

AMENDED



Resolution 2003-096

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE WASHINGTON COUNTY COOPERATIVE LIBRARY SERVICES (WCCLS) AGREEMENT

WHEREAS, On December 9, 2003, at a regular Council meeting, Council approved Resolution 2003-096, a resolution written for this identical purpose, to authorize the City Manager to Sign the WCCLS agreement; and

WHEREAS, the agreement with Washington County Cooperative Library Services was attached to the resolution as Exhibit A and during the course of the December 9, 2003 regular Council meeting some changes to Exhibit A were directed by Council prior to their approval; and

WHEREAS, subsequent to the December 9, 2003 meeting, Council opted to rescind those changes and sign the December 22, 2003 version of the agreement shown hereon at Attachment A; and

WHEREAS, Council understands that it is in the best interests of the City of Sherwood Library to continue participation in this agreement at this time; and

NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:

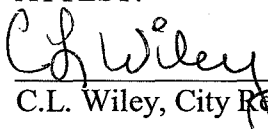
Section 1. The City Manager is authorized to sign the agreement shown hereon as Exhibit 1.

Section 2: This Amended Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 22nd day of December 2003.


Mark O. Cottle, Mayor

ATTEST:


C.L. Wiley, City Recorder

Public Library Services Agreement

This Agreement is made by and between Washington County, a home rule subdivision of the State of Oregon hereinafter referred to as "County", on behalf of Washington County Cooperative Library Services, hereinafter referred to as "WCCLS", and the Cities of Banks, Beaverton, Cornelius, Forest Grove, Hillsboro, Sherwood, Tigard, and Tualatin, and the Cedar Mill Community Library Association and the Garden Home Community Library Association, hereinafter referred to as "Contractor(s)".

WHEREAS, Washington County has approved funding for county-wide library services including non-fee access by County residents to public libraries operated by Contractors; and

WHEREAS, the parties to this Agreement are either units of local government empowered by ORS 190.010 to enter into an intergovernmental agreement or are private non-profit agencies operating public libraries; and

WHEREAS, all parties are desirous of providing residents of Washington County with access to public library services and Contractors are capable of providing such access and services.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. DEFINITIONS

The following definitions shall be used in constructing the following phrases, terms and abbreviations in this Agreement:

- A. WCCLS (Washington County Cooperative Library Services) – An agency of county government which exists to coordinate, contract for or provide a full range of library and information services to all residents of the county.
- B. WCCLS Network – The consortium of public, academic, special and school libraries in Washington County, which exists to provide countywide library service.
- C. WCCLS Library Directors' Board – The executive body of the WCCLS Network; advisory to the Cooperative Library Advisory Board and the WCCLS Manager.
- D. WILInet (Washington County Inter-Library Information Network) – An integrated, automated library system, including but not limited to WILI, which is comprised of the integrated library system software (online circulation, public access catalog, cataloging and acquisitions software), and other databases, Internet resources, central site hardware and telecommunications equipment.
- E. Cooperative Library Advisory Board (CLAB) – The board appointed by the Washington County Board of Commissioners to develop, review and

recommend library service policies, representing Public Library Services Agreement Contractors and the West Slope Community Library. CLAB is advisory to the Board of Commissioners and to the Cooperative Library Services Manager.

- F. Qualified Borrowers – All Washington County residents, residents of counties with which Washington County has reciprocal borrowing agreements, and other paid card holders.
- G. West Slope Community Library - The public library that is a department of WCCLS and managed by the County. For purposes of funding, West Slope is treated as a Contractor, but is not a signatory to this Agreement.
- H. Oregon Public Library Statistical Report – In accordance with ORS 357.520, all public libraries are required to report statistics on an annual basis to the Oregon State Library via a reporting format determined by the State Library. Report data is typically due October 1 of each year.
- I. Annual Formula Calculation – In January of each year, the Cooperative Library Services Manager will compute final counts for each library for each criterion to be used in determining formula disbursements for the next fiscal year.

2. TERM OF AGREEMENT

This Agreement shall be in effect from July 1, 2004, through June 30, 2009, except as otherwise provided in Section 11 of this Agreement. It is the intent of the parties that this Agreement become effective on July 1, 2004.

