
**AGREEMENT
BETWEEN
THE CITY OF TUMWATER
AND
TIMBERLAND REGIONAL LIBRARY**

WHEREAS, the City of Tumwater, Washington (the "City"), is a code city duly organized and existing under the Constitution and the laws of the State of Washington; and

WHEREAS, the Timberland Regional Library (the "Library"), is an intercounty rural library district duly organized and existing under and by virtue of the laws of the State of Washington; and

WHEREAS, RCW 35A.27.010 authorizes the City to own and operate public libraries and to contract for library services; and

WHEREAS, RCW 27.12.080 authorizes legislative bodies to join in establishing and maintaining a regional library; and

WHEREAS, the City of Tumwater has contracted for public library services with the Library since 1969 and was annexed into the Library district in 1981, subject to the terms of an annexation agreement with the Library; and

WHEREAS, in 1993, the City, the Library, and the Tumwater School District No. 33 entered into an Interlocal Cooperation Agreement for financing, acquisition, construction, ownership, management, maintenance and operation of the Tumwater Timberland Library located adjacent to Tumwater City Hall at 7023 New Market Street, Tumwater, WA 98501 ("Tumwater Library"); and which automatically terminated after five years.

WHEREAS, the City and the Library entered into another Interlocal Agreement in 2012 for improvements to the Tumwater Library, including new carpet and interior painting; and

WHEREAS, the City values the Tumwater Library's services in the community and appreciates their role in the City's municipal campus, presence in the Town Center, and proximity to the New Market Skills Center and Tumwater High School; and

WHEREAS, the parties believe the Tumwater Library has added to the Tumwater Community; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City of Tumwater and the Timberland Regional Library agree as follows:

1. Terms. The terms of the referenced 1981 annexation agreement remain in effect.
2. Library Services. The Library will operate a public library and provide library services located at the Tumwater Library in the City of Tumwater. The Library will have sole control over Tumwater Library operations and scheduling, and be responsible for its costs of operations, including but not limited to all books, materials, internet, technology, telephone, security cameras, signage, book drops, and staffing. Parties will work together to maintain and replace furniture.
3. Library Facility. The City will maintain the Tumwater Library in good operating condition, including maintaining the grounds and the building, its associated plumbing, electrical, mechanical and alarm systems in good repair. The City will perform janitorial services and pay all reasonable utility (water, sewer, electricity and garbage) costs associated with use of the Tumwater Library by the Library for library purposes.
4. Rules. Parties agree to work together to create reasonable rules for building operations.
5. Maintenance and Improvements. The City may, at any time, make improvements, or perform maintenance, to the Tumwater Library building and grounds. Prior to commencing any such work beyond routine maintenance that may impact Tumwater Library operations, the City shall give the Library not less than thirty (30) days prior written notice of the nature and estimated length of work except in cases of emergency or when shorter notice is accepted by the Library. The City shall use its best efforts to minimize disruption to the library. The parties will work together to coordinate any closures or adjustments to hours required to perform work.

The Library is responsible for notifying the City of any maintenance or repair needs within a reasonable period of time. Any dangerous or potentially dangerous conditions must be reported and resolved immediately. The Library may submit requests for work beyond routine maintenance and repairs by submitting a written request to the City Parks and Facilities Manager no later than July 1 of each even numbered year for consideration during the City's biennial budget process.

Any expansion of the Tumwater Library will require an additional agreement.

6. Subleasing. The Library may rent or sublease the Tumwater Library only after receiving prior written approval of the City and provided that all costs incurred by the City associated with subleasing must be paid to the City either by the Library or the sublessee. Reimbursement for costs (such as maintenance costs and janitorial services) must first be paid to the City and any additional revenues in excess of the City's costs must be invested back into the operation of the Library.

7. Liens and Encumbrances. It is mutually understood and agreed that the Library shall have no authority, express or implied, to create or place any lien or encumbrance of any kind whatsoever upon, or in any manner to bind, the interest of the City in the Tumwater Library.

8. Meeting Room Use. Meeting room use will be consistent with TRL policy and procedure.

9. No Separate Legal Entity. This Agreement does not create nor seek to create a separate legal entity pursuant to RCW 39.34.030.

