

COMMERCIAL LEASE

THIS COMMERCIAL LEASE ("Lease") is made and entered into on this 22nd day of October, 2001, by and between the City of Othello, Washington, a municipal corporation hereinafter referred to as "Lessor", and Adams County Rural Library District No. 1, a municipal corporation, hereinafter referred to as "Lessee".

I. Recitals.

1. Lessor is the owner of the premises described below and desires to lease the premises to Lessee on the terms, covenants and conditions stated below;
2. Lessee desires to lease from Lessor the premises described below on the terms, covenants and conditions stated below; and
3. This Lease shall define the respective rights, liabilities and duties of the Lessor and Lessee with respect to the lease of the premises described below.

II. Agreement.

In consideration of and for the mutual covenants, terms and conditions herein contained, the parties covenant and agree as follows:

- 1 **DESCRIPTION OF PREMISES:** Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor that certain real property located at 101 E. Main Street, Othello, Adams County, Washington, described legally as:

Lots 7 & 8 of Block 13 of Original Othello located in the SW ¼ of Section 34, T15N, R29 E. Adams County, WA. also known as 101 East Main Street, Othello, WA.

SUBJECT TO all liens, encumbrances, easements, covenants, and reservations of record, including all improvements thereon and all appurtenances attached thereto, hereinafter referred to as "Premises".

- 2 **TERM:** This Lease shall be for a term of two (2) years, commencing on January 1st, 2002 and terminating on December 31st, 2003 unless this Lease terminates earlier pursuant to paragraph 19 or 20 below. This lease shall automatically renew from year to year after December 31, 2003 unless either

party provides written notice to the other of an intent to terminate this lease at the end of the then current year.

- 3 **RENT:** The lease payment reserved under this Lease for the entire twenty-four (24) month term of this Lease is the sum of Thirty Thousand Dollars (\$30,000) in lawful money of the United States. Lessee shall pay Lessor the rental for the Premises in equal monthly installments of One Thousand Two Hundred Fifty Dollars (\$1,250.00) each month, at the end of each month. The lease payment shall be paid by Lessee to Lessor not later than the tenth day of the month succeeding the month of use, during the term of this Lease.

The rental rate set forth herein shall apply during the initial twenty-four months of this Lease. Thereafter, if the lease is to remain in effect, the parties shall meet more than sixty (60) days prior to the end of each calendar year and agree upon the terms of rental for the next rental period.

- 4 **USE OF PREMISES:** It is agreed and understood by the parties that all of the Premises shall be used by the Lessee for uses typically associated with a public library. Lessee shall restrict the use of said Premises for such purposes, and shall not use or permit the use of said Premises for any other purpose without the written consent of Lessor.

- 5 **INSURANCE RISK:** Lessee shall not use the Premises in any manner that will increase the risk covered by insurance on the Premises or that will increase the insurance premiums to be paid by Lessor or Lessee to insure the Premises or the area around the Premises. Lessee shall not keep or use anything on the Premises or conduct or fail to conduct any activities on the Premises which shall cause Lessor's or Lessee's insurance policies to be canceled or which is prohibited by Lessor's or Lessee's insurance policies covering the Premises.

- 6 **COMPLIANCE WITH LAW:** Lessee shall at its sole expense comply with all applicable statutes, ordinances, rules, regulations, orders, and requirements in effect during the term of or any part of the term of this Lease regulating the use by Lessee of the Premises. Lessee shall not commit any act which constitutes a waste or nuisance on the Premises or allow any waste or nuisance on the Premises.

7

HAZARDOUS AND TOXIC SUBSTANCES: Lessee shall not cause, permit or allow any hazardous or toxic substances to be brought upon, kept or used in, or about the Premises, except for such hazardous or toxic substances as may be necessary to Lessee's occupation of the Premises. Any hazardous or toxic substances which are necessary to Lessee's occupation of the Premises shall be brought upon, kept, stored and disposed of in a manner that complies in all respects with all federal, state and local rules, regulations and statutes pertaining to hazardous or toxic substances. Lessee shall remove at its sole cost and expense all hazardous and toxic substances from the Premises upon the termination of this Lease and shall do so in conformity with all applicable federal, state, and local statutes, rules, and regulations. Lessee shall defend, indemnify and hold harmless Lessor, its employees, its agents, its assigns and its successors from any actions, claims, liabilities, administrative proceedings, judgments, damages, penalties, fines, costs (including but not limited to environmental clean-up costs and site-monitoring costs whether or not it is required by a federal, state or local agency), attorneys fees (regardless of whether the attorneys fees were incurred in administrative proceedings or in judicial proceedings before a trial court or appellate court), consultant fees, and expert fees incurred as a result of or which directly or indirectly arise out of Lessee's occupancy and use of the Premises or Lessee's noncompliance with this paragraph or with any federal, state or local rules, regulations, or statutes relating to hazardous or toxic substances. The Lessee's obligation to defend, indemnify and save and hold harmless Lessor, its employees, its agents, its assigns and its successors as set forth above shall survive the termination of this Lease.

