

RESOLUTION NO. 4466

A RESOLUTION AUTHORIZING THE CITY OF MILES CITY TO ENTER INTO A SERVICE AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MILES CITY AND THE MILES CITY LIBRARY BOARD OF TRUSTEES

WHEREAS, the City has established a free public library, the Miles City Public Library (“Library”) for the use of the citizens under regulations as prescribed by the Library Board, subject to approval of the City (Miles City Code 14-1, 14-2; § 22-1-309, MCA);

WHEREAS, the Library Board has exclusive control of the expenditure of the public library funds subject to a budget approved by the City (§ 22-1-309, MCA);

WHEREAS, on September 2, 2020, the City, and the Montana State Council No. 9 of the American Federation of State, County and Municipal Employees, AFL-CIO Local No. 283A (“Union”) entered a Collective Bargaining Agreement (“CBA”), in which Library employees are considered member employees. The CBA is effective July 1, 2021 through June 30, 2022;

WHEREAS, said CBA was established through collective bargaining procedures as provided for under Montana law, “the promotion of harmonious relations” between the City and Union and “the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and fringe benefits, employee safety, and other conditions of employment”;

WHEREAS, pursuant to § 22-1-309(3), MCA, the Library Board is empowered to contract with the City to provide certain library services, including personnel management; and

WHEREAS, to simplify annual budget appropriations to the Library, the parties desire to implement a procedure whereby the City funds all Library personnel costs and the Library Board funds, or is responsible for funding, all other Library operations.

NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:

1. Service agreement and memorandum of understanding between the city of Miles City and the Miles City Library Board of Trustees, attached hereto as Exhibit “A”, and made a part hereof, is hereby approved and adopted by the Council.
2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said Agreement on behalf of the City of Miles City and to bind the City of Miles City thereto.

3. The Mayor of the City of Miles City is hereby empowered and authorized to execute such further documents as are necessary to carry out the terms of said Agreement and to bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, THIS 12TH DAY OF JULY, 2022.


John Hollowell, Mayor

ATTEST:


Mary Rowe, City Clerk

**SERVICE AGREEMENT AND
MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF MILES CITY AND THE MILES CITY LIBRARY BOARD OF
TRUSTEES**

This Service Agreement and Memorandum of Understanding (“Agreement”) is entered into this 1ST day of July 2022 between the City of Miles City, Montana, a municipal corporation of the State of Montana (hereafter, “City”), and the Miles City Library Board of Trustees (hereafter, “Library Board”), together referred to hereafter as “the parties”.

RECITALS

WHEREAS, the City has established a free public library, the Miles City Public Library (“Library”) for the use of the citizens under regulations as prescribed by the Library Board, subject to approval of the City (Miles City Code 14-1, 14-2; § 22-1-309, MCA);

WHEREAS, the Library Board has exclusive control of the expenditure of the public library funds subject to a budget approved by the City (§ 22-1-309, MCA);

WHEREAS, on September 2, 2020, the City, and the Montana State Council No. 9 of the American Federation of State, County and Municipal Employees, AFL-CIO Local No. 283A (“Union”) entered a Collective Bargaining Agreement (“CBA”), in which Library employees are considered member employees. The CBA is effective July 1, 2021 through June 30, 2022;

WHEREAS, said CBA was established through collective bargaining procedures as provided for under Montana law, “the promotion of harmonious relations” between the City and Union and “the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and fringe benefits, employee safety, and other conditions of employment”;

WHEREAS, pursuant to § 22-1-309(3), MCA, the Library Board is empowered to contract with the City to provide certain library services, including personnel management; and

WHEREAS, to simplify annual budget appropriations to the Library, the parties desire to implement a procedure whereby the City funds all Library personnel costs and the Library Board funds, or is responsible for funding, all other Library operations.

UNDERSTANDING OF THE PARTIES

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

1. **PURPOSE:** The purpose of this Agreement is to provide stability and a framework of the roles, responsibilities and relationships of the City and Library Board as it relates to the efficient operation and management of the Library for the benefit of the community.