3. FUNDS

As compensation to Contractor for the services to be provided pursuant to this Agreement, WCCLS agrees to make payments to Contractor on the basis of the funding formula set forth in Section 4 and the Payment Schedule set forth in Section 6. Funds will be distributed pursuant to the Annual Formula Calculation. Each Contractor agrees by receipt of funds from WCCLS to expend those funds to provide library services according to Contractor's established policies, and to ensure that Contractor's library facilities are open for the public use by all Qualified Borrowers. Contractors must spend all funds received from WCCLS on the provision of library services, including but not limited to operating and capital expenditures.

4. FUNDING FORMULA

- A. Method The total payment to be made to each Contractor during the term of this Agreement shall be determined by the method set forth in this Section and shall be based on the figures set forth in EXHIBIT A "Reimbursement Formula". Alternatively, in the event that a local option levy is passed by the voters in the May 2004 primary election, the total payment made to each Contractor during the term of this Agreement shall

be determined by the method set forth in this Section and shall be based upon the figures set forth in EXHIBIT B “Levy Reimbursement Formula”.

- B. Total Distribution of Funds The amount for each fiscal year set forth below represents the total amount projected to be available in this Agreement for payments to all Contractors. The distribution to all recipients shall not exceed the projected amounts listed below for each fiscal year. Figures in Column A will be used if the May 2004 levy does not pass; figures in Column B will be used if the May 2004 levy passes.

Column A		Column B	
FY04-05	\$ 9,642,600	FY04-05	\$13,500,000
FY05-06	\$ 9,883,665	FY05-06	\$15,255,000
FY06-07	\$10,279,012	FY06-07	\$17,238,150
FY07-08	\$10,690,172	FY07-08	\$19,479,109
FY08-09	\$11,117,779	FY08-09	\$22,011,393

- C. Reimbursement Contractors will be reimbursed from the funds described in Section 4.B based on collection expenditures, net circulation, facility use and remote program attendance, reference transactions, and Internet access provided.

1. Collection Expenditures. Contractors shall be reimbursed up to 100% for expenditures on collections as reported in the Oregon Public Library Statistical Report for the fiscal year preceding the Annual Formula Calculation, and as identified in Exhibit A or B, “Reimbursement Formula” (updated annually). Funds for this portion of the Formula shall be calculated first and subtracted from the annual amounts identified in Section 4.B. The remainder of funds for each year shall be distributed using the remaining criteria described below.
2. Circulation. 80% of the remaining funds identified in Section 4.B after Collection Expenditures have been calculated for each year will be allocated for reimbursement for net circulation transactions. The circulation figures identified in EXHIBIT A or B “Reimbursement Formula” (updated annually) and as calculated by WCCLS for the calendar year preceding the Annual Formula Calculation will be used to calculate the amount owed each Contractor in this Section. Circulation will include only materials loaned to Qualified Borrowers and will be adjusted for net lending or borrowing on in-county interlibrary loans before the reimbursement rates are applied.
3. Facility Use and Remote Program Attendance 10% of the remaining funds for each year identified in Section 4.B will be allocated for reimbursement for the total annual attendance at all library facilities, including meeting rooms, as reported in the Oregon Public Library Statistical Report for the fiscal year preceding the Annual Formula Calculation, and as identified in Exhibit A or B, “Reimbursement

Formula” (updated annually) to calculate the amount owed each Contractor in this Section. This criterion shall also include attendance at library sponsored events held in locations other than the library facility.

4. Internet Public Access Technology 5% of the remaining funds for each year identified in Section 4.B will be allocated for reimbursement for the number of Internet Public Access workstations as reported in the Oregon Public Library Statistical Report and as identified in Exhibit A or B, “Reimbursement Formula” (updated annually) to calculate the amount owed each Contractor in this Section. At such time as an automated method is in place at all Contractors and the West Slope Community Library to track hours of use at each Internet Public Access workstation, allocation of funds in this Section will be based on total annual number of hours of use for all Internet Public Access workstations.
5. Reference Transactions 5% of the remaining funds for each year identified in Section 4.B will be allocated for reimbursement for total reference transactions as reported in the Oregon Public Library Statistical Report and as identified in Exhibit A or B, “Reimbursement Formula” (updated annually) to calculate the amount owed each Contractor in this Section.
6. Minimal Growth Rate
 - a. If additional levy funding is approved in the May 2004 election, and if at the time of the Annual Formula Calculation a Contractor does not yield at least a 2% increase over the previous year’s payment, an adjustment will be made to assure a 2% Minimal Growth Rate in payment. Funds to accomplish this will be subtracted from payments to other unaffected Contractors so that the total distribution does not exceed the amount indicated for that fiscal year in Section 4.B, Column B. For FY04-05 payments, Contractors will each receive payments at least 2% higher than FY03-04 payments or the adjusted FY03-04 base amounts previously approved by the Cooperative Library Advisory Board.
 - b. If a levy is not approved in May 2004, and total distribution of funds in FY04-05 is based on Section 4.B, Column A, then all Contractors agree to take the same percentage reduction in FY04-05 from their FY03-04 payments, or the adjusted FY03-04 base amounts previously approved by the Cooperative Library Advisory Board. For subsequent years, formula criteria and distribution percentages described above will be implemented.

