

SAN MARCOS PUBLIC LIBRARY  
**MEMORANDUM OF AGREEMENT**

**San Marcos Public Library (“Library”)**, 625 E. Hopkins St., San Marcos, TX 78666, and the Friends of the San Marcos Public Library (“Friends”) enter into this Agreement to offer support for the **Library**.

Whereas, the Friends mission is to raise money and public awareness in the community to support the services and programs of the Library;

Whereas, as a non-profit, 501(c)3 organization, Friends is a legally distinct entity and is not part of the Library; and

Whereas, Library and Friends now desire to set forth the terms of their agreement;

Now Therefore, the Parties agree to the following terms:

**I. Party Responsibilities**

**The Library agrees:**

- to include the Friends in the long-term planning process to ensure that the Friends are aware of the goals and direction of the library.
- to share with the Friends the library’s strategic initiatives at the beginning of each fiscal year and discuss with Friends how their resources and support might help forward these initiatives.
- to supply the Friends with a “wishlist” each year that indicates the anticipated financial needs for Friends support.
- to provide public space for Friends membership brochures and promotional materials.
- to provide the Friends with space in the Library for book storage and sorting, book sales, and office needs.
- to provide access to an appropriate facility for conducting programs, fundraisers, and or meetings;
- to provide administrative support in the promotion of Friends fundraising efforts and/or events;
- to provide the Friends with discarded and donated materials for the express purpose of fundraising on behalf of the Library.

**The Friends agree:**

- to publicly support the Library and its policies.
- to include a member from the library’s administration as a non-voting presence at all Friends’ meetings and to allow room on the agenda for a library report.
- that any and all monies raised will be spent exclusively for library programs, services, and other Library defined needs, unless otherwise agreed to by both the Friends and the

Library Director. Parties agree that money received by the Friends should be used to support the Library, and that those funds should supplement and not supplant public funding.

- that the library administration has the final say in accepting or declining any and all gifts made to the Library.
- to engage in advocacy efforts on behalf of the Library under the guidance of the Library Director.
- that if they cease to actively fundraise and promote the Library, they will disband allowing for a new Friends group to be established in the future.
- to collect and pay applicable sales tax on items they sell.
- To utilize all materials provided by the Library to fundraise on behalf of the Library or dispose of the materials appropriately.

## **II. Term**

This Agreement has an initial term of one year, commencing on the Effective Date, unless terminated earlier as described below. At the end of the initial term (and any subsequent extended terms) this Agreement will automatically renew for another one year term for up to nine years for a maximum total contract term of ten (10) years. Following the final term of this Agreement either party may notify the other party in writing of a desire to negotiate terms for a new contract.

## **III. Termination**

1. Either Party may terminate this Agreement, without cause, upon thirty (30) days written notice to the other. In the event of such termination, any course in process will be completed.
2. If either party is in default of performance of any material obligation under this Agreement, the party that is not in default may give written notice of the default to the other party and if the party notified fails to correct the default within thirty (30) days or within such period fails to satisfy the party giving notice that the default does not exist, the party giving notice may terminate this Agreement upon expiration of the thirty (30) day period.
3. The termination of this Agreement shall not affect any right or remedy that has accrued to either party at the time of termination.
4. Upon termination of this Agreement (either through this section, or by expiration of the term with no extension), Friends shall deliver any keys, access badges, equipment, or other property owned by **San Marcos Public Library** to the appropriate representative and turn over all funds raised on behalf of the Library to the Library Director.

#### **IV. INDEMNIFICATION**

**FRIENDS SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF SAN MARCOS, ITS RESPECTIVE TRUSTEES, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS, FROM AND AGAINST ANY AND ALL LIABILITY, LOSSES, CLAIMS SOUNDING IN LAW OR IN EQUITY, AND ANY DEMANDS, AWARDS OF MONEY DAMAGES, ATTORNEYS FEES, COSTS, JUDGEMENTS , LICENSE FEES, EXCISES, FINES, AND PENALTIES; AND FOR INJURY OR DEATH OF ANY PERSON OR DAMAGE TO ANY PROPERTY ARISING DIRECTLY OR INDIRECTLY FROM THE ACTS OR OMISSIONS OF FRIENDS OR ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS IN THE PERFORMANCE OF THIS AGREEMENT WHETHER BROUGHT IN A COURT OF LAW OR EQUITY OR ADMINISTRATIVE PROCEEDING. THIS OBLIGATION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.**

#### **V. Governing Law**

The Agreement and all of the rights and obligations of the Parties hereto and all of the terms and conditions hereof will be construed, interpreted, and applied in accordance with and governed by and enforced under the laws of the State of Texas, without giving effect to its conflict of laws provision. Any action brought to enforce any provision of this Agreement shall be brought in a court of competent jurisdiction in Travis County, Texas.

#### **VI. Notice**

1. Any and all notices, demands, or other communications required or desired to be given hereunder by any Party shall be in writing and shall be validly given or made to another Party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested.
2. If such notice or demand is served personally, notice shall be deemed made at the time of such personal service.
3. If such notice, demand, or other communication is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the Party to whom such notice, demand, or other communication is to be given at the addresses listed in Exhibit A.
4. Any Party hereto may change its address for the purposes of this paragraph by written notice given in the manner provided above.

**VII. Effective Date**

This Agreement is effective as of the last date of execution below

San Marcos Public Library

The Friends of the San Marcos  
Public Library

By: \_\_\_\_\_  
(Authorized Signature)

By: \_\_\_\_\_

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed