

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF VANCOUVER
AND
FORT VANCOUVER REGIONAL LIBRARY DISTRICT
REGARDING THE CASCADE PARK COMMUNITY LIBRARY**

This Interlocal Agreement (“Agreement”) is entered into by and between the FORT VANCOUVER REGIONAL LIBRARY DISTRICT and the CITY OF VANCOUVER (collectively, the “Parties” and each a “Party”). This Agreement is made pursuant to Chapter 39.34 RCW (the “Interlocal Cooperation Act”) and has been authorized by the governing body of each Party. Each of the Parties is a “public agency” as defined in the Interlocal Cooperation Act.

WHEREAS, this Agreement is entered into under the authority of the Interlocal Cooperation Act, Chapter 39.34 RCW, between the City of Vancouver, Washington, a municipal corporation and charter city of the first class of the State of Washington (the “City”) and the Fort Vancouver Regional Library District (the “District”); and

WHEREAS, the City and the District have been in a contractual relationship beginning in 1950 whereby the District provides library services to the City for certain consideration; and

WHEREAS, the City and the District wish to enter into this Agreement, which will facilitate the opening of a new branch library, known as the Cascade Park Community Library (the “Library”), at the Firstenburg Community Center (the “FCC”); and

WHEREAS, the Parties concurrently herewith have executed Ground Lease relating to the property shown in the attached Exhibit A (“site plan”) and more fully described in the

attached Exhibit B (the "Library Area"), which the City has leased to the District for construction of the Library, which will open in December 2009;

NOW, THEREFORE,

THE CITY AND THE DISTRICT agree as follows:

SECTION I. PURPOSE. This Agreement is entered into by the Parties to establish the mutual obligations and duties for the operation and maintenance of the FCC and the Library, along with the common area parking ("CAP") of the FCC and Library, and to facilitate cooperation for the use of both facilities.

SECTION II. TERM OF AGREEMENT. This Agreement shall become effective upon the date indicated below by the signatures to this Agreement, and shall remain in effect unless terminated as provided in Section VIII.

SECTION III. PREMISES. The premises included in this agreement are shown in Exhibit A to this Agreement. The area included within the CAP is comprised of all current and future parking spaces constructed for the use of customers and staff at the FCC and the Library.

SECTION IV. MAINTENANCE AND UTILITIES. The Parties agree that during the term of this Agreement, responsibility for maintenance shall be divided as follows:

A. Upon request by the District, grounds, landscaping and other site maintenance for all property included in the Library Area shall be performed by City employees or contractors of the City. Notwithstanding the foregoing, the District may contract directly with any vendor for all or part of the maintenance in the Library Area.

B. The District agrees to reimburse the City for:

- i. The actual cost for maintenance services performed by the City on the Library Area, including administrative overhead costs. The maintenance charges will be based on actual hours worked by City employees performing maintenance on the library grounds. Charges for maintenance services performed by city employees will be billed at an hourly rate based on the employee's benefited wage (wages and benefits) plus a 25 percent administrative overhead charge.
- ii. The District's share of CAP expenses based on the proportion of building space constructed by the Parties. Currently, the Library occupies approximately 25,000 square feet of building space and FCC occupies approximately 80,000 square feet of building space. Therefore, the District will be billed annually for 25/105 (23.81%) ("CAP formula") of CAP expenses by the City. Should either Party construct additions to its premises, the CAP formula shall be adjusted accordingly.
- iii. All charges invoiced by the City shall be paid by the District within thirty (30) days of the invoice date.

C. Each Party is responsible for its own building maintenance and repair expenses.

D. Both Parties shall be solely responsible for their own utility expenses. All utilities shall be separately metered.

E. In the event of inclement weather, including but not limited to periods of rain, sleet, ice and/or snow, the City will provide for snow removal in the parking lot if the FCC is open. Each Party will determine its hours of operation during

inclement weather and be responsible for the safety of its own building sidewalks, entrances and exits during inclement weather. The Parties shall coordinate, to the extent possible, their hours of operation during inclement weather.

F. Any additional improvements to the CAP included in this Agreement shall be mutually agreed to in writing by the Parties. As used herein, the term "improvements" does not include any maintenance performed pursuant to this Agreement.

G. The Parties shall meet no less than twice per year to discuss operational and maintenance related issues. The level of maintenance services provided by the City to the District shall be discussed at least annually.

SECTION V. PARKING. Customer parking at FCC and the Library is in a shared parking lot; and the Parties acknowledge that the combined demand for parking spaces that are currently available, including the 63 spaces added by the District, may, at times, exceed capacity after the Library opens. Therefore, the Parties agree that:

A. Except for disabled parking spaces, as set forth below, none of the parking spaces in the parking lot shall be specifically designated or set aside for either Party's customers absent mutual agreement.

B. Both the Library and FCC are required by law to allocate accessible parking spaces for customers with disabilities pursuant to the Americans with Disabilities Act ("ADA"). Each Party shall be solely responsible for compliance with its own ADA parking space requirements; however, none of the ADA parking spaces shall be designated for the exclusive use of either Party's customers.

