of the City to pay any accrued but unpaid fees and the provisions of paragraphs 6, and 9 shall survive the termination or expiry of this Library Services Agreement.
9. VENUE AND DISPUTE RESOLUTION. This paragraph establishes the sole and exclusive remedy for disputes arising under this Library Services Agreement, except as otherwise set forth herein. In the event of any dispute arising under this Library Services Agreement, the parties shall, as a material condition precedent to any suit under this Library Services 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 Library Services Agreement shall lie in the Courts of Skagit County, Washington. In the event of any dispute arising under this Library Services 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.
10. NO THIRD PARTY BENEFICIARIES. This Library Services Agreement is not intended to benefit any person, entity or municipality not a party to this Library Services Agreement, and no other person, entity or municipality shall be entitled to be treated as beneficiary of this Library Services Agreement. This Library Services 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.

11. SEVERABILITY. In the event any term or condition of this Library Services 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 applications of this Library Services Agreement which can be given effect without the invalid term, condition or application. To this extent and end the terms and conditions of this Library Services Agreement are declared severable.
12. COMPLIANCE WITH LAWS. The parties to this Library Services Agreement shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this Library Services 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 Library Services Agreement.
13. CAPTIONS AND COUNTERPARTS. The captions in this Library Services Agreement are for convenience and reference only, and do not define, limit, or describe the scope or intent of this Library Services Agreement. This Library Services 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.
14. NO SEPARATE LEGAL ENTITY. This Library Services Agreement establishes a cooperative undertaking, and it is not the intention of the parties to create a new or separate legal entity by this Library Services Agreement. This Library Services 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.
15. INTEGRATED AGREEMENT. This Library Services 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 Library Services Agreement.
16. NEUTRAL AUTHORSHIP. Each of the terms and conditions of this Library Services Agreement have been reviewed and negotiated with resort to legal counsel, and represents the combined work product of the parties hereto, and this Library Services Agreement shall not be interpreted for or against 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 Library Services 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 Library

Services Agreement have fully read this Library Services Agreement, that they understand its meaning and effect, and that they enter into this Library Services Agreement with full knowledge of its terms.

17. 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 Library Services Agreement.
18. AMENDMENT. This Library Services Agreement may not be amended except by an agreement in writing executed by both the City and the District.
19. FILING. A copy of this Library Services 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.

[signature page follows]

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

SCHEDULE A

**Hypothetical Example of Computation of Contract Fee
Following Issuance of Bonds**

Assume:

District general tax levy rate*	0.4612277639
City assessed valuation for general tax purposes**	\$810,256,655
Per \$1,000 assessed valuation (0.4612277639 x \$810,256,655 / 1,000)	\$373,712.87

Less:

Estimated hypothetical Bond debt service***	\$350,000.00
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Equals:

Annual Contract Fee	\$23,712.87
Payable in quarterly installments (due on or before the first day of March, June, September and December)	\$5,928.22

* For regular property tax levy payable in 2017. Source: Skagit County Assessor.

** 2016 property tax assessment. Source: Skagit County Assessor.

*** Estimated level annual debt service on hypothetical \$5,000,000 Bond issue with 20 year maturity. Source: Public Financial Management, Inc.