

LIBRARY SERVICES CONTRACT
BETWEEN THE MID-COLUMBIA LIBRARIES AND THE CITY OF
PROSSER

THIS AGREEMENT, made and entered into this 13th of October, 2009, by the MID-COLUMBIA LIBRARIES, an inter-county rural library district of Benton and Franklin Counties, by and through the Board of Trustees of the same, duly organized and existing under the laws of the State of Washington, hereinafter called the "MCL", and the CITY OF PROSSER, WASHINGTON, a municipal corporation, hereinafter called "City".

WITNESSETH:

WHEREAS, MCL operates a regional library with over 400,000 volumes of available materials, as well as access by computer and database networks to substantially more material; and

WHEREAS, the MCL has provided library services to the City since January 1, 2001, under a Library Services Contract, and the parties desire to enter into a new contract for continuation of those services, under mutually agreeable terms and conditions; and

WHEREAS, for the mutual benefit of all, and to give the best library service to the greatest number of people at the most reasonable and equitable cost, and to make it convenient for city residents to use library books and other materials by making the most economical use of available funds through the centralization of supervision and the purchase of supplies, books and other library materials and equipment, NOW THEREFORE,

IT IS HEREBY AGREED as follows:

I. Preamble: In return for the MCL to be paid by the City as hereinafter provided, commencing January 1, 2010, the MCL agrees to provide the City with library services as provided herein.

II. General Conditions: The MCL agrees that it shall make available to the residents of Prosser the resources and library services generally available throughout the

Library District to the extent deemed reasonable and equitable by the MCL in view of its district-wide service responsibilities. The MCL further agrees that the residents of the City are entitled to the same library privileges as are provided to all residents of the inter-county rural library district of Benton and Franklin Counties.

III. Library Materials: In the provision of books and non-print materials by the MCL, the collection for a community library shall depend on the population served, the shelf space available, the use made of the materials, and the funds available in the MCL-wide materials budget. The MCL has the responsibility for the selection and maintenance of such materials. In addition, the MCL shall make all decisions regarding the use to be made of gifted tangible personal property, *e.g.* materials and equipment, in accordance with the MCL Collection Development Policy. All other gifts will be administered in accordance with Donor intent. Regulations for use of the library and its collection will be set by the MCL.

IV. Library Staff: In regard to staff, the MCL has the sole responsibility for selection, training, discipline and other personnel administrative functions. Nevertheless, the MCL agrees to use its best efforts to staff the Library with at least one librarian holding a master's degree in library science, at a salary and benefit package not to exceed the range of salaries and benefits paid to librarians, with like qualifications, employed in the northwest region of the United States in communities of a size similar to the communities currently served by the MCL.

V. Library Space: The City covenants, agrees and recognizes that the MCL is not obligated to provide a building, space in a building for library services, or utilities and maintenance for any building from which library service is provided in the City. The City agrees that if it desires library services utilizing a building within the City, the City will provide or construct a suitable building or facility and/or space in a building or facility for a library in the City and shall pay all necessary construction, acquisition alteration, renovation, maintenance and utility costs associated therewith. In that regard, the City agrees to timely address maintenance and repair requests received from the MCL. In the case of maintenance and repair items having an immediate impact on health

and safety, the City shall use its best efforts to commence the required maintenance or repair work within five (5) working days of receipt of written notice from the MCL. In the case of all other requested maintenance and repair items, the City shall commence or make arrangements for the commencement of work, within fourteen (14) days of receipt of written notice from the MCL. In the event the City does not meet its performance obligation(s) in the foregoing time periods, and without giving the MCL written notice setting forth reasonable justification for such non-performance, the MCL may, in its sole discretion, carry out the required maintenance or repairs, or arrange for others to do so, the direct cost of which shall be paid by the City.

In the event that the parties dispute whether any required maintenance or repair is necessary, then a dispute board shall determine whether the repair or maintenance is necessary. The decision of the dispute board will be binding on the parties. The dispute board will have one member appointed by the City, one member appointed by MCL and a third member appointed by the other two members. The City shall not be required to make the disputed repair or maintenance until the dispute board renders its decision.

It is agreed that the MCL shall provide service to residents of the City in the space provided by the City and that the MCL and the City will jointly manage the space, the MCL having complete authority over the services rendered, arrangement, and use of the space; the City having authority over the physical plant.