5. ADJUSTMENTS IN PAYMENTS

- A. Payments may be adjusted by WCCLS if funding for payments noted in 4.B is less than projected. Amounts paid to each Contractor will be

reduced in an amount proportionate to each library's percentage of the total amount available for payment.

- B. WCCLS shall notify the Contractors in writing of any adjustments under this Section upon adoption of the County's budget for the subsequent fiscal year. In the event that reductions in revenue are necessary after the beginning of a fiscal year, the County would give six months' notification to Contractors, if possible.

6. PAYMENT SCHEDULE

- A. WCCLS agrees to make payments to those Contractors which are cities as follows:

1. 80% (eighty percent) of the total annual payment shall be made on or before December 31; and
2. 20% (twenty percent) of the total annual payment shall be made on or before April 15.

- B. Notwithstanding paragraph 6.A above, a city not formerly a party to a Public Library Services Agreement with WCCLS, which establishes a public library and becomes a party to this Agreement, shall be entitled to receive payment on a monthly basis during the term of this Agreement. The monthly payment shall be 1/12 of the total annual payment. In addition, WCCLS agrees that any city to which this subsection applies shall be entitled to receive monthly payments for the entire term of any renewal or successor agreement to which it becomes a party, provided funds are available.

- C. WCCLS agrees to make payments to those Contractors which are community libraries (specifically Cedar Mill Community Library Association and Garden Home Community Library Association) on a monthly basis. The monthly payment shall be 1/12 of the total annual payment.

7. SPECIAL LIBRARY FUND

The County, on behalf of WCCLS, shall maintain a Special Library Fund, which shall include:

- A. Any remaining funds from a previous year which shall be carried over to the next year;
- B. All property tax collections made under all library operating serial levies;
- C. All interest earnings on the Special Library Fund, in accordance with ORS 294.080(1); and
- D. Other revenues for library services.

8. SERVICES TO BE PROVIDED BY WCCLS

WCCLS agrees to provide the following services to Contractors and West Slope Community Library, without limitation:

- A. Reciprocal borrowing with other metropolitan area public libraries;
- B. General coordination of County-wide library services among Contractors and with regional and state library service providers;
- C. Second-level reference and interlibrary loan services;
- D. Outreach services to special populations of Washington County residents, including, but not limited to, those who cannot get to a public library (homebound), child care providers and the children in their care, the Latino community, and residents of the Washington County Jail;
- E. Youth Services activities, including Summer Reading Program;
- F. Courier services between libraries and connections to regional library delivery systems;
- G. Planning for long-term growth and development of County-wide library services; and
- H. Operation and maintenance of WILInet as defined in the WILInet Agreement.

9. SERVICES TO BE PROVIDED BY CONTRACTORS

- A. Each Contractor agrees that Qualifying Borrowers will not be charged a fee for the initial circulation or renewal of library materials.
- B. Each Contractor further agrees that, while it is within the sole discretion of the Contractor whether or not to charge reasonable fees for services other than circulation, Contractor shall apply all fees and policies uniformly to all Qualified Borrowers. Such fees may include special service and overdue fees. Nothing in this Agreement is intended to restrict Contractor's policies or fees as applied to borrowers who are not Qualified Borrowers.
- C. Each Contractor agrees that it will designate a staff member with whom WCCLS deals in administration of this Agreement on behalf of Contractor and who shall be authorized to receive and give any notices which may be required under this Agreement. Unless otherwise designated, this shall be the Library Director for each Contractor and the West Slope Community Library.
- D. Each Contractor shall meet all requirements for Level 5 Libraries as defined in the Admission of New Public Libraries to Washington County Cooperative Library Services, as revised by the Cooperative Library Advisory Board December 3, 1997, and subsequent revisions.

