

**Intergovernmental Agreement for Building Operations and Maintenance
Services of the Yelm Timberland Library**

WHEREAS, the Timberland Regional Library and the City of Yelm are parties to a certain Agreement for Library Quarters (hereinafter the "Library Quarters Agreement") dated September, 1990; and

WHEREAS, pursuant to the Library Quarters Agreement, the City of Yelm would be annexed into the Timberland Regional Library system and agree to provide suitable quarters for a library upon approval of the City's voters; and

WHEREAS, the voters of the City of Yelm approved annexation of the City of Yelm into the Timberland Regional Library system; and

WHEREAS, the parties have acted in compliance with the Library Quarters Agreement and now desire to supplement the Library Quarters Agreement in order to provide for the financing and use of a facility and library space located at 210 Prairie Park Street, Yelm, WA now under negotiation; and

WHEREAS, pursuant to Chapter 39.34.010 RCW, governmental entities, including intercounty rural library districts, are authorized to make the most efficient use of their powers by cooperating with each other on a basis of mutual advantage for the provision of services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, pursuant to Chapter 39.34.080 RCW, each party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties; and

WHEREAS, the City of Yelm and the Timberland Regional Library find it mutually beneficial and in the public interest for the City of Yelm to contract with the Timberland Regional Library for building operations and maintenance services for the Yelm Timberland Library space, located at 210 Prairie Park Street, Yelm, Washington, with it being understood that the expenditure by the Timberland Regional Library will be limited to thirty-seven thousand dollars (\$37,000.00) per calendar year; and

NOW, THEREFORE, in consideration of the exchange of the mutual benefits, covenants and agreements recited herein, the Parties agree as follows:

1) Objective

The Library Quarters Agreement for Library Services in the City of Yelm entered into by the Timberland Regional Library and the City of Yelm, dated September, 1990, is attached hereto as Exhibit 1 and is, by this reference, incorporated herein. It is agreed that the Library Quarters Agreement shall remain in full force and effect except as expressly modified herein.

2) General Purpose

The City of Yelm does not have sufficient resources to both acquire the facility and provide entirely for the building operations and maintenance services of the facility. Therefore, the City of Yelm desires to have the Timberland Regional Library provide funding toward the building operations and maintenance of its library facility for a specified period of time. The Timberland Regional Library agrees to pay thirty-seven thousand dollars (\$37,000) per calendar year toward the cost of said building operations and maintenance services under the terms and conditions specified in this agreement. Provided, the last of such payments by the Timberland Regional Library shall be in calendar year 2031.

3) Lead Agency Status

The City of Yelm is the lead agency and shall collaborate with the Timberland Regional Library as necessary. As lead agency the City of Yelm shall manage building operations and maintenance services of the facility located at 210 Prairie Park Street, Yelm, WA. The City of Yelm agrees to meet no less than annually, no later than February 1, with the Timberland Regional Library, to discuss levels of service associated with such operation and maintenance of the facility.

4) Timberland Regional Library Responsibilities

The Timberland Regional Library may provide labor services, to the extent that is feasible under this agreement, in order to participate in the building operations and maintenance services, with the City of Yelm's authorization, in addition to the payment of thirty-seven thousand dollars (\$37,000) per calendar year. All labor services provided by the Timberland Regional Library shall not be billed by the Timberland Regional Library to the City of Yelm.

The following, if deemed necessary by the Timberland Regional Library, shall be provided by the Timberland Regional Library:

Security Personnel: A person paid to maintain a presence that deters illegal and inappropriate actions, observing for signs of crime, fire or disorder; then taking action and reporting any incidents to the Librarian in charge.

Telephone: Communication equipment for disseminating information. By way of example, and not limitation, the term "communication equipment," shall include network equipment, telephone system, telecom equipment, wireless equipment, intercom equipment and fiber optic transmission systems.

Library Materials and Furniture: Library materials and furniture are the moveable articles in the building. By way of example, and not limitation, the term "furniture," shall include desk chairs, workstations, computer stations, tables, ergonomic tools, task lighting, shelving, and office equipment.

Computers and other electronic equipment: Computers and other electronic equipment, by way of example and not limitation, shall include personal computers, copier equipment, fax machines and laptops.

5) City of Yelm Responsibilities

The following building operations and maintenance services shall be provided by the City of Yelm at its library:

Janitorial Services: Janitorial services means cleaning the space held for the library (including the lobby and elevator), or the contents thereof. Such services are of the type rendered by a janitor in the regular course of duty, and may be rendered alone or in conjunction with other services.

General Building Operations and Maintenance Services for the Dedicated Library Space: Maintenance services for the dedicated library space means attending to the upkeep of and caring for the space held for the library, including such services as are necessary to sustain or support safe, efficient, continuous use for library services.

Utility Fees: Utility fees are based on measured (metered) use of electricity, natural gas, or other utilities at the facility including water, garbage and recycling services.

Pest Control: Pest control services shall include the prevention, management or eradication of pests that occur in the dedicated library space.

Security Monitoring: Security monitoring shall include security monitoring provided either via phone line, the internet or cellular tower. Upon receiving the signal, a trained professional will notify the appropriate authority.

Building Operations and Maintenance Services: Maintenance services mean attending to the upkeep of or caring for the building. This includes such services as are necessary to sustain or support safe, efficient, continuous use or to keep the facility in good working order by preventing its decline, failure, lapse or deterioration.

6) Full Assurance - General

The parties shall execute such further documents and do any and all such further things as may be necessary to implement and carry out the intent of this agreement as stated in section 2, General Purpose.

7) Duration of Agreement

This agreement shall begin on March 1, 2012; and shall continue until December 31, 2031.

8) Method of Payment

By no later than September 30, 2012, the Timberland Regional Library shall pay to the City of Yelm a pro-rated amount for the first year of this agreement, calculated from March to December.

By no later than September 30, 2013, the Timberland Regional Library shall pay the City of Yelm the amount of thirty-seven thousand dollars (\$37,000.00). The Timberland Regional Library shall pay the same dollar amount to the City of Yelm by no later than September 30th of each year thereafter until the final year December 31, 2031.

9) Relationship of Parties

The City of Yelm shall have the authority to direct and control the performance of its building operations and maintenance services responsibilities described herein. All employees, agents, appointees or officers used by the City of Yelm in performing this Agreement shall be considered employees, agents, appointees or officers of the City of Yelm and shall have no claim against the Timberland Regional Library for wages, salaries, reimbursements, benefits or any other form of compensation arising under their performance of maintenance services.

If the Timberland Regional Library participates in any portion of the building operations and maintenance services, all employees, agents, appointees or officers used by the Timberland Regional Library shall be considered employees, agents, appointees or officers of the Timberland Regional Library and shall have no claim against the City of Yelm for wages, salaries, reimbursements, benefits or any other form of compensation arising under their performance of maintenance services.

10) Hold Harmless

Any labor contributed by the Timberland Regional Library toward building operations and maintenance services to be performed under this Agreement shall be performed at the Timberland Regional Library's own risk and the Timberland Regional Library expressly agrees to hold the City of Yelm and any of its officers, agents or employees, harmless from any liability or damages resulting from the negligence of the Timberland Regional Library.

All Building Operations and Maintenance Services performed by the City of Yelm under this Agreement shall be performed at the City of Yelm's own risk and the City of Yelm expressly agrees to hold the Timberland Regional Library and any of its officers, agents or employees, harmless from any liability or damages resulting from the negligence of the City of Yelm.

11) Assets

Title to all property furnished by the Timberland Regional Library in conjunction with the Timberland Regional Library's performance hereunder shall remain in the name of the Timberland Regional Library.

12) Non-Waiver of Rights

The Parties agree that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of any other provision of this Agreement.

13) Modification

This Agreement may be modified only by the mutual agreement of the Parties hereto, in writing, and executed in the same manner as is this Agreement. This Agreement may be re-opened by either party, with thirty (30) days written notice.

14) Default

If any of the Parties hereto fails to perform its responsibilities, and after such failure continues to be remiss in its obligations for a period of twenty (20) days upon having received written notice of same non-performance, such party shall be in default hereunder. Upon such default, the other Party hereto may exercise any remedies provided by law. If legal action is necessary to enforce the provisions of the Agreement, the prevailing Party shall receive such sums as the court may determine, including reasonable attorney's fees and such costs as are incurred in maintaining such cause of action.

15) Termination

Either Party's failure to substantially comply with any of the provisions stated herein shall constitute a material breach of this Agreement and cause for the termination thereof. Upon such breach by a party, the remaining Party may terminate this Agreement at any time after giving thirty (30) days notice thereof.

This Agreement may also be terminated in whole or in part by mutual agreement of the Parties hereto. Any termination by mutual agreement shall be in writing and shall set forth the conditions of termination, including the effective date, or, in the case of termination in part, that portion to be terminated.

16) Notices

Notices to the Parties hereto shall be sufficient if mailed first-class postage prepaid, to the signatories hereto or to duly appointed designee.

17) Interpretation and Venue

This agreement shall be governed by the laws of the State of Washington as to interpretation and performance. The Parties hereby agree that venue for enforcement of the agreement shall be the Superior Court of Thurston County.

18) Dispute Resolution

- a) In the event of a dispute concerning any matter pertaining to this Agreement, the Parties involved shall attempt to adjust their differences by informal negotiation. The Party perceiving a dispute or disagreement persisting after informal attempts at resolution shall notify the other Parties in writing of the general nature of the issues. The letter shall be identified as a formal request for negotiation and shall propose a date for representatives of the Parties to meet. The other Parties shall respond in writing within ten (10) business days. The response shall succinctly and directly set out that Party's view of the issues or state that there is no disagreement. The parties shall accept the date to meet or shall propose an alternate meeting date not more than ten (10) business days later than the date proposed by the Party initiating dispute resolution. The representatives of the Parties shall meet in an effort to resolve the dispute. If a resolution is reached the resolution shall be memorialized in a memorandum signed by all Parties which shall become an addendum to this Agreement. Each Party shall bear the cost of its own attorneys, consultants, and other Step One expenses. Negotiation under this provision shall not exceed 90 days. If a resolution is not reached within ninety (90) days, the Parties shall proceed to mediation.

- b) If the dispute has not been resolved by negotiation within ninety (90) days of the initial letter proposing negotiation, any party may demand mediation. The mediator shall be chosen by agreement. Absent mutual agreement to the contrary, if the parties are unable to reach agreement regarding the selection of a mediator, the parties agree that the mediator will be selected pursuant to the selection procedures of the American Arbitration Association. Each Party shall bear the cost of its own attorneys, consultants, and other Step Two expenses. The Parties to the mediation shall share the cost of the mediator. A successful mediation shall result in a memorandum agreement which shall become an addendum to this Agreement. Mediation under this provision shall not exceed ninety (90) days. If the mediation is not successful within ninety (90) days, the Parties may proceed to litigation.
- c) Unless otherwise agreed to by the Parties in writing, Step One and Step Two must be exhausted as a condition precedent to filing of any action in Thurston County Superior Court. A Party may initiate an action without exhausting Steps One or Two if the statute of limitations is about to expire and the Parties cannot reach a tolling agreement, or if either Party determines the public health, safety, or welfare is threatened.

IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Agreement as of the date identified in Section 7.

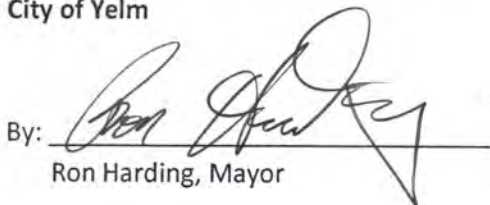
Timberland Regional Library

By: 


Approved as to Form:



City of Yelm

By: 
Ron Harding, Mayor

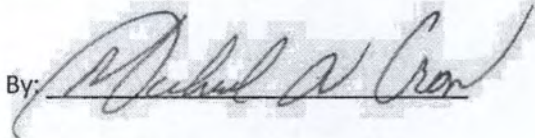
Approved as to Form:


Brent Dille, City Attorney

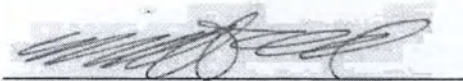
- b) If the dispute has not been resolved by negotiation within ninety (90) days of the initial letter proposing negotiation, any party may demand mediation. The mediator shall be chosen by agreement. Absent mutual agreement to the contrary, if the parties are unable to reach agreement regarding the selection of a mediator, the parties agree that the mediator will be selected pursuant to the selection procedures of the American Arbitration Association. Each Party shall bear the cost of its own attorneys, consultants, and other Step Two expenses. The Parties to the mediation shall share the cost of the mediator. A successful mediation shall result in a memorandum agreement which shall become an addendum to this Agreement. Mediation under this provision shall not exceed ninety (90) days. If the mediation is not successful within ninety (90) days, the Parties may proceed to litigation.
- c) Unless otherwise agreed to by the Parties in writing, Step One and Step Two must be exhausted as a condition precedent to filing of any action in Thurston County Superior Court. A Party may initiate an action without exhausting Steps One or Two if the statute of limitations is about to expire and the Parties cannot reach a tolling agreement, or if either Party determines the public health, safety, or welfare is threatened.

IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Agreement as of the date identified in Section 7.

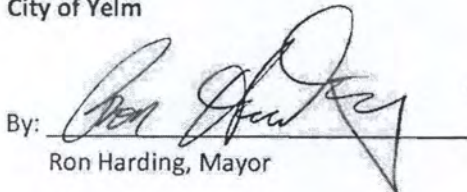
Timberland Regional Library

By: 

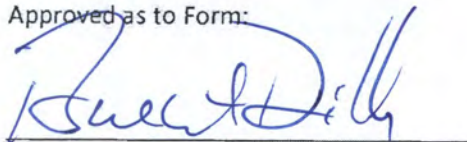
Approved as to Form:



City of Yelm

By: 
Ron Harding, Mayor

Approved as to Form:



Brent Dille, City Attorney