The MCL acknowledges the City's need to budget for facility improvements. Each year in June, the parties agree to meet to discuss improvements to be conducted during the following calendar year. City staff will carry these agreed upon improvements into the City's budget process. If they are funded in the budget process, the City will plan to complete the improvements during the following calendar year. If they are not funded, the City and MCL agree to meet to discuss alternative options. The MCL recognizes that the City's budget is subject to many factors. While a good faith effort will be made to complete the planned improvements, the City reserves the right to delay the improvements due to unforeseen economic conditions.

The City agrees to furnish janitorial services and to pay for all agreed upon alterations to the building. All other costs and expenses for providing library services stipulated in this Agreement shall be paid by the MCL.

VI. Library Exterior: The City agrees to maintain the exterior of the library and grounds surrounding the library including lighting, landscaping, irrigation, parking lot and sidewalks in an attractive, useable and safe condition.

VII. Hours of Service: Regular hours of service will be determined by the MCL, taking into account the population served, the uses made of the facility, and the funds available in the MCL-wide staff budget, with 40 hours minimum per week.

VIII. Annual Report: An annual printed report stating the Prosser Branch's open hours, total circulation and budgeted expenditures shall be provided to the City prior to the end of April each year.

IX. Fire and All Risk Insurance: The City shall procure and, at its expense, maintain such "all risk" insurance as it deems necessary for the coverage of the building and City-owned equipment and materials therein. The MCL shall procure and, at its expense, maintain such "all risk" insurance as it deems necessary for the coverage of its materials, equipment, and supplies upon the premises. The City and the MCL hereby waive the subrogation provisions of any insurance policy issued to either covering any casualty arising out of the ownership, use, maintenance or operation of said building or premises, but only to the extent such policy permits such a waiver, any provision in this Agreement to the contrary notwithstanding.

X. Liability Insurance. The MCL covenants and agrees that it will at all times indemnify and save the City harmless from and against any claims or demands or causes of action of whatsoever kind of character for injuries or damages to persons or property, and any and all liability arising out of the use of the premises occupied by the library, with the exception of any claims which may arise by reason of the activities of the City's agents, employees or representatives. The MCL shall keep and maintain in full force and effect a good and sufficient comprehensive general liability insurance policy with a reputable company insuring against all such losses with a single limit covering both

bodily injury liability and property damage liability of at least \$1,000,000, and the City shall be named as additional insured under said policy.

XI. Contract Fee. Commencing January 1, 2010, and thereafter, the City agrees to pay the MCL, in monthly installments, an annual contract fee determined by multiplying the same levy rate used in the rural library district for that year's library taxes against the assessed valuation of the property within the City limits. (Currently \$.___/ \$1,000). *See generally, RCW 27.12.150*

The annual fee shall be calculated at such a time that each January 1st begins a new fee year. Annual fee payments shall be made in 12 equal monthly installments with each installment to be remitted on or before the last day of each month, commencing January, 2010.

In the event the monthly installment payment is not paid by the last of the month in which it is due, then in addition thereto, as a late charge, the City agrees to pay 1% per month, of the delinquent installment for each month delinquent, until paid.

XII. Term of Agreement: This Agreement shall be initially for a five (5) year term commencing January 1, 2010 through December 31, 2014. The term shall automatically be extended in five (5) year increments, upon the same terms and conditions provided herein, unless either party gives the other party written notice, at least one (1) year prior to the end of the then five (5) year term, not to renew the Agreement at the end of its then five (5) year term. Furthermore, either party may terminate this Agreement, for cause, as in the case of a material breach that is not timely cured, or at anytime, without cause, during its five (5) year term, after giving the other party two (2) years prior written notice of termination. Lastly, this Agreement shall be

deemed terminated as of the effective date of any annexation of the City of Prosser into the MCL, that may hereinafter occur.

