

EMPLOYEE LEASING SERVICES AGREEMENT

This Employee Leasing Services Agreement made this 25 day of November, 2012, by and between the City of Roseville, a Michigan municipal corporation (the "City") and Roseville Public Library, a library established under the City, Village and Township Libraries Ac, 1877 PA 164 ("PA 164")("Library")

Recital of Facts

WHEREAS, certain employees of the City have been employed at the Roseville Public Library, (the "Former Library"), located in the City; and

WHEREAS, the Library was established as library under PA 164, as amended, to provide library services in the City.

WHEREAS, the Library desires to cooperate with the City to provide the uninterrupted operation of library service in the City and to continue to utilize City employees to staff the Library.

NOW, THEREFORE, pursuant to mutual covenants contained in this Agreement, the Parties agree as follows:

I. Personnel

1.1 **Provision of Employees.** Subject to the terms of this Agreement, the City agrees to furnish to the Library, and the Library agrees to utilize from the City, all personnel necessary for the proper functioning of the Library. Subject to the terms of this Agreement and existing policies, practices and collective bargaining agreements, the Library shall retain those employees identified in Exhibit A to remain working at the Library upon the effective date of this Agreement and future vacancies shall be posted and appointments processed by the City, subject to minimum qualifications as determined by the Library.

1.2 **The City as Employer.** The City is, and shall remain, the employer of those persons furnished to the Library for employment at the Library, and is liable as such for all purposes, including, without limitation, processing of all paychecks for City employees employed at the Library, compiling, preparing and filing all payroll and employee information, the payment of all federal, state and local employment taxes and the filing of all related tax returns, the provision of workers' compensation coverage and funding of all pension, welfare and fringe benefits programs for the employees working at the Library. The City reserves the exclusive right to exercise all power and control over its employees belonging to an employer at common law and by statute, provided, however, nothing contained in this Agreement limits the Library's statutory authority in connection with its operation of the Library.

1.3 **Compliance with Applicable Law.** The City and the Library each agree to comply with all applicable state and federal laws in performing their obligations under this Agreement, including but not limited to wage and hour, employee benefit and nondiscrimination laws.

II. Term of Agreement

This Agreement shall commence on the date written above and remain in full force and effect for _____, renewing _____ according to its terms and based on the first date set forth above, unless terminated by either party. Either party may terminate this Agreement for any or no reason by giving at least thirty (30) days' prior written notice to the other.

III. Administration

3.1 Supervision. The Library's Board shall be responsible for the direct supervision of the Library Director. The Library Director shall supervise and be responsible for employees working at the Library. Discipline or other adverse employment action involving City employees assigned to the Library shall be performed only upon consultation with and concurrence of the City. The parties agree the Library may conduct routine counseling of employees, provided such counseling is documented and forwarded to the City to be made part of the employee's personnel file.

3.2 Personnel Policies. All City employees working at the Library shall be subject to the Library's policies, as adopted for the operation of the Library. All Library policies shall be consistent with those in effect or adopted by the City for its employees, and applicable collective bargaining agreements, if any.

IV. Fee

In consideration of the personnel services provided by the City under this Agreement, the City and the Library agree:

4.1 Reimbursement of Costs. As specified in this Agreement, the Library shall reimburse the City for all associated payroll costs for the City employees assigned to the Library, promptly upon receipt of documentation itemizing such costs. The term "associated payroll costs" shall include, but not be limited to, wages, salaries, and all fringe benefit costs, including workers' compensation, unemployment compensation, medical and life insurance premiums and contributions, pension, payroll and other taxes and other related costs properly allocated to the employees assigned to the Library. Where an employee is assigned for less than a full calendar month, the cost of monthly premiums or payments may be prorated accordingly.

4.2 Adjustment of Costs. During the Term of this Agreement, the City may adjust the payroll costs as made necessary by statutory and regulatory changes, including, but not limited to, adjustments to FICA, federal and/or state employment taxes and workers' compensation, medical and pension contributions and life insurance as well as collective bargaining agreements and City policies and directives.

4.3 Report of Hours Worked. The Library shall report to the City all time worked by all the City's employees assigned to the District Library each pay period and shall provide the City with written verification of same. The City shall invoice the Library on a monthly basis for the fees set forth in Section 4.1 of this Agreement. The Library shall review and pay the invoice at its next regularly scheduled meeting, but in no event more than 30 days after receipt of the invoice.

