

**Sunshine Coast Regional District**

1975 Field Road  
Sechelt, British Columbia  
Canada V0N 3A1

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May 4, 2017

Gibsons and District Public Library Association  
Box 190  
Gibsons, BC  
V0N 1V0

Attention: Tracey Therrien, Library Director

Dear Tracey:

**Re: Funding and Service Agreement and Lease Agreement**

Enclosed are two copies of both the Funding and Service Agreement and the Lease Agreement between the Sunshine Coast Regional District and the Gibsons and District Public Library Association.

**Please sign, keep one agreement for your records and return one of the original agreements to the undersigned at your earliest convenience.**

Yours truly,

**SUNSHINE COAST REGIONAL DISTRICT**

A handwritten signature in black ink, appearing to read "Tina Perreault".

Tina Perreault, CPA, CMA  
General Manager, Corporate Services /  
Chief Financial Officer

Enclosures

TP:tlc

## FUNDING AND SERVICE AGREEMENT

### GIBSONS AND DISTRICT PUBLIC LIBRARY

This Memorandum of Understanding dated for reference the 3<sup>rd</sup> day of May, 2017.

BETWEEN:

**SUNSHINE COAST REGIONAL DISTRICT**

1975 Field Road  
Sechelt, BC  
V0N 3A1

(the "Regional District")

AND:

**GIBSONS AND DISTRICT PUBLIC LIBRARY ASSOCIATION**

470 South Fletcher Road, Box 190  
Gibsons, BC  
V0N 1V0

(the "Library")

WHEREAS:

- A. The Regional District has the authority under Section 263(1) (c) of the *Local Government Act* "to provide assistance for the purposes of benefitting the community or any aspect of the community" and under Section 274 of the *Local Government Act* "Despite section 273 and in addition to the power under section 263(1) (c), a Board may provide assistance under a partnering agreement."
- B. The Sunshine Coast Regional District adopted *West Howe Sound Library Operating Grant Service Bylaw No. 1018* to provide operating funds to the Gibsons and District Public Library Association on behalf of the participating members, namely Electoral Areas E - Elphinstone, F - West Howe Sound, and the Town of Gibsons.
- C. The Sunshine Coast Regional District adopted *Roberts Creek Library Service Establishment Bylaw No. 1043.1* to provide a library service for Electoral Area D - Roberts Creek.

- D. The Regional District, under the authority stated in Part A-C wish to enter into a one year Funding and Service Agreement (the "Agreement") with the Library for the purpose of certainty for the provision of library services as noted in Schedule A. Both parties intend to negotiate a new "Agreement" to commence in January 2018 through to a period to be determined.
- E. The Library is an Association, formed by the Province of British Columbia, under the *Library Act*, which establishes the framework for the provision of library services by an association under Section 2(b) (ii) and 2(c). The Library Association has established by-laws, governance and operational policies for the provision of library services within the terms of the *Library Act* and reports to the Libraries Branch of the Ministry of Education. The Library has the authority to enter into this Funding Agreement under section 48(1) (c) and (5) of the *Library Act*.

NOW THEREFORE, in consideration of the mutual promises set out herein, the parties agree as follows:

#### 1.0 Funding Commitment

- 1.1 The Regional District shall provide assistance to the Library in the amount of \$583,656 over the term of the agreement and in accordance with the terms described in Schedule A.
- 1.2 The Regional District will forward payments to the Library in equal monthly instalments so long as the Library continues as an association providing library services as outlined in Schedule A on the following terms:
- January-March payments-based on the prior year's monthly amounts.
  - April-December-adjusted based on the funding approved for the current year.
- 1.3 The Regional District will meet with the Library annually, at a time as determined by the parties, for a Library Planning Meeting (the "Meeting") to review the Library's proposed budget for the following year.
- 1.4 The Library's budget requests for the following year will be considered through the SCRD's annual budgeting process. Final approval will be provided after the SCRD's Financial Plan Bylaw is adopted at which time the agreement will be renewed.