10. RECORD KEEPING

- A. WCCLS agrees to provide each Contractor with a copy of the County's annual audit, upon request by Contractor.

- B. Each Contractor agrees to provide WCCLS with a copy of Contractor's annual audit. For purposes of this Section, the following requirements shall apply:
 - 1. For Contractors which are cities, the audit shall be that of the city, and shall be supplied upon request of WCCLS.
 - 2. For Contractors which are community libraries (specifically Cedar Mill Community Library Association and Garden Home Community Library Association), the audit shall be the result of an annual review of the Contractor's financial statements made by an independent certified public accountant in accordance with standards of the American Institute of Certified Public Accountants, and shall be supplied by December 31st of each year at WCCLS.
- C. Each Contractor agrees to provide WCCLS with a copy of the Oregon Public Library Statistical Report required to be made to the Oregon State Library in accordance with ORS 357.520.

11. TERMINATION

- A. The County shall have the right to terminate this Agreement upon sixty (60) days written notice, if it determines, in good faith through an open, public process, that:
 - 1. The public interest would be served by such termination; or
 - 2. Adequate funds are not available.
- B. Each Contractor shall have the right to terminate this Agreement upon sixty (60) days written notice, if Contractor determines, in good faith, that:
 - 1. The public interest in its jurisdiction or area of service would be served by such termination; or
 - 2. Appropriated funds for Contractor are less than the amount reasonably anticipated.
- C. The County and each Contractor shall have the right to terminate participation in this Agreement separately, and Agreements between remaining parties and the County shall remain in effect.
- D. In the event of the termination by the County or by the Contractor, the County shall provide compensation to the Contractor prorated to the date of termination.

12. COMPLIANCE WITH APPLICABLE LAWS

Each party agrees to comply with all local, state, and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.

- A. Equal Opportunity. County Personnel Rules provide that County shall enter into contractual agreements only with Equal Opportunity Employers. Therefore, Contractor hereby agrees that its employees (and applicants for employment) shall not be discriminated against because of race, color, national origin, religion, physical or mental handicap, marital status, sex or age, except in case of bona fide occupational qualifications as defined and provided by applicable federal or state law.
- B. Compliance with Applicable Provisions of ORS Chapter 279. Contractors which are community libraries further agree that they shall comply fully with all applicable provision of ORS 279.310 through 279.430. These include: ORS 279.310, ORS 279.312 relating to payment of labor, materialmen, the Industrial Accident Fund and the Department of Revenue and prohibiting any lien or claim to be filed against County on account of labor or material furnished; ORS 279.314 authorizing County to pay said claims on behalf of Contractor; ORS 279.316 relating to overtime and 279.320 relating to medical care. Said provisions are hereby incorporated by reference and the applicable terms contained therein shall be binding upon Contractors which are community libraries in the same manner as if they were fully set forth herein.

13. INDEMNIFICATION

Each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party. If the indemnifying party is a unit of local government, such indemnifications shall be subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.300, and the Oregon Constitution.

14. DEBT LIMITATION

This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated for.

15. NO BENEFITS

No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.

16. NOTICE

Any Contractor shall give immediate written notice to the County of any action or suit filed or any claim made against that party that may result in litigation and is directly related to this Agreement.

17. INSURANCE

Each party agrees to maintain insurance levels, or self-insurance in accordance with ORS 30.282, for the duration of this agreement at levels necessary to protect against public body liability as specified in ORS 30.270. Contractors which are community libraries shall provide certification of insurance upon request.

18. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

19. CAPTIONS

Captions and headings used in this Agreement are for convenience only and shall not be construed or interpreted so as to enlarge or diminish the rights or obligations of the parties hereto.

20. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Agreement is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Agreement unless the result of the holding is a failure of consideration of any party.

21. AMENDMENT

This Agreement may only be amended in writing and with agreement of all parties.

FOR THE CONTRACTOR:

Signature

Title

Date

FOR WASHINGTON COUNTY:

Signature

Title

Date

APPROVED AS TO FORM:

Sr. Assistant County Counsel