2. **TERM:** This Agreement shall commence for the fiscal year beginning July 1, 2020 and shall continue through and include June 30, 2022. The Agreement will automatically renew for each subsequent fiscal year unless one party provides written notice to the other at least ninety (60) days prior to the end of the term, of its intention to not renew the same.

3. OBLIGATIONS OF THE CITY:

3.A. **Personnel Costs:** As the City's contribution to support the Library, the City agrees to budget for all Library personnel costs for up to 4.75 FTE's for position as described in the CBA.

3.A.1. "Personnel costs" include:

- Wages as provided by the current CBA and, in the case of the Library Director, the annual salary approved by the Library Board
- State and Federal withholding taxes;
- Workers' compensation contributions;
- Overtime;
- Health insurance contributions;
- PERS contributions;
- Unemployment contributions;
- Retirement/termination buy out of accrued sick/vacation leave.

3.A.2. FTE Positions: The 4.75 FTE positions shall include the Library Director and those positions identified in the CBA.

3.B. **Insurance Coverage:** The City agrees to provide property insurance coverage for the Miles City Library building and contents as well as liability and Employment Practices Liability Insurance coverage, workers' compensation and health insurance benefits under the City's insurance policies with the Montana Municipal Interlocal Authority.

3.C. **Fiscal Agent:** All public funds for the Library will be managed by the City. The City shall provide all financial administration and record keeping of all Library funds. Financial records of all fiscal activity shall be kept at by the City.

4. OBLIGATIONS OF THE LIBRARY BOARD:

4.A. **Funding Library Operations:** The Library Board agrees it will be responsible for providing funding for all Library operations and building maintenance through diversified funding, except for the personnel costs paid by the City.

4.B. **Annual Budget:** The Library Board will prepare an annual budget for approval by the City in accordance with state law (§ 22-1-309(6), MCA).

4.C. **Open Meeting Laws:** The Library Board agrees to comply with all

opening meeting laws when meeting. This obligation shall include, but is not limited to, making certain that proper meeting notice occurs and that minutes from such meetings are taken and properly maintained.

4.D. Laws and Regulations: As a tax-supported public library, the Library Board must be aware of and ensure that all laws and regulations which relate to public libraries are properly followed.

5. OPERATION OF THE LIBRARY:

5.A. Library Board Authority: The Library Board shall have the authority to determine the policy for the operation and care of the Library; prepare budgets; authorize expenditures; determine the selection of materials; and negotiate contracts and agreements as set forth in § 22-1-309, MCA. The Library Board agrees to work with the City cooperatively to discuss modifications or changes that will facilitate the efficient operation of the Library for the benefit of the public. The Library Board further agrees to provide the City with timely notice of all policy modifications or changes, including providing any written documentation which accompanies and/or supports such modifications or changes.

5.B. Execution Contracts/Agreements: The Mayor shall execute all contracts and agreements for the Library.

5.C. Personnel Management: Pursuant to § 22-1-309(3), MCA, the Library Board agrees to delegate personnel authority as found in § 22-1-310, MCA, to the City as follows:

5.C.1. Library Director.

5.C.1.a. Appointment. Pursuant to the City's Code, Section 14.5 and existing City Policies and Procedures, the Library Board shall have the authority and responsibility for hiring, appointment, termination, and disciplinary proceedings of the Library Director. Appointment and/or termination of the Library Director, however, will be made in consultation with and be confirmed by the City.

5.C.1.b. Administrative status. The Library Director shall have the administrative status of a City department head and shall report to and be supervised by the Library Board.

5.C.1.c. Execution of Library operation and policies. The Library Director shall manage the operations of the Library and be responsible to the Library Board for the execution of the Library Board's policies as authorized by Section 5.A. above.

5.C.1.d. Salary. The Library Board and Mayor will jointly fix the Library Director's salary and any annual adjustments based on current City Personnel Policy and Procedures related to salary.

5.C.2. All Other Library Employees.

