

FUNDING AND SERVICE AGREEMENT
GIBSONS AND DISTRICT PUBLIC LIBRARY

This Memorandum of Understanding dated for reference the 3rd 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.

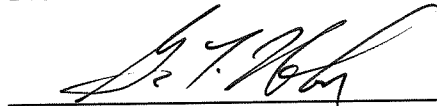
GIBSONS AND DISTRICT PUBLIC)
LIBRARY:)




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.