**2.0 The Library Agrees**

- 2.1 The Library acknowledges and agrees that the funds provided pursuant to this Funding Agreement and s. 40(2) of the *Library Act* shall only be used for the purpose of providing the library services as described in Schedule A to all residents within the jurisdictional boundaries of the Regional District as set out in Bylaw 1018 and 1043. Unless specifically indicated otherwise, such services shall be provided free of charge.
- 2.2 The Library will provide operational reports in addition to a budget for the coming year prepared and approved by the Library board as outlined in the Library Act section 40 (1) and financial reports as outlined in Schedule A, to the Regional District at the Meeting.
- 2.3 The Library, should there be a surplus of funds (10% or less of operating expenses), will provide details to the Regional District of how the surplus will be used, in accordance with the operational framework in Schedule A.
- 2.4 If there is a reduction of Library Services, due to unforeseen events, which causes a significant surplus (10% or more of operating expenses), the Regional District reserves the right to reduce or reallocate funding by an agreed to amount for the following year. If a reduction is made, the Regional District agrees to share in the reduction on the same percentage allocation as per funding allocation outlined in Section 1.2 of this Service Agreement.
- 2.5 Requests for "additional" capital or one-time special operating projects outside of the funding provided per Section 1.2 will be dealt with at the Meeting. All "additional" funding requests from the Library to the Regional District will be presented with an individual business case analysis, to be reviewed at the Meeting. In the event of a capital or one-time special operating projects surplus, the library board will consider funding capital or one-time special operating projects from the surplus.
- 2.6 The Library shall indemnify and hold harmless the Regional District, and its directors, councillors, officers, employees, successors and assigns, against and from any and all actions, causes of actions, claims, suits, costs and expenses of any kind arising from any property damage, or personal or bodily injury, arising from or connected with the provision of the Library Services, and for any breach of this

Funding Agreement by, or from any act or omission of the Library or its invitees, licensees, employees, agents, contractors, officers or any other person for whom the Library is liable, provided that claims, damages, losses, costs and expenses arising out of the independent negligent acts of the Regional District shall be exempt from the indemnification provisions of this Funding Agreement.

- 2.7 No provision or purpose of this Funding Agreement shall be construed to create a partnership or joint venture relationship, or an employer-employee, or principal-agent relationship between the Regional District and the Library.

### **3.0 Counterparts**

- 3.1 This Service Agreement may be executed in any number of original counterparts, with the same effect as if all the parties had signed the same document, and will become effective when one or more counterparts have been signed by all the parties and delivered to the Regional District. All counterparts shall be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, shall be deemed to be dated the reference date set out above, and only one of which need to be produced to any purpose.

### **4.0 Terms**

- 4.1 This Funding Agreement may be renewed, modified or terminated by giving 90 days-notice and only with the express written agreement of each party.
- 4.2 The Parties agree to meet throughout 2017 as necessary to establish the terms of a new funding agreement as referenced in Recital paragraph D.
- 4.3 If notice of termination of the Agreement is received and in the event that "additional" capital or one-time special operating project funding has been approved to the Library over more than one year, regardless of withdrawal, the Regional District commit to honour their share of the "additional" capital or one-time special operating project funding.



**5.0 Dispute Resolution**

**5.1 Mediation**

Where there is an unresolved dispute arising out of this Funding Agreement, then, within 7 days of written notice from one party to the other, or such time as agreed to by both parties, the parties will participate in good faith in order to resolve and settle the dispute. In the event that the parties are unable to resolve the dispute within 14 days of the first written notice, or such other time period agreed to by both parties, each party will agree to use a mutually agreed upon independent mediation practitioner versed in the resolution of commercial disputes. Each party will bear their own costs of the mediation process.

**5.2 Arbitration**

The parties may, by mutual agreement, participate in resolving all unresolved disputes arising out of or in connection with this Funding Agreement, or in respect of any legal relationship associated therewith, or derived or entered into, by arbitration. Arbitrator shall be mutually agreed upon by the participants. Matters not settled through the process in Section 5.1 within 45 days' notice of the dispute may go to arbitration unless the parties agree to extend the 45 day period. Each party will bear its own costs of the arbitration regardless of the arbitrator's decision. The Arbitrator's decision will be final and binding on all parties.