C. Each Party shall notify the other no less than thirty (30) days in advance of special events that may result in parking overflow issues.

D. After notifying the District, the City may periodically post signage requesting the customers voluntarily allow senior citizens to utilize the parking spaces closest to FCC entrances.

SECTION VI. HOURS OF OPERATION/SPECIAL EVENTS. The Parties will each determine their own hours of operation for normal business operations. The Parties will notify each other by December 1 of each year of holiday and other scheduled closures for the following year. The Parties will also notify each other of any special events that may impact use of the facilities, including parking, at least ninety (90) days prior to the event.

SECTION VII. SHARED MARKETING. To the extent permitted by law, the Parties will share marketing opportunities for classes and other activities that are mutually beneficial.

SECTION VIII. TERMINATION. The City or District may terminate this agreement upon not less than ninety (90) days advance written notice for either: 1) financial hardship as demonstrated by a City Council or Board of Trustees resolution; or 2) material breach of any provision in this Agreement. Upon termination, the City shall provide an invoice to the District within sixty (60) days of termination for all charges due and owing for maintenance performed up to the date of termination. Thereafter, each Party shall be responsible for operation and maintenance of its own building, grounds and landscaping. Notwithstanding the termination of this Agreement, the District shall continue to be responsible for payment of CAP expenses to the City as set forth in Section IV.B.ii. of this Agreement.

SECTION IX. ENTIRE AGREEMENT. This Agreement constitutes the full and complete agreement between the City and the District regarding the operation and maintenance of the FCC and Library. No other prior agreement, written or oral, shall have the affect of changing, altering, or modifying the provisions of this agreement.

SECTION X. AMENDMENTS/MODIFICATION. Either Party may request amendment or modification of this Agreement at any time. Such request shall be provided in writing. The Parties shall make a good faith attempt to respond to such requests within thirty (30) days of receipt of the request. Notwithstanding the foregoing, the provisions of this Agreement may be amended or modified only upon the mutual consent of the Parties. No additions to, or alterations of, the terms of this Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of both Parties.

SECTION XI. NO THIRD-PARTY BENEFICIARY. The District does not intend by this Agreement to assume any contractual obligations to anyone other than the City. The City does not intend by this Agreement to assume any contractual obligations to anyone other than the District. The District and the City do not intend there be any third-party beneficiary to this Agreement.

SECTION XII. INDEMNIFICATION. Except as expressly set forth below, the indemnity provisions of the Ground Lease shall control as between the parties. The indemnities and provisions of this Section XII are for the very limited purpose of addressing City work on the Library Area pursuant to the terms of this Agreement. The waiver of subrogation provisions of the Ground Lease shall continue to control as between the parties notwithstanding the provisions of this Section XII.

A. Solely as to the work performed or to be performed by or for the City upon the Library Area pursuant to this Agreement the City agrees to indemnify and hold harmless District and VLCFA and their officers, employees and agents from any and all third party claims arising from injury or death to any person, damage to any tangible property, or violation of law, and any liabilities or costs, including reasonable attorney's fees and litigation costs in connection with such claims, but only to the extent such claims, liabilities or costs were caused by negligent or willful misconduct of the City, its officers, agents, contractors or employees.

This duty to indemnify and hold harmless shall extend to claims asserted by officers, agents and employees of the City, and in the event of such claims, the City, and solely for such purpose, specifically waives any immunity that may be granted the City under the Washington State Industrial Insurance Act, Title 51, RCW. This waiver is given pursuant to RCW 4.24.115.

B. Solely as to the work performed or to be performed by or for the City upon the Library Area pursuant to this Agreement, District agrees to indemnify and hold harmless the City and its officers, employees and agents from any and all third party claims arising from injury or death to any person, damage to any tangible property, or violation of law, and any liabilities or costs, including reasonable attorney's fees and litigation costs in connection with such claims, but only to the extent such claims, liabilities or costs were caused by negligent or willful misconduct of the District, its officers, agents, contractors or employees.

This duty to indemnify and hold harmless shall extend to claims asserted by officers, agents and employees of the District, and in the event of such claims, the District, and solely for such purpose, specifically waives any immunity that may be granted the District under the Washington State Industrial Insurance Act, Title 51, RCW. This waiver is given pursuant to RCW 4.24.115.

SECTION XIII. RESOLUTION OF DISAGREEMENTS. In the event of a continuing dispute between the Parties under this Agreement, each Party shall designate an appropriate representative to facilitate the resolution of the dispute according to a procedure established by the representatives and authorized by law including but not limited to mediation. The representatives shall meet within fifteen days of either Party's request and shall use their best efforts to resolve the dispute in a manner acceptable to both Parties. The representatives' negotiated resolution shall be subject to approval by each of the Parties' duly authorized agents.