V. Insurance

5.1 Insurance Coverage. The City shall furnish, and keep in full force and effect at all times during the Term of this Agreement, all insurance and benefit coverages which apply to the City employees working at the Library, including but not limited to general liability, automobile liability, and workers' compensation insurance. Upon written request by the Library, the City shall furnish a certificate of insurance verifying such coverage. The Library shall be included on as an additional insured on insurance policies applicable to Library operations.

VI. Indemnification

6.1 By the City. The City agrees to indemnify, defend and hold harmless the Library from any and all claims, obligations, losses, liabilities, damages, recoveries and deficiencies (including interest, penalties and actual reasonable attorney fees, costs and expenses) which the Library may suffer or incur as a result of: (i) the nonpayment of any payroll expense, employment tax or any other tax, assessment or expense that is payable by the City in connection with the claims brought by the Library employees; and (ii) any claims or suits against the Library in connection with claims brought by City employees working at the Library that arise from actions of the City. The City shall also pay to the Library all actual reasonable attorney fees, costs and expenses incurred by the Library, in enforcing the indemnification, provided, however, that the City shall not be obligated to indemnify, defend or hold harmless the Library with respect to any claims or suits arising as the result of actions of the Library. Further, if the Library submits a claim for indemnification to the City, then the Library shall give the City prompt notice of any claim or suit with respect to which such indemnification claim relates, and the City shall have the right to control the litigation and/or possible settlement of such underlying claim.

6.2 By the Library. The Library agrees to indemnify, defend and hold harmless the City from any and all claims, obligations, losses, liabilities, damages, recoveries and deficiencies (including interest, penalties and actual reasonable attorney fees, costs and expenses) which the City may suffer or incur as a result of any claims or suits against the City: (i) in connection with the enforcement of any obligation of the Library under this Agreement; and (ii) in connection with claims brought by City employees working at the Library that arise from actions of the Library. The Library shall also pay to the City all actual reasonable attorney fees, costs and expenses incurred by the City in enforcing the indemnification, provided, however, that the Library shall not be obligated to indemnify, defend or hold harmless the City with respect to any claims or suits arising as the result of actions of the City. Further, if the City submits a claim for indemnification to the Library, then the City shall give the Library prompt notice of the claim or

suit with respect to which such indemnification claim relates, and the Library shall have the right to control the litigation and/or possible settlement of such underlying claim.

VII. Default

7.1 **By the Library.** The following acts by the Library shall constitute default:

- (A) Failure to pay any fee to the City within thirty (30) days after it is due under this Agreement.
- (B) Violation by the Library of any provision of this Agreement.

7.2 **By the City.** The following acts by the City shall constitute default:

- (A) Failure to timely make payroll payments, group health coverage premiums, life insurance premiums, pension contributions or other payments necessary to maintain the City's employee benefit programs for City employees working at the Library.
- (B) Violation by the City of any provision of this Agreement.

7.3 **Cure.** If either party defaults under any provision of this Agreement, which default is not cured within thirty (30) calendar days following written demand for cure, then the nondefaulting party may, by written notice to the defaulting party, and without limitation on the nondefaulting party's other remedies, terminate this Agreement.

VIII. Access To Information

Either party shall have the right, but not the obligation, to demand from the other party with respect to any application for reimbursement or payment any showing, certificate, opinion, appraisal or other information as a condition of disbursement or payment of the Library moneys as either may reasonably determine is necessary.

IX. Notice of Discontinuation

Should either party give notice of its intent to terminate this Agreement, as provided for in Section II above, at least thirty (30) days before the Termination Date, the City shall give notice to all City employees currently assigned to the Library that the City will cease providing employees to the Library effective on the Termination Date. The City shall be responsible for honoring any rights that the employees may have under the City's personnel policies and/or collective bargaining agreements

X. Assignment

Neither party shall assign this Agreement or its rights and duties hereunder or any interest herein, without the prior written consent of the other party.

XI. Governing Law

This Agreement shall be construed and governed in accordance with the laws of the State of Michigan.

XII. Entire Agreement

This instrument contains the entire Agreement of the Parties and supersedes all prior and contemporaneous agreements or understandings, whether written or oral, with respect to the subject matter of this Agreement. No amendment or modification to this Agreement shall be valid unless in writing and signed by both Parties of the Agreement.

XIV. Severability

If any provision of this Agreement, or any amendment of it, should be invalid, the remaining provision shall remain in effect and be so construed as to effectuate the intent and purposes of this Agreement and any amendments to it.