Should the City terminate this Agreement after December 31, 2009, other than by annexation, then the City agrees to pay a liquidated reimbursement charge based upon the following schedule:

12/31/09 to 12/32/11- \$15,000

12/31/12 to 12/31/14- \$10,000

Additionally, upon termination, the MCL grants to the City an option to purchase the materials, equipment and supplies of the MCL situated on the premises. To exercise this option, the City shall give the MCL written notice of its exercise of the option, not later than six (6) months prior to the date of termination. Thereafter, the parties shall negotiate, in good faith, in order to reach written agreement as to the terms and conditions of payment. If written agreement is not reached within the foregoing time period, the option to purchase granted herein shall be deemed null and void and the MCL shall thereafter remove its materials, equipment and supplies from the premises, on or before the date of termination, or such other date as the parties may agree to in writing, so as to effect a smooth transition.

XIII. City's Existing Equipment and Materials--Reimbursement to MCL for Capital Improvements: The City will retain ownership of all equipment and materials owned by the City at the time of the execution of this contract; provided, however, said equipment and materials may be used by the MCL. The MCL is not responsible for

reasonable wear on the existing equipment and materials, and will not replace said existing equipment and materials when it is no longer usable.

In the event the MCL, hereinafter by agreement with the City, makes capital improvements to the City's building, and the City thereafter terminates this Agreement before the end of the useful life of those improvements, then City shall pay to MCL a sum equal to the remaining value of the improvements, proportionate to their remaining life, as of the date of termination. *By way of example*, if the cost of the improvement is \$10,000, and it has a useful life of 20 years, then if the contract is terminated by the City five years after the date of the improvement, the reimbursement obligation would be \$7,500.

XIV. Annexation Options/Conditions: Upon the written request of either party, the parties agree to meet and negotiate, in good faith, the potential annexation of the City into the MCL, using the following as initial annexation discussion/negotiation parameters:

The MCL shall adopt an appropriate resolution concurring in the annexation of the City to the MCL as is otherwise provided by statute.

- a. In the event of a successful annexation election, then effective January 1 or of the year in which the MCL first receives revenue by virtue of the annexation, then the other articles of this contract with the exception of Articles IV, V, VI, XIV and XV shall be suspended so long as the City is annexed to the MCL. Irrespective of annexation, the City agrees, that if it desires library services utilizing a building within the City, to provide

facilities and maintenance and operation coverage and library space as well as to maintain the library grounds as otherwise provided in Articles V and VI hereof. *See* RCW 27.12.370

b. In the event of a successful annexation, the City agrees that it will not, pursuant to RCW 27.12.380 as the same now exists, or as may hereafter be amended, resolve to de-annex or to withdraw from the MCL without first providing the MCL with six (6) months written notice thereof, and upon a de-annexation election occurring on or before January 1, 2020, the City and MCL covenant and agree as follows:

1. Effective January 1 of the year in which the MCL does not receive revenue by virtue of levy occasioned by the de-annexation of the City, and for a term of three (3) years thereafter, the provisions of Articles of II, III, IV, V, VI, VII, VIII, IX and XIII, shall receive and be in full force and effect.
2. Paragraph X will be amended and effective to read Contract fee: In return for this library service the City agrees to pay to the MCL in monthly installments, an annual contract fee determined by applying the same levy rate used in the rural Library District for that year's library taxes against the assessed valuation of the property within the City limits. For each of the three (3) years (XIII.b.(1)), the annual payments will be made in equal installments with the first installment to be remitted on or before the last day of January, and subsequent

installments to be remitted on or before the last day of each succeeding month.

XV. Library Name: During the term of this Agreement, and any renewal thereof, the Prosser Library shall be named: “*Prosser Branch of the Mid-Columbia Libraries.*”

XVI. Notices: Any notice required to be given by either party to the other shall be addressed by the MCL to the City Administrator and by the City to the Executive Director of the MCL. All notices shall be given by either personal service, first class mail or by fax.

XVII. Miscellaneous: Except for negotiation of a subsequent or succeeding written agreement, the City and MCL will refrain and not seek mid-contract changes in the financial terms of this Agreement.

The parties agree that time is of the essence of each and every provision contained herein and no waiver of any breach of any condition or covenant shall waive any other condition or covenant or any future breach.

The parties agree that if any provision of the Agreement is declared illegal or in violation of the law, the remaining provisions thereof shall remain in full force and effect.

The parties agree that should any action be commenced to enforce any of the terms, covenants or conditions hereof, or should any claim hereunder be placed in the hands of an attorney for collection or enforcement, the prevailing party shall be entitled to recover or be awarded its reasonable attorney’s fees and all costs and disbursements expended, including statutory costs.