SECTION XIV. DOCUMENT EXECUTION AND FILING. The City and the District agree that there shall be two (2) duplicate originals of this Agreement procured and distributed for signature by the necessary officials of the City and the District. Upon execution, the executed duplicate of this Agreement shall be returned to the Vancouver City Clerk and one shall be retained by the District. The Vancouver City Clerk shall cause a copy of this Agreement to be posted on the City web site pursuant to RCW 39.34.040. Upon execution of the originals and posting of a copy on the City's web site, each such duplicate original shall constitute an agreement binding upon both the City and the District.

SECTION XV. RATIFICATION. Acts taken in conformity with this Agreement prior to their effective date(s) are hereby ratified and affirmed

SECTION XVI. SEVERABILITY. If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

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IN WITNESS WHEREOF, the City and the District have caused this Agreement to be executed in their respective names by their duly authorized officers and have caused this Agreement to be dated as of the 14th day of December, 2009.

CITY OF VANCOUVER, WASHINGTON

FOR THE FORT VANCOUVER
REGIONAL LIBRARY DISTRICT

SIGNATURE ON FILE

SIGNATURE ON FILE

Pat McDonnell, City Manager

Bruce Ziegman, Executive Director

ATTEST:

SIGNATURE ON FILE

R. Lloyd Tyler, City Clerk

By: Carrie Lewellen, Deputy City Clerk

Approved as to form:

SIGNATURE ON FILE

Ted H. Gathe, City Attorney

EXHIBIT B

(Legal Description of Premises)

A parcel of land located in a portion of the John Murray Donation Land Claim in a portion of the Northwest Quarter of the Southwest Quarter and the Southwest Quarter of the Southwest Quarter of Section 26, Township 2 North, Range 2 East, Willamette Meridian, City of Vancouver, Clark County, Washington, more particularly described as follows;

Commencing at the Southeast corner of that parcel of land conveyed to the City of Vancouver from Kyoden America, Inc. and recorded under Auditor's File Number 3405357, records of said county, said point also being the Northeast Corner of Lot 8 of the Plat "136th Avenue Place" as recorded in Book 311 of plats at Page 443, records of said county, said point also being on the West Right of Way line of Southeast 136th Avenue;

Thence North $01^{\circ}14'52''$ East, along said West Right of Way line, for a distance of 247.24 feet;

Thence leaving said West Right of Way line, North $88^{\circ}45'08''$ West, for a distance of 19.85 feet to the TRUE POINT OF BEGINNING;

Thence North $88^{\circ}44'10''$ West, for a distance of 180.81 feet;

Thence along the arc of a 50.00 foot radius tangent curve to the left, for an arc distance of 40.72 feet, through a central angle of $46^{\circ}39'43''$, the radius of which bears South $01^{\circ}15'50''$ West, the long chord of which bears South $67^{\circ}55'59''$ West, for a chord distance of 39.60 feet;

Thence South $44^{\circ}36'08''$ West, for a distance of 11.48 feet;

Thence along the arc of a 50.00 foot radius tangent curve to the right, for an arc distance of 40.98 feet, through a central angle of $46^{\circ}57'47''$, the radius of which bears North $45^{\circ}23'52''$ West, the long chord of which bears South $68^{\circ}05'01''$ West, for a chord distance of 39.85 feet;

Thence North $88^{\circ}26'06''$ West, for a distance of 6.35 feet;

Thence South $01^{\circ}18'19''$ West, for a distance of 24.83 feet; Thence South $88^{\circ}41'41''$ East; for a distance of 7.30 feet; Thence South $01^{\circ}11'59''$ West, for a distance of 100.00 feet; Thence North $88^{\circ}48'01''$ West, for a distance of 5.52 feet;

Thence South $00^{\circ}00'00''$ East, for a distance of 62.39 feet;

Thence North $89^{\circ}36'18''$ East, for a distance of 47.58 feet;

Thence North $88^{\circ}06'00''$ East, for a distance of 86.53 feet;

Thence North $89^{\circ}48'56''$ East, for a distance of 66.53 feet;

Thence North $84^{\circ}28'17''$ East, for a distance of 10.00 feet;

Thence North $78^{\circ}56'16''$ East, for a distance of 37.15 feet;

Thence North $81^{\circ}48'59''$ East, for a distance of 34.85 feet;

Thence North $03^{\circ}27'34''$ West, for a distance of 23.72 feet;

Thence along the arc of a 1155.00 foot radius tangent curve to the right, for an arc distance of 96.10 feet, through a central angle of $04^{\circ}46'02''$, the radius of which bears North $86^{\circ}32'26''$ East, the long chord of which bears North $01^{\circ}04'33''$ West, for a chord distance of 96.07 feet;

Thence North $01^{\circ}18'28''$ East, for a distance of 63.63 feet;

Thence North $88^{\circ}45'09''$ West, for a distance of 10.52 feet;

Thence North $01^{\circ}24'55''$ East, for a distance of 20.96 feet to the TRUE POINT OF BEGINNING.