XV. Notices

All notices, requests and communications provided hereunder shall be in writing, and hand delivered or mailed by United States registered, certified, or express mail, return receipt requested, and addressed to the party's principal place of business as set forth in this Agreement.

XVI. Miscellaneous

16.1 The Library and the City agree to immediately report to each other in writing all accidents and injuries involving the City's employees leased to the Library for employment at the Library.

16.2 This Agreement is between the City and the Library and creates no individual or third-party beneficiary rights to the employees against the Library or the City.

16.3 The City and the City's workers' compensation insurance carrier shall have the right to inspect the Library's premises. To the extent possible, such inspection shall be scheduled at a mutually convenient time.

IN WITNESS, the undersigned have executed this Agreement as of the date first written above.

WITNESS:

Virginia E Green

CITY OF ROSEVILLE

By: _____

City Manager

WITNESS:

80945:00001:1923614-1

By: _____

By: _____

ROSEVILLE PUBLIC LIBRARY

By: Charlene Van Marche

Its: Library Commission Chair

By: _____

Its: Library Commission Co-Chair

FISCAL AGENCY AGREEMENT

THIS AGREEMENT, entered into as of the 25 day of November, 2014, by and between the City of Roseville (the "City" or "Fiscal Agent") and the Roseville Public Library (the "Library").

WHEREAS, the parties to this Agreement desire to cooperate in administering the operation and maintenance of the Library for the purposes of providing library service, including service to the residents of the City; and

WHEREAS, the City has determined that it is in the best interests of the City to assist the Library in carrying out its operations; and

WHEREAS, the parties desire to enter into a contract whereby the City will act as the fiscal agent subject to the terms of this Agreement.

1. City as Fiscal Agent. The City shall accept the following duties as fiscal agent:

a. *Library Fund.* The City, acting by and through the City Treasurer, shall hold, maintain, disperse and invest the monies deposited in the Library Fund as provided for by Act 164 of the Public Acts of 1877 ("Act 164") and this Agreement. The City shall disperse authorized payments from the Library Fund at least monthly.

b. *Additional Services.* The City agrees to provide the administrative services identified on the attached Exhibit A.

2. Exclusive Control. As provided in Section 5 of Act 164, the Library Board shall have exclusive control over the expenditures of all monies collected to the credit of the Library Fund. Nothing in this Agreement shall be interpreted to waive that exclusive control.

3. Library Obligations. The Library shall approve a detailed budget and provide the City with a copy each year. Each month and as needed, the Library Board, through the Library Director, shall prepare and present to the City invoices to be paid from the Library Fund.

4. Acceptance of Duty to Act as Fiscal Agent. The City hereby agrees to perform the duties of Fiscal Agent described in this Agreement and in the statutes, rules, regulations and court decisions applicable to the expenditure of Library funds as follows:

a. The Fiscal Agent shall carry out its obligations described in paragraph 1 above under this Agreement using the same degree of care and skill it would use in the conduct of its own affairs.

b. The Fiscal Agent shall not be responsible for any statement, warranty or representation made by the Library to the public relating to the Library Fund or the use thereof.

c. As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper, or proceeding, the Fiscal Agent shall be entitled to rely on a certificate signed by a duly authorized representative of the Library as sufficient evidence of the facts described in such instrument, paper, proceeding or certificate.

d. Unless otherwise notified in writing by the Library, the City shall apply all laws applicable to the City relating to the holding of City monies to the management of the Library Fund.

5. Fees and Expenses of Fiscal Agent. The fee shall be \$52,000 for each fiscal year July 1 to June 30. The fee shall be paid in a lump sum at the end of the fiscal year on or before June 30, and the fee shall be prorated if the agreement is terminated pursuant to Section 6 below. This Agreement shall constitute a voucher under Section 5 of PA 164 for the payment of this fee. The Fiscal Agent shall not be entitled to any setoff for payment of such fees against the amounts held by the Fiscal Agent under this Agreement.

6. Termination. This Agreement shall be terminated upon sixty (60) days written notice by either party. However, both parties understand and acknowledge that Act 164 requires the City to maintain the Library Fund in the City Treasury and requires the City to release the funds upon a properly authenticated voucher of the Library regardless of whether an Agreement between the parties exists.

