

LIBRARY USE AGREEMENT BETWEEN IDAHO FALLS PUBLIC
LIBRARY AND BONNEVILLE COUNTY LIBRARY DISTRICT

THIS LIBRARY USE AGREEMENT BETWEEN IDAHO FALLS PUBLIC LIBRARY AND BONNEVILLE COUNTY LIBRARY DISTRICT is made by and between the City of Idaho Falls, Idaho, a municipal corporation of the State of Idaho acting by and through the Board of Trustees of the Idaho Falls Public Library, a board appointed by the Mayor and Council of the City of Idaho Falls, pursuant to the provisions of Chapter 26, Title 33, Idaho Code (the "Library"), and the Bonneville County Library District, a public corporation organized pursuant to the provisions of Chapter 27, Title 33, Idaho Code, ("District").

WHEREAS, the District is willing to purchase library services and facilities from the Library for a period of one (1) Library fiscal year with terms of renewal; and

WHEREAS, such library services and facilities provided to the District, including the Swan Valley and Iona library branches, shall be the equivalent in character and quality to those library services and facilities provided to Library patrons who live within City limits; and

WHEREAS, the fiscal year of the Library is October 1, through September 30;

NOW WHEREFORE, in consideration of the covenant of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties agree as follows:

1. **Services and Facilities.** The Library agrees to make available to all residents of Bonneville County, Idaho, including the Swan Valley and the Iona library branches, and permit the use of (in the same manner as residents of the City of Idaho Falls and with no distinction), all public services and facilities of the main Idaho Falls Public Library located at 457 W. Broadway, Idaho, including, but not limited to, the books, reference services, collections, maps, audiovisual equipment and aids, computers, conference and meeting rooms, and all other services, facilities, and equipment at the same character and quality generally made available for public use by City of Idaho Falls patrons and other patrons.

2. **Term.** The initial term of this Agreement shall commence on October 1, 2019, and shall end on September 30, 2020 and thereafter shall continue for two (2) additional terms of one year each commencing on the first day of October and ending on the 30th of September of the following years ending September 30, 2022, unless terminated as herein provided. At least sixty (60) days prior to the expiration or termination of this Agreement the Parties agree to negotiate in good faith to continue a contractual relationship for continued library services based upon relevant factors, including but not limited to, the actual cost of providing services and/or facilities, the scope of services, the usage of facilities and services and the availability of funds.

3. **Consideration.** In consideration of the delivery of the services and facilities set forth

above in Paragraph 1, the District agrees to pay a Base Fee of one million, one hundred thousand dollars (\$1,100,000) for each fiscal year plus an "Adjusted Amount," as described herein.

Payment of the Base Fee and Adjustment Amount shall be due and payable in four (4) equal installments on October 1 and February 1, May 1, and August 1, of each fiscal year.

- a. The Base Fee shall be adjusted, as described below, on October 1 of each year commencing October 1, 2020, ("Adjustment Date") during the term of this Agreement by the increase in the "Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average-All Items (1982-1984=100)", published by the Bureau of Labor Statistics of the United States Department of Labor. If the Index shall cease to be published, there shall be substituted therefore a price index (or combination of indices, with such adjustments as may be required to afford compatibility), published by the Bureau of labor Statistics or its successor government agency, which is intended to be representative of substantially similar changes in the cost of living.
- b. CPI Adjustment. The annual Use Fee shall be adjusted upward (but not downward) (and such adjustments shall become effective) on each Adjustment Date based on increases in the CPI for any Calculation Period as follows:
 - i. On each Adjustment Date, the increase in the CPI shall be calculated by comparing the Beginning CPI to the Ending CPI for the Calculation Period immediately preceding the applicable Adjustment Date, and calculating, on a percentage basis, changes between the Beginning CPI and the Ending CPI (for any Calculation Period, the "Applicable CPI Increase").
 - ii. The Adjusted Amount to become effective on the applicable Adjustment Date shall be an amount equal to the sum of: (a) the Base Fee during the immediately preceding Calculation Period, plus (B) an amount equal to the Base Fee during the immediately preceding Calculation period multiplied by the Applicable CPI Increase.¹

4. Rules and Regulations. The services, facilities, and equipment described in this Agreement shall be provided and made available subject to all reasonable public rules, regulations and policies promulgated by the Library Director or the Board of Trustees of the Idaho Falls Public Library

¹ The CPI is calculated monthly and reported mid-month of the following month. Thus, in order to make a use fee adjustment by October, the August CPI (which will be reported in mid October) will be used to calculate the Applicable CPI Increase. For example, the use fee increase on October 1, 2020, shall be calculated by determining the Applicable CPI Increase which is equal to a fraction, the numerator of which shall be the difference between the August 2020 CPI and the August 2019 CPI, and the denominator shall be the August 2019 CPI.