**Signatures**

This Library Funding Agreement has been executed on behalf of the Sunshine Coast Regional District by the Chair and the duly authorized Corporate Officer pursuant to a resolution of the Board, and on behalf of the Library by the Chair and the Library Director.

GIBSONS AND DISTRICT PUBLIC LIBRARY:

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Library Director

SUNSHINE COAST REGIONAL DISTRICT:

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Corporate Officer

## SCHEDULE 'A'

### Description of Library Services

The Library's mission, vision and values form the foundation from which all decisions and actions are based. The Gibsons and District Public Library Association's strategic directions guide the development of Library services and programs and as such the following list of services and programs will change from time to time reflecting the needs of residents.

1. The Library's primary function as outlined in the British Columbia *Library Act* is to provide free access to quality information and knowledge.
2. The Library supports and contributes to life-long learning by providing a safe, open space for residents of all ages, cultures and backgrounds. The Library strives to reduce barriers to help ensure access to library services to all and is reflected in the Library's policies and procedures.
3. The Library's programming and services reflect the needs of the community and stakeholders. Community surveys and engagement with community partners help set the direction of Library programs and services.
4. Library members have access to materials such as books, magazines, newspapers, research materials, films, audiobooks, and documentaries in both physical and electronic or online formats. The Library ensures access to online information by providing free usage of public computers and the Internet.
5. A Library membership provides access to the collections of British Columbia public libraries that form part of the BC public library system.
6. Library opening hours are determined by the Association and are based on assessed needs and staff and financial resources permitting. Access to online and digital library services are available 24 hours per day.

### Library Reporting

1. As per section 40.3 of the *BC Library Act* the Library must:
  - (a) prepare annual financial statements in accordance with generally accepted accounting principles,
  - (b) provide a copy of the financial statements for inspection by the members of the public library association at or before the annual general meeting, and
  - (c) provide a copy of the financial statements to any municipality or regional district that is eligible under section 35 to make an appointment to the library board.



**LEASE AGREEMENT**

**GIBSONS AND DISTRICT PUBLIC LIBRARY**

This Lease Agreement (the "Agreement") dated for reference the 3<sup>rd</sup> day of May, 2017.

BETWEEN:

**SUNSHINE COAST REGIONAL DISTRICT**

1975 Field Road  
Sechelt, British Columbia  
V0N 3A1

(the "Regional District")

AND

**GIBSONS AND DISTRICT PUBLIC LIBRARY ASSOCIATION**

470 South Fletcher Road  
Box 190  
Gibsons, British Columbia  
V0N 1V0

(the "Association")

WHEREAS the Regional District is the leaseholder for lands in the New Westminster Assessment Area, legally described as Lot 4, Block A, District Lot 686, Plan 14197, and the owner of the building constructed thereon;

AND WHEREAS the terms of said lease provide that the Regional District may enter into an Agreement with the Association to operate and manage a public library;

AND WHEREAS the Association is formed by the Province of British Columbia, under the *Library Act*, and has the authority to enter into this Agreement under Section 2(b)(ii) and 2(c);

AND WHEREAS the Association desires to lease the abovementioned building, the location of which is shown outlined in red on the plan attached hereto as Schedule "A" (the "Premises") from the Regional District and the Regional District is agreeable to leasing such Premises to the Association, on the terms and conditions and for the purposes set out herein;

NOW THEREFORE in consideration of the provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, the Regional District and the Association hereby agree as follows:

1. Demise

The Regional District grants and demises to the Association a Lease for exclusive occupation and possession of the Premises for a Term defined herein.

2. Term

The term of the Agreement shall be subject to provisions herein dealing with renewal and termination, be for a period from the date first written above to five (5) years from that date.