7. Amendment. This Agreement may be amended at any time by the parties hereto in writing.

8. Governing Law. This Agreement shall be construed under the laws of the State of Michigan.

9. Severability. If any provision of this Agreement is held to be in conflict with any applicable statute or rule of law or is otherwise held to be unenforceable for any reason whatsoever, such circumstance shall not have the effect of rendering any other provision or provisions of this Agreement invalid, inoperative, or unenforceable to any extent whatsoever.

IN WITNESS WHEREOF, the Library and the City have caused this Agreement to be duly exercised and delivered as of the date first written above.

ROSEVILLE PUBLIC LIBRARY

By: Charles Oak Marcker
Its: Library Commission Chair

CITY OF ROSEVILLE

By: Scott A. Ad
Its: City Manager

Exhibit A
Additional Administrative Services

1. Audit and Accounting
2. Disbursements
3. Employee Benefits
4. Human Resources
5. Payroll
6. Purchasing
7. Risk Management

BUILDING LEASE

This Lease is made this 1st day of July 2013 ("Effective Date") by and between the City of Roseville, hereinafter designated as the Landlord, and the Roseville Public Library, hereinafter designated as the Tenant.

1. **Term.** In consideration of the covenants and agreements to be performed by the Tenant and the Landlord under this Lease, the Landlord leases to the Tenant, and the Tenant leases from the Landlord, the Premises commonly known as the Roseville Public Library, located in the City of Roseville, County of Macomb Michigan, as more particularly described on attached Attachment 1 ("Premises"), for a period of three (3) years beginning from the Effective Date of this Agreement.

2. **Consideration.** In consideration of this Lease, Tenant shall pay Landlord rent in the amount of \$120,000 per year, payable on June 30, 2015 and June 30, 2016. This Lease shall constitute a voucher under Section 5 of PA 164 for payment of the rent as set forth in this paragraph

3. **Tenant's Responsibilities.** Without limiting the foregoing, the Tenant agrees as follows:

- a. The Tenant shall not perform or permit any acts or carry on any practices which may injure the building and structures on the Premises, and shall keep the Premises, or cause the Premises to be kept clean and free from rubbish, and dirt, except that the Landlord required to provide custodial services as set forth more full in paragraph 4.i below.
- b. The Tenant shall pay for all gas, water, heat, electricity, light, telephone, or any other communication or utility service used in or rendered or supplied to the Premises during the term of this Lease, as the same shall become due. The Tenant understands that the Landlord receives one invoice for each separate utility and that invoice includes service for all of the Landlord's property, including the Premises. The Tenant agrees to pay its pro rata share, based on the square footage of the Premises compared to the square footage of all Landlord's properties.

4. **Landlord's Responsibilities.**

- a. The Landlord shall perform all necessary exterior painting and repair to the exterior of the building, including the maintenance, repair or replacement of the roof.
- b. The Landlord shall maintain in good repair and condition and replace when necessary all fixtures and equipment therein, including all plumbing, sprinkler, elevator, heating, air-conditioning, electrical, gas, security and safety and like fixtures and equipment, all window glass, ceilings, doors and door frames, windows and window frames of the Premises, and shall make all

repairs, replacements and upgrades to such Premises' fixtures and equipment. The Tenant shall notify the Landlord in writing for the need for maintenance, repair or replacement as discussed above. The Tenant, at its sole option and expense, may make such repairs and replacements identified in this paragraph. In such case, the Tenant shall notify the Landlord in writing prior to making such repair or replacement.

- c. The Landlord shall at all times during the term of this Lease ensure that the Premises is insured against loss or damage caused by fire, with extended coverage, boiler and machinery, water damage and windstorm damage, in an amount not less than one hundred percent (100%) of the full insurable value as determined from time to time. The term "full insurable value" means actual replacement cost without deduction for physical depreciation. The Landlord shall name the Tenant as an additional insured on such insurance policy.
- d. The Landlord shall provide comprehensive and general, public liability insurance against claims for personal injury, death or property damage occurring in connection with the use and occupancy of the Premises, or arising out of the improvement, repair or alteration of the Premises. The limits of such insurance shall be not less than \$1,000,000.00 per occurrence and not less than \$1,000,000.00 in aggregate. The Landlord shall furnish the Tenant a binder renewing the insurance policy at least 30 days before the policy expires. . The policy or binder shall name the Tenant as an additional insured and shall provide for at least 30 days notice of any change in coverage or of cancellation.
- e. The Landlord shall be responsible for the risk of loss of all the personal property on the Premises and shall ensure that fire and extended coverage insurance is obtained on the Tenant's personal property located in the Premises in amounts reasonably deemed adequate by the Tenant to fully insure such personal property.
- f. The Landlord shall maintain the interior wall coverings and floor coverings in good repair and shall replace such wall and floor coverings at its own expense as the Landlord deems necessary.
- g. It is understood and agreed that if the Premises are damaged or destroyed in whole or in part by fire or other casualty during the term hereof, the Landlord will repair and restore the same to good tenantable condition with reasonable dispatch. The Tenant shall remove its damaged goods, wares, equipment or property within a reasonable time to permit the repair and restoration.