5.C.2.a. Pursuant to the City's Code, Section 2-107, the current CBA and existing City Policies and Procedures, the City shall have authority and responsibility for all personnel matters including but not limited to hiring, termination, and disciplinary proceedings, rates of pay, hours of work, leave, fringe benefits, employee safety, and other conditions of employment for Library employees.

5.C.2.b. Supervision/management. The Library Director shall supervise and manage all Library employees, in collaboration with the Mayor and the Library Board.

5.C.2.c. Library staffing. Any increase or decrease in working hours or changes in staffing levels (FTE's) must be mutually agreed upon.

5.C.2.d. Hiring freeze. In the event a Library employee retires or resigns, triggering a buy-out of that employee's vacation and/or sick leave, a hiring freeze for that position may be implemented by the City for a period equivalent to offset the cost of such buy out, not to exceed six (6) months.

5.D. Building. The Miles City Library building is owned by the City. The City agrees to provide day-to-day maintenance and general repair for the building. The Library Board agrees that any rental or use of Library facilities by other entities, organizations, groups, and/or individuals, will comply with the City's process.

6. INDEMNIFICATION/HOLD HARMLESS: The City and Library Board agree to a mutual indemnification in which each party will indemnify the other for the negligent acts of its employees, board members, agents and/or subcontractors. Each party shall indemnify, hold harmless and defend the other party, at that party's own expense, against any and all claims made for any accident, injury, or damage that occurs in, on, or about the Library that is caused by an act or omission of that party's employee, board member, agent and/or subcontractors.

7. MODIFICATIONS: Any modifications sought to be made to this Agreement shall be agreed to by both parties and will be memorialized in writing, signed by both parties.

8. NOTICE: Any notice required or permitted under this Agreement shall be deemed sufficiently given or serviced if sent by mail or hand delivered to:

City of Miles City	Miles City Public Library
Mayor	Library Board of Trustees
17 S 8 th St	1 S 10 th St
Miles City, MT 59301	Miles City, MT 59301

Either party may, by written notice at any time during the term of this Agreement, designate a different address to which notices hereunder shall subsequently be sent. Written notice hereunder shall be deemed to have been given as of the time the same is deposited in the

United States mail.

9. TIME OF ESSENCE: Time shall be of the essence of this Agreement and all the terms, covenants and conditions hereof shall be performed at or before the times herein set forth. Any forbearance on the part of either party in the enforcement of the terms and conditions of this Agreement shall in no way be construed as a waiver of default thereof or waiver of the obligatory effect of such provision.

10. CONSTRUCTION AND BINDING EFFECT: This Agreement shall be construed under the laws of the State of Montana and shall be binding upon and inure to the benefit of the respective parties, their heirs, executors, successors and assigns.

11. SEVERABILITY: If any term of this Agreement should hereafter be declared or becomes void or unenforceable by judicial decree or operation of law, all other terms of this Agreement shall continue to be effective unless the void or unenforceable terms materially defeats the manifest intent and purpose of this agreement.

12. BINDING: This Agreement shall be binding upon the successors and assigns of the parties hereto.


IN WITNESS WHEREOF, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this Agreement, and the parties hereto approve and execute this Agreement.

CITY OF MILES CITY



John L. Hollowell, Mayor

* APPROVED AS TO FORM:



City Attorney

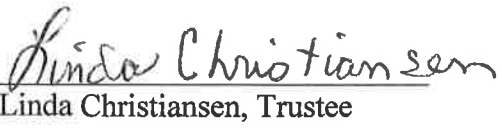
* The City Attorney has provided advice and approval of the foregoing document language on behalf of the City of Miles City, and not on behalf of other parties or entities. Review and approval of this document by the City Attorney was conducted solely from a legal perspective and for the exclusive benefit of the City of Miles City. Other parties should not rely on this approval and should seek review and approval by their own respective counsel.

MILES CITY LIBRARY BOARD OF TRUSTEES


Bert Pezzatossi, Chairperson


Kim Feil, Trustee


Shirley Lund, Trustee


Linda Christiansen, Trustee


Nancy Larsen, Trustee