IN WITNESS WHEREOF, the said District and the said City have caused this contract and agreement to be executed by their respective officers on the day and year first written above.

MID-COLUMBIA LIBRARIES

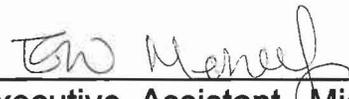
CITY OF PROSSER

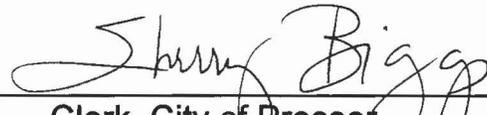
By: 
Executive Director, Mid-Columbia
Libraries

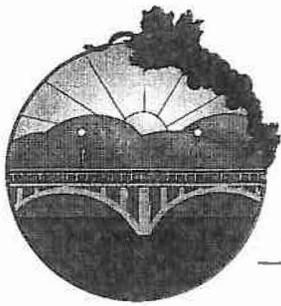
By: 
PAUL WARDEN, Mayor

Attested to by:

Attested to by:


Executive Assistant, Mid-Columbia
Libraries


Clerk, City of Prosser



City of Prosser

October 23, 2009

Danielle R. Krol, Executive Director
Mid-Columbia Libraries
405 S. Dayton
Kennewick, WA 99336

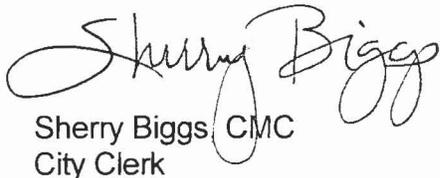
RE: Library Services Contract

Dear Ms. Krol:

At its regularly scheduled meeting on October 13, 2009, the Prosser City Council unanimously approved the enclosed "Library Services Contract between the Mid-Columbia Libraries and the City of Prosser." The initial term for this contract is from January 1, 2010 to December 31, 2014.

Please contact me if you have any questions.

Sincerely,


Sherry Biggs, CMC
City Clerk

Enclosure as stated

Duplicate - The
City will work w/
Copy provided in their
letter dated 7/21/09.

enter
-6349

October 20, 2009

Mr. Charlie Bush
City Administrator
City of Prosser
601 7th Street
Prosser, WA 99350

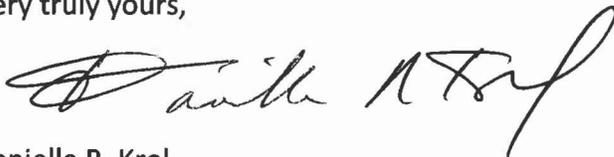
J. Biggs

Dear Mr. Bush:

At the October 19, 2009, meeting of the Mid-Columbia Libraries Board of Trustees, the Board unanimously authorized me to enter into the contract with the City of Prosser for library services to commence January 1, 2010. The Board of Trustees and I are delighted to have reached a resolution to this contract and look forward to continuing library services in Prosser.

Enclosed, please find two original contracts with signatures by Mid-Columbia Libraries. Please have City of Prosser representatives sign each original contract and return one original, fully executed contract to me at your earliest convenience. If you have any questions, please feel free to call me at 737-6351.

Very truly yours,



Danielle R. Krol
Executive Director

cc: Diehl Rettig, MCL General Counsel

Enclosure(s):
Library Service Contract

July 21, 2009

RECEIVED
JUL 23 2009
CITY OF PROSSER

Mr. Charlie Bush
City Administrator
City of Prosser
601 7th Street
Prosser, WA 99350

Dear Mr. Bush:

At the July 20, 2009, meeting of the Mid-Columbia Libraries Board of Trustees, the Board unanimously adopted the proposed library services contract between MCL and the City of Prosser to begin January 1, 2010. Attached, please find two signed originals of this contract. Please move forward with presenting this contract to the Prosser City Council at your earliest convenience. If the contract is adopted by the council, please acquire the necessary signatures and send an original contract to me and maintain the second original contract for your records.

Again, I would like to thank you and the City of Prosser for your efforts in negotiating this contract. I look forward to our continued collaboration in making the Prosser Branch the jewel of your community.

Very truly yours,



Danielle R. Krol
Executive Director

Enclosure(s): Library Services Contract