3. Renewal

The Association may renew this Agreement on the same terms and conditions herein for successive five (5) year terms up to (7) times, and a final term to end on December 31, 2051. Renewal shall be automatic without any notice being required to be given to the Regional District by the Association.

4. Purposes

The Association covenants and agrees that the Premises shall be used only for a Public Library and uses ancillary thereto.

5. Association's Covenants

The Association covenants with the Regional District:

- a) To pay rent to the Regional District in the amount of One (\$1) per annum, for a total of \$5 for the term, on the first day of the month commencing on the date first written above;
- b) To provide required maintenance, including but not limited to the maintenance items listed on Schedule "B" (Building Maintenance Responsibilities of the Association and Regional District);
- c) The Regional District may enter and view state of repair and that the Association will repair according to notice, reasonable wear and tear excepted;
- d) The Association shall not assign, sublet or transfer its interest in the Premises without first obtaining the permission of the Regional District, such permission not to be unreasonably withheld;
- e) The Association shall leave the Premises in good repair;
- f) The Association shall be responsible for all operating costs, maintenance, taxes and other expenses, including electricity, telephone, water, sewer and garbage services connected with occupation of the Premises;
- g) The Association will provide all risks comprehensive general liability insurance in a minimum amount of \$2 million with the Regional District as an additional

named insured, with terms and conditions of such policy to the reasonable satisfaction of the Regional District and to be approved by the Regional District in advance;

- h) AND to indemnify and save the Regional District harmless from and against any claim, debt, demand or loss that arises out of or is in any way due to or connected with the Association's use or occupation of the Premises, including notwithstanding the generality of the foregoing, person injury, death or property damage to or suffered by any person using or present at the Premises;
- i) AND to abide by all laws, bylaws and regulations in force from time to time.

6. Regional District's Covenants

The Regional District covenants with the Association:

- a) To provide quiet enjoyment and allow the Association exclusive occupation of the Premises;
- b) To provide required maintenance, including but not limited to the maintenance items listed on Schedule "B" (Building Maintenance Responsibilities of the Association and Regional District);
- c) To provide building insurance, including insurance against damage caused by vandals.

7. The Regional District and the Association agree that either party may terminate this Agreement by providing ninety (90) days' notice in writing to the other party.

8. General Provisions

The Regional District and the Association agree that this Agreement may be amended from time to time provided such amendments are mutually agreed upon and in writing, signed by both parties.

9. This Agreement embodies the entire agreement and understanding between parties and there are no warranties, representations, terms, conditions or collateral agreements express or implied or statutory other than expressly set forth in this Agreement.

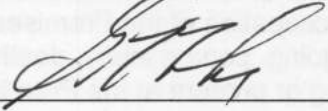
10. This Agreement shall be binding upon the parties hereto, their respective heirs, executors, administrators and other legal representatives and, to the extent permitted hereunder, their respective successors and assigns.

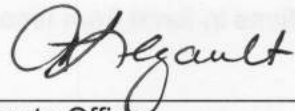
11. All notices and other communications required or permitted to be given hereunder shall be in writing and may be given by mail, postage prepaid, addressed to the respective parties at the addresses shown on the first page of this Agreement or to such other address in British Columbia as either party may provide in writing to the other pursuant to the provisions of this paragraph. Time periods shall commence on the date of mailing of a notice. Any notice which is required or permitted to be given within a stated period of time shall be considered properly given within the time stipulated if postmarked before midnight five clear days before the last day of such period. Time shall be of the essence of this Agreement. This Agreement is not intended to create any registrable interest in the Premises and the Association shall not register this Agreement in any Land Title Office

IN WITNESS WHEREOF the Regional District and Association have hereunto set their respective hands and affixed their seals on the day and year first above written.

The Corporate Seal of the  
Sunshine Coast Regional District was  
hereto affixed in the presence of:

(C/S)

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Corporate Officer

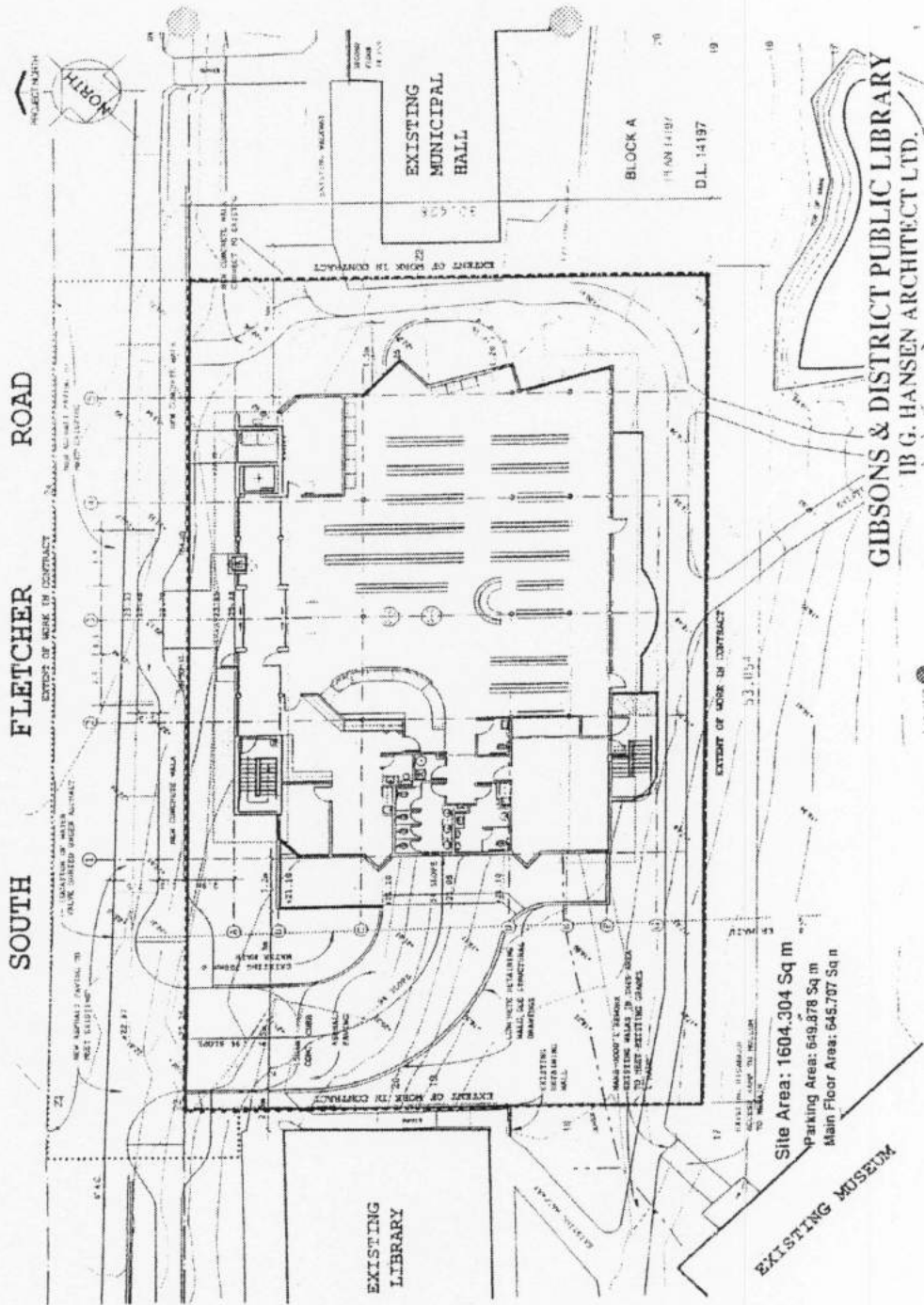
The Seal of the Gibsons and District  
Public Library Association was hereto  
affixed in the presence of:

(C/S)

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

# Schedule A



Site Area: 1604,304 Sq m  
 Parking Area: 649,878 Sq m  
 Main Floor Area: 645,707 Sq m

EXISTING MUSEUM

GIBSONS & DISTRICT PUBLIC LIBRARY  
 IB G. HANSEN ARCHITECT LTD.