10. Dispute Resolution. If a dispute arises between the parties, the City Parks and Facilities Manager and Library Branch Manager shall meet to see if the matter can be informally resolved. If informal discussions are not successful, then a written notice of dispute shall be mailed to the address for notices set forth herein. The notice shall set forth the nature of the dispute and the desired outcome. A written response shall be provided within ten business days. The City Administrator and Library District Director shall meet within ten business days after the response is received to see if the matter can be resolved. If the matter is not resolved, the parties agree to settle the dispute by mediation. Mediation will be non-binding but shall be a condition precedent to having the dispute decided in court.

11. Insurance and Indemnification. The City shall purchase and maintain all-risk property insurance covering the Tumwater Library building for its full replacement value without any coinsurance provisions.

The Library shall purchase and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection to the Library's operation and use of the Tumwater Library. The Library's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Library to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity. The Library shall obtain insurance of the types described below:

- a. "Property" insurance, written on an all risk basis, for full value of its property and improvements including contents, equipment and furniture with no coinsurance provision; and

- b. "Commercial general liability (CGL)" insurance for operations of the Library. The CGL should be written on Insurance Services Office (ISO) occurrence form CG 00 01 and cover contractual liability, and premises liability. CGL shall be written with limits no less than \$1 million per occurrence, \$2 million general aggregate. The City shall be named as an additional insured on the CGL.

Library shall defend, indemnify, and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of Library's use of the Tumwater Library or from the conduct of Library's business, or from any activity, work or thing done, permitted, or suffered by Library in or about the Tumwater Library, except only such injury or damage as shall have been occasioned by the sole negligence of the City.

12. Non-discrimination. In furtherance of this agreement the parties shall comply with all applicable Federal, State, County, and City laws, ordinances, rules and regulations regarding nondiscrimination and shall conduct their respective business in a manner which assures lawful treatment at all times in all respects to all persons without regard to race, color, religion, gender, sexual orientation, disability, age, or national origin.

13. Interpretation and Venue. This Agreement shall be governed by the laws of the State of Washington as to interpretation and performance. Venue for any action that cannot be resolved through mediation or non-binding arbitration may be brought only in the Superior Court of Thurston County, Washington.

14. Entire Agreement. This Agreement sets forth the terms and conditions agreed upon by the City and Library regarding the matters addressed herein. This Agreement may only be modified by written instrument signed by both parties.

15. Filing. Prior to its entry into force, this Agreement shall be posted on the City's website.

16. Notice. Any notice required under this Agreement shall be to the party at the address listed below and shall become effective as of the date of deposit in the United States Postal Service.

17. Term and Termination. The term of this Agreement shall be ten (10) years from the date of execution by the last authorizing signature affixed hereto, unless terminated sooner. The Agreement may be extended for additional five (5) year extension terms upon mutual written agreement of the parties. The Agreement may be terminated at any time by mutual execution of such written termination as

may be negotiated between the parties or as may be required if the City becomes no longer annexed to the Library district.

The City may terminate this Agreement and take immediate possession of the Tumwater Library in the event that the Library shall have failed to perform any of the covenants or conditions of this Agreement and such default or deficiency was not remedied within thirty (30) days after receiving notice in writing stating the nature of the default or deficiency and the City's intention to terminate if not corrected. In the event of a default that the City determines is of a nature requiring more than thirty (30) days to remedy, the Library shall not be in default so long as the City determines that the Library undertakes to remedy the default within the 30-day period and thereafter diligently pursues completion of the remedy.

Upon termination or expiration of the term of this Agreement, the Library shall remove all its property, equipment and fixtures from the Tumwater Library and shall promptly surrender and deliver to the City all keys. The Library shall have thirty (30) days to complete removal of such property from the Tumwater Library. The Library shall restore any areas damaged by the installation of fixtures or equipment to the condition of the area before installation occurred, reasonable wear and tear excepted.

CITY OF TUMWATER
555 Israel Road SW
Tumwater, WA 98501



Pete Kmet, Mayor

Date: 11-3-2015

TIMBERLAND REGIONAL
LIBRARY
415 Tumwater Boulevard SW
Tumwater, WA 98501



Cheryl Heywood, Library Director

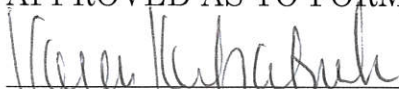
Date: October 28, 2015

ATTEST:



Melody Valiant, City Clerk

APPROVED AS TO FORM:



Karen Kirkpatrick, City Attorney