- h. The Landlord agrees to provide maintenance service to the Tenant in the same manner as it provides services for other City of Roseville properties, including but not limited to mowing, snow removal, lawn and landscaping maintenance services. The Tenant shall be responsible for its pro rata share of the costs for same. The Landlord shall indemnify the Tenant against all claims arising from or relating to the maintenance as provided for in this Agreement and shall be required to obtain insurance coverage in amounts reasonably determined by the Parties to meet such liabilities. Such insurance policies shall name the Tenant as an additional insured party.
- i. The Landlord agrees to provide custodial service to the Tenant in the same manner as it provides custodial services for other City of Roseville properties. The Tenant shall be responsible for its pro rata share of the costs for same.
- j. The Landlord shall be solely responsible for the provision, maintenance and repair of any interior or exterior signs relating to the use of the Premises.

5. **Major Capital Improvements.** The Tenant shall not change the facade of the Premises or undergo any major capital improvements without prior written approval of the Landlord, which the Landlord shall not unreasonably deny.

6. **Assignment of Lease.** The Tenant and the Landlord covenant not to assign or transfer this Lease under any circumstances without the prior written consent of the other party, which shall not be unreasonably withheld.

7. **Use for Library Purposes.** It is understood and agreed between the parties hereto that the Premises during the continuance of this Lease shall be used and occupied for providing public library services. Further, Tenant will not use or permit or suffer the use of the Premises for any purpose in violation of any federal or state law, municipal ordinance or regulation, including but not limited to the federal Americans with Disabilities Act and the Michigan Persons with Disabilities' Civil Rights Act. The parties expressly agree that the Tenant may, during the term of this Lease, move the operations of the public library services to a temporary location in order to construct improvements to the Premises.

8. **Improvements.** It is understood and agreed that during the course of this Lease or any previous leases, that there will be certain furniture, fixtures, and other improvements that will or have been added to the property by the Tenant which shall not alter the basic structure of the property, and the Tenant shall have the right to remove all such improvements upon the termination of the Lease with the exception of any permanent improvements which they shall have made to the heating and/or plumbing or electrical facilities which shall become part of the real property and remain as such at the termination of the Lease.

9. **Termination/Remedies for Breach of Lease.**

- a. The Tenant may terminate this Lease upon six (6) months written notice to Landlord.
- b. If Tenant shall breach or fail to perform any of the promises and agreements in this Lease, and such failure is not cured within sixty (60) days after written notice from Landlord, Landlord may commence such performance at Tenant's cost and expense or terminate this Lease and reenter and repossess the Premises.
- c. If the Landlord shall breach or fail to perform any of the promises and agreements in this Lease and such failure is not cured within sixty (60) days after written notice from Tenant, Tenant may commence such performance at Landlord's cost and expense or terminate this Lease.

10. **Right of Entry.** The Landlord shall have the right to enter upon the Premises at all reasonable hours for the purpose of inspecting the same, reasonable hours being defined as hours when the Library is open to the public or in a clear emergency, notification of the Library Director or any of the Board of Trustees, within a timely fashion.

11. **Waivers.** One or more waivers of any covenant or condition by the Landlord shall not be construed as a waiver of a further breach of the same covenant or condition.

12. **Notice.** Whenever notice of any kind is required under this Lease, it shall be deemed sufficient notice and service thereof if such notice is in writing addressed to the applicable party at its last known Post Office address and deposited in the mail with first class postage prepaid.

ROSEVILLE PUBLIC LIBRARY

By: Charles Van Marche

Its: Library Commission Chair

CITY OF ROSEVILLE

By: Scott A. Adl

City Manager

Its: _____

ATTACHMENT 1

[Insert Legal Description or provide survey – the City is likely in the best position to obtain or provide these documents]

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9/6/2012