(~~"IF Board"~~). Such rules must be in accordance with Paragraph 1 of this Agreement.

5. **Board of Trustees Participation.** One (1) member of the Board of Trustees of the Bonneville County Library District or their designee shall be entitled to attend all regular or special meetings of the IF Board, and shall be entitled to participate as a non-voting *ex officio* member of the IF Board. One (1) member of the IF Board or their designee shall be entitled to attend all regular or special meetings of the Board of Trustees of the Bonneville County Library District, and shall be entitled to participate as a non-voting *ex officio* member of the Board of Trustees of the Bonneville County Library District.

6. **Annual Report.** The Library shall deliver in writing to the District a copy of the City of Idaho Falls year-end Library financial audit when received by the Library. The Library shall deliver to the District in writing a copy of the annual report submitted to the Idaho State Library upon its completion. Likewise, the District shall provide a copy of its annual financial audit to the Library.

7. **Library Data Collection and Retention.** The Library agrees to collect monthly and to retain during the term of this Agreement the following data:

a. Physical materials circulated through the Idaho Falls Library, the Iona Branch Library, and the Swan Valley Library.

This data will be further categorized into the following groups:

1. City Residents, comprised of library patrons who live in or own property within City limits or work for the City of Idaho Falls and who do not live in Bonneville County.

2 District Residents, comprised of library patrons who are not City Residents, as defined above, and who live in Bonneville County, Idaho

3. Temporary City Resident card holders, comprised of library patrons who hold temporary City Resident library cards

4. Temporary District Resident card holders, comprised of library patrons who hold temporary District Resident library cards.

5. Non-Residents, comprised of library patrons who are not City Residents, County Residents, Temporary City Resident card holders, or Temporary District Resident card holders, and who pay the Non-Resident fee for borrowing privileges (excluding Overdrive)

b. Materials circulated through Overdrive. This data will be further categorized into the following groups City Residents, District Residents, Temporary City Resident card holders, and Temporary District card holders.

8. **Default.** Time and strict faithful performance of each and every covenant and condition

set forth herein are expressly made the essence of this Agreement. If the District defaults in the payment of any portion of the Consideration set forth in paragraph 3 of this Agreement, or defaults in the performance of any covenant, obligation or condition hereof, and if such default shall not be cured within a period of thirty (30) days after written notice shall have been sent by mail or hand-delivered to the District by the Library, the Library may, at its sole option, declare this Agreement to be terminated and Library may immediately cease to deliver and provide the services and facilities set forth in this Agreement, and may also, at its sole election, pursue any other remedy at law for the breach of this Agreement.

9. **Notices.** All notices required by this Agreement shall be mailed to the following addresses:

Board of Trustees
Idaho Falls Public Library
457 W. Broadway
Idaho Falls, ID 83402

Board of Trustees
Bonneville County Library District
PO Box 51282
Idaho Falls, ID 93405

Delivery of any notice permitted or required herein shall be deemed to be complete upon its deposit in the United States Mail addressed to the other party at the address set forth.

10. **Interpretation.** This Agreement shall be governed, construed, interpreted and enforced in accordance with the laws of the State of Idaho.

11. **Merger.** This Agreement contains the complete and final agreement between the Parties on this subject matter.

12. **Amendment.** No amendment, alteration or modification of this Agreement shall be effective unless made in writing, duly executed by the parties hereto and in accordance with requirements of Idaho Code.

13. **Jurisdiction and Venue.** It is agreed that this Agreement shall be construed under and governed by the laws of the State of Idaho. In the event of litigation concerning it, it is agreed that proper venue shall be the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville.


14. **Termination.** In the event that the County of Bonneville declines to include the DISTRICT household fee on the annual tax notice sent to residents of the District, either party may terminate this Agreement. All payment of sums owing by the District shall be prorated to the date of such termination.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and

year first written.

IDAHO FALLS PUBLIC LIBRARY

Date: 7-25-19

By: 
Chair, Board of Trustees

BONNEVILLE COUNTY LIBRARY DISTRICT

Date: 7-11-19

By: 
Chair, Board of Trustees