BLOCK A  
 15 JAN 14 197  
 D.L. 14197



## Schedule B

### Building Maintenance Responsibilities of the Association and Regional District

All maintenance items are to be completed as required unless otherwise noted and both parties agree to complete tasks within a reasonable timeframe.

Maintenance Item	Association's Responsibilities	Regional District's Responsibilities
Building Exterior	<p>Maintenance of exterior items, garbage enclosure, and signage</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Regular cleaning of garbage enclosure area</li> <li>• Repair or replacement of exterior signage</li> <li>• Grounds cleaning as required</li> <li>• Window and sill cleaning (interior and exterior)</li> <li>• Parking lot sweeping</li> </ul>	<p>Maintenance of building envelope and structural integrity and perimeter vegetation and trees</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Inspection and cleaning of roof, fascia, soffits, gutters, and canopy</li> <li>• Repair or replacement, and repainting, of stucco cladding</li> <li>• Replacement of exterior sealants</li> <li>• Repair or replacement of doors, windows, guardrails, and security fencing</li> <li>• Exterior pest control</li> <li>• Removal and replacement of dead or undesirable vegetation and trees</li> <li>• Removal of vegetation climbing or abutting the building envelope</li> <li>• Pruning of trees</li> <li>• Sprinkler inspection and maintenance</li> </ul>
Building Interior	<p>Maintenance of interior fittings and furnishings</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Regular janitorial cleaning services</li> <li>• Repair or replacement of counters, cabinetry, shelving, and office and patron furniture</li> <li>• Repainting and minor repair of interior walls</li> </ul>	<p>Maintenance of structural features, interior doors and finishes, and stairwells</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Repair to interior structural columns</li> <li>• Repair or replacement of doors, floor coverings, and ceiling tiles</li> <li>• Repair or replacement of stair nosing and tread, and handrails</li> <li>• Interior pest control</li> </ul>

## Schedule B- page 2

Maintenance Item	Association's Responsibilities	Regional District's Responsibilities
Building Services – Plumbing	<p>Minor maintenance of plumbing fixtures and piping</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Unplugging of debris in fixtures and piping</li> <li>• Repair of minor leaks in toilets, urinals, sinks, and faucets</li> </ul>	<p>Replacement of plumbing fixtures and maintenance of plumbing services</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Repair and / or Replacement of toilets, urinals, sinks, and faucets including major leaks</li> <li>• Repair or replacement of water heater</li> <li>• Repair or replacement of failing water and wastewater piping</li> </ul>
Building Services – HVAC	<p>The Association is not responsible for maintaining the HVAC systems</p>	<p>Major and Minor maintenance of HVAC system</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Inspection of rooftop units and filter replacement</li> <li>• Replacement of rooftop units</li> <li>• Repair or replacement of ductwork, air diffusers, and thermostat controls</li> <li>• Inspection of air diffusers for rust, dampness, or microbial growth</li> <li>• Removal of dirt and debris from air diffusers</li> </ul>
Building Services – Fire Protection	<p>The Association is not responsible for maintaining the fire protection systems</p>	<p>Maintenance of fire protection systems</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Inspection and testing, and repair or replacement of the sprinkler system and fire extinguishers</li> </ul>
Building Services – Electrical	<p>Minor maintenance of electrical services</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Replacement of light bulbs</li> </ul>	<p>Major maintenance of electrical services</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Repair or replacement of control panel, branch wiring, interior and exterior lighting, and security, fire alarm, and telephone systems</li> </ul>
Parking Garage	<p>Cleaning of parking garage area</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Regular cleaning of refuse and debris from parking garage area and rain water drains</li> </ul>	<p>Maintenance of parking garage surface</p> <p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>• Parking gate and access door</li> <li>• Repair or resurfacing of asphalt surface</li> <li>• Repainting of parking lot lines</li> </ul>