

Agreement between the Friends of the Fletcher Library and the Fletcher Free Library

This Agreement is made between the Friends of the Fletcher Free Library (“the Friends”), a Vermont non-profit 501(c)(3) corporation with its principal place of business in Burlington, Vermont, and the Fletcher Free Library (“Library”), a Department of the City of Burlington, Vermont, a municipal corporation organized under the laws of the state of Vermont.

Recitals

WHEREAS, the Friends is organized to support the mission and the work of the Fletcher Free Library in whatever way is deemed appropriate, including raising money for special projects and promoting the Library; and

WHEREAS, since the Friends’ creation, the Library and the Friends have endeavored to work in a cooperative and supportive manner, recognizing both groups jointly promote the mission of the Library; and

WHEREAS, the parties have entered into this AGREEMENT to clarify the responsibilities of each party and foster and strengthen the relationship between the Library and the Friends.

NOW THEREFORE, in consideration of the mutual promises agreed to herein, the parties agree as follows:

I. Term: This AGREEMENT shall begin on July 1, 2017 and shall remain in effect until it is terminated by either party upon written notice delivered to the Library Director or the Friends’ President by September 1 of any year to become effective on July 1 of the year succeeding. In the event of termination, the Friends shall transfer its funds to the Library unless legal restrictions prohibit it from doing so. In the event of non-compliance by either party with any provision of this Agreement, written notice of non-compliance shall be sent to the other party, and include an explanation of the event or practice that the party believes does not comply with this Agreement. The noticed party shall, within sixty (60) days from receipt of the notice on non-compliance, either correct the non-compliance or show cause that the party is in compliance. In the event the party fails to comply within the 60-day time period, this Agreement may be terminated in accordance with this Agreement.

II. Library Responsibilities: The Library agrees to undertake the following responsibilities:

- a. The Library agrees to ensure that the Friends are aware of the goals and direction of the Library.
- b. The Library agrees to share with the Friends the Library’s strategic initiatives at the beginning of each fiscal year and to discuss with the Friends how the Friends’ resources and support might help forward these initiatives.
- c. The Library agrees to supply the Friends with the Library’s budget each year in a form that indicates the Library’s anticipated needs for the Friends’ support of the Library.

d. The Library agrees to provide the Friends with staff support to manage and support the implementation of the following tasks: an annual appeal; the administration of membership dues, donations, gifts, bequests, and grants; organizational financial processes; organizational reporting; meeting coordination and representation; the organization of fundraising events; and the development and distribution of promotional materials.

e. The Library agrees to provide the Friends with public space on the Library's premises for a year-round book stall, books sales during the year, and placement of membership brochures and promotional materials.

f. The Library agrees to provide the Friends with 'behind the scenes' space in the Library for book storage and sorting.

g. The Library shall, for those funds transferred by the Friends to the Library, account for them in accordance with City policies and procedures and notify the Friends on a timely basis regarding the use of such funds.

h. The Library Director is authorized to carry out the Library's obligations under this agreement. In addition to the support listed above, the Library shall:

1. Allow the Friends to use the name, brand, and images of the Library for event marketing and community outreach purposes.

2. Allow the Friends to use space and equipment in the performance of the Friends' activities, subject to the prior approval of the Director or his or her designee.

3. Suggest and recommend donors and contributions to the Friends.

III. The Friends Responsibilities: The Friends agree to undertake the following responsibilities:

a. The Friends agree to publicly support the Library and its policies and shall abide by and comply with all laws related to the confidentiality of patron registration and transaction records.

b. The Friends agree to have a member from the library's administration as a non-voting presence at Friends' board meetings and to allow room on the agenda for a library report and other agenda items of interest.

c. The Friends agree that any and all monies raised will be spent exclusively on library programs and services, and other Library-defined needs (including the Friends' administrative needs) unless otherwise agreed to by both the Friends and the Library. The Friend's financial support for the Library will not be a replacement for City funding for the Library except that the Friends shall provide monies budgeted to the Library's revenue accounts for donations. In fiscal year 2018, the Friends shall provide \$25,000 in donations and each year subsequent the Library will provide the Friends with a dollar amount for the revenue accounts for donations that the Friends shall raise.

d. The Friends agree that the Library administration has the final say in accepting or declining any and all gifts made to the Library.

e. The Friends agree to support grant proposals submitted by the Library under auspices of the Friends tax exempt 501(c)(3) status provided the proposals are in compliance with the regulations governing this status.

f. The Friends agree that if Board ceases to actively fundraise for and promote the Library, the Board, including all officers, will tender their resignations in the form and manner called for in the Friends' bylaws.

h. The Friends agree to be responsible for the annual appeal for the Library during the City's fiscal year. The Library may contribute non-monetary resources to the appeal. Funds raised in the annual appeal shall be placed in the Friends' revenue accounts but the monies raised, after the Friends pay the expenses associated with the appeal, shall thereafter be provided to the Library for deposit into the Library's revenue accounts for donations up to the amount agreed upon annually in article III. c. above. Once the expenses associated with the appeal and the revenue budgeted in Library budget have been paid in full, additional monies raised remain in the Friends revenue accounts for investment in the Library.

i. The Friends agree to issue the City of Burlington with an annual accounting, itemizing equipment purchased with Friends or grant funds during the Library's fiscal year, with a short description of the equipment, its cost, and a stipulation and acknowledgement that upon purchase the ownership of the equipment becomes the property of the City of Burlington (the Library).

j. The Friends make the following representations and acknowledgements with regard to its operation, creation and purpose:

- 1.** The Friends is created and shall be operated for the duration of this agreement in support of the Library's mission and goals and it will support the plans of the Library.
- 2.** The Friends will have for the duration of this agreement as its sole purpose the support of the mission and work of the Library.
- 3.** The Friends will operate as a private legal entity separate from the Library. The Friends' officers, employees and volunteers are not and shall not become employees or subcontractors of the Library. The Friends understands and agrees that its officers, employees, and volunteers have no right to claim any benefits under the Burlington Employee Retirement System, or the City of Burlington's worker's compensation, health insurance, dental insurance, life insurance or any other employee benefit plan offered by the City.
- 4.** The Friends will use sound fiscal and auditing procedures.
- 5.** The Friends will not interfere with the daily and regular operations and management of the Library.
- 6.** The Friends will maintain its status as a tax-exempt, charitable organization under state and federal income tax laws to ensure that gifts and bequests received may qualify as deductible, charitable contributions for the donor.

k. The Friends shall keep on file with the Library updated copies of all enabling documents, including the tax exemption application letter to the IRS and all Federal and State tax information, the Articles of Incorporation, Bylaws and any amendments to these documents. The Friends shall include language substantially similar to the following clauses in its enabling documents:

Articles of Incorporation. In the event of its dissolution, the Friends' assets and records will be distributed to the Library, provided the City of Burlington remains qualified to receive tax-deductible charitable donations and gifts under relevant federal and state income tax laws;

Bylaws. The Bylaws shall provide that the Director of the Library shall be a non-voting ex-officio member of the Board.

l. The Friends shall carry the following insurance coverage:

Management Liability Coverage and/or Director and Officer Liability Coverage in the amount of \$1,000,000 each loss.

General Liability Coverage: Each Occurrence Limit: \$1,000,000

Personal and Advertising Injury Each Event: \$1,000,000

General Aggregate Limit: \$2,000,000

Products/Completed Operations Aggregate: \$2,000,000

Medical Payments Limits: \$5,000

The City of Burlington is to be named as an additional insured on the Friends' General Liability policy.

The Friends will have Non-Owned and Hired Auto Liability Coverage in the amount of \$1,000,000 Combined Single Limit.

The Friends will have Crime Insurance: Employee Dishonesty Coverage (to include a "volunteers as covered" Endorsement) with a policy limit of \$100,000.

m. As the Library and the Friends want to maintain the highest levels of accountability and stewardship, the Friends agree to share information with the Library, as reasonably requested, develop reporting processes and institute compliance and auditing procedures that ensure donated funds are accounted for, expenditures are made in accordance with donors' wishes and reports are made to donors on the use of such funds.

n. The Friends agree to make the following clear to prospective donors:

The Friends are a separate, legal and tax entity organized for the purpose of supporting the Library. Responsibility for governance of the Friends, including investment of gifts and endowments, resides in the Friends' Board. Checks for charitable gifts to the Library should be made payable to the Friends. Gifts made for a designated purpose will be dedicated in their entirety to that purpose unless it is specifically stated by the donor that an administrative charge will be applied.

o. Donations to the Friends are public knowledge unless the donor specifically requests that personal information related to their donation is to be kept confidential.

p. The Friends agree that prior to accepting gifts of any and all kinds, it will:

1. Obtain confirmation from the Library Director or the Director's designee that the director has the authority to receive gifts designated for specific purposes, and that an accepted gift will conform to the Library's master plans, mission, and philosophy, and all other applicable City, State, and Federal laws and regulations.

2. Coordinate its funding goals, programs, and campaigns with the Library.

3. Advise donors that any gift, grant, or contract that includes a financial or contractual obligation binding upon the City of Burlington must have prior concurrence in writing from the City's Board of Finance and City Council or their designees in accordance with any and all applicable City policies and delegations of authority.

q. The Friends shall conduct their investment procedures in accordance with prudent, sound practices to ensure that gift assets are protected and investments are managed with an aim to earn a reasonable return in conformance with the fiduciary responsibilities of the Friends' Board. Investments shall be consistent with the terms of the gift instrument, which shall be the responsibility of the Friends to interpret. Income from investments, net of administrative fees, shall be administered in accordance with pertinent policies and where appropriate transferred to the Library.

q. The Friends shall adopt investment procedures that are conducted in accordance with prudent, sound practices to ensure that gift assets are protected and that investments are managed with an aim to earn a reasonable return in conformance with fiduciary responsibilities of the Board. The investments must be consistent with the terms of the gift instrument, which shall be the responsibility of the Friends to interpret. Income from investments, net of administrative fees, shall be administered in accordance with pertinent Friends' policies, and, where appropriate, as determined by the Friends, transferred to the Library so as to be expended from the appropriate Library accounts with the City.

r. Because private funds are raised to support public projects, the Friends will permit the City's Chief Administrative Officer and/or the Library Director or their designees to inspect all Friends' books and records, except to the extent such inspection violates rights to confidentiality, privacy, and confidential donor information.

s. The Library and the Friends shall have the right to conduct periodic compliance reviews of the use of donated funds. Their purpose will be to ensure that dispositions of donated funds have complied with the purposes and restrictions set forth by the donors and/or the Friends. The scope of the review and extent of testing will be mutually agreed upon in advance by the City and the Friends. A written report of the results of such reviews shall be provided to each party.

t. Funds received by the Library from the Friends shall only be accounted for as gifts when the appropriate donative intent is present. Amounts received solely in exchange for services or property shall not be accounted for as gifts.

IV. Other Provisions

This Agreement represents the parties' entire agreement with respect to the matters specified herein. This Agreement shall be governed by and construed under and in accordance with the laws of the State of Vermont. Venue for any actions arising under this Agreement shall be Burlington, Vermont. Any provision of the Agreement which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof.

For the Fletcher Free Library

Mary Danko, Library Director
(Authorized Signature)

(Date)

For the Friends of the Fletcher Free Library

Joan Conroy, President
(Authorized Signature)

(Date)

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