8

LIENS AND INSOLVENCY: Lessee shall keep the Premises free and clear of all encumbrances and liens, including but not limited to tax liens, utility liens, and materialmen's and mechanics' liens relating to any work done, services performed, and/or materials supplied to the Premises at the request of Lessee or of Lessee's agent(s). If Lessee files a petition for bankruptcy under any chapter of the bankruptcy code, or if a receiver of the premises shall be appointed in any proceeding brought by or against Lessee or if Lessee makes an assignment for the benefit of creditors, or if any proceedings are commenced to foreclose any lien on Lessee's interest in the premises or any personal property kept or maintained on the Premises by Lessee, the Lessor may, at their option, terminate this Lease.

9

UTILITIES AND SERVICES: Lessee shall arrange and pay for all utilities furnished or charged to the Premises for the entire term of this Lease, including sewer, water, garbage, electrical and telephone services furnished to be used by Lessee, before the same become delinquent. If Lessee fails to pay any utility

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charges or fees, Lessor, at their option, may pay the same and Lessee shall forthwith pay the Lessor the amount thereof plus a late charge of five percent (5%) of the amount thereof.

10 **TAXES:** Lessor shall pay all real property taxes assessed by any governmental agency or entity against the Premises. Lessee shall pay all personal property taxes assessed against the personal property that is located in or on said Premises. If Lessee fails to pay such taxes, Lessor, at their option, may pay the same and Lessee shall forthwith pay the Lessor the amount thereof plus a late charge of five percent (5%) of the amount thereof.

11 **INDEMNIFICATION AND NONLIABILITY OF LESSOR:** The Lessor, its employees, its agents, its assigns and its successors shall not be liable for any injury (including death), damages or liability to any person, entity, and/or agency or for damage to any property, regardless of how such injury or damage was caused, sustained or alleged to have been sustained by the Lessee, its employees, its agents, its contractors and subcontractors, or other third parties (including their subtenants) or by any subtenant of Lessee, as a result of any condition of or defect on or in the Premises or of any occurrence whatsoever related in any way to the premises or from the Lessee's use, possession, and/or occupation of the Premises, except for liability resulting from the sole negligence of the Lessor. The Lessee shall defend, indemnify, and hold and save harmless Lessor, its employees, its agents, its assigns and its successors from any and all claims, liability, damages, judgments, expenses, and costs (including attorneys fees, filing fees, expert witness fees, and consulting fees) in connection with any damages or injuries caused, sustained, and/or alleged to be sustained or caused as a result of the condition of the Premises or any occurrence related to Lessee's use, possession, and/or occupancy of the Premises or to the use, possession and/or occupancy of the Premises by any subtenant of Lessee except for liability created by the Lessor's sole negligence. The Lessee's duty and obligation to defend, indemnify and hold and save harmless Lessor, its employees, its agents, its assigns and its successors as set forth above shall survive the termination of this Lease. However, the Lessor shall be responsible for any and all liability arising out of the condition of the premises for which the Lessee is not responsible and additionally the Lessor shall be responsible for any and all negligent acts of its employees and agents.

12 **INSURANCE COVERAGE:** Lessee shall, at its sole expense and cost, provide the following liability insurance coverage

12.1 Premises Liability

12.2 Commercial General Liability, including:

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- 12.2.1 Bodily injury
- 12.2.2 Property damage
- 12.2.3 Personal injury
- 12.2.4 Medical payments
- 12.2.5 Defense costs
- 12.2.6 Contractual liability

in the minimum amounts of \$1,000,000.00 for bodily injury or death and \$200,000.00 for property damage with respect to all accidents, damages and injuries which occur in, on or around the Premises. All insurance policies shall be approved in advance by Lessor. Lessor shall be named as an additional insured in all insurance policies required herein and a true and correct copy of all such insurance policies shall be delivered to the Lessor at the address set forth in Paragraph 25 below upon execution of this Lease. Before February 1st, 2001, Lessee shall also file with Lessor at the address stated in Paragraph 24 below certificates of insurance which stipulate that the Lessor shall be notified by the insurance carrier thirty (30) days in advance, in writing, prior to the modification, expiration or cancellation of any insurance policies required herein.

13

REPAIRS AND MAINTENANCE:

13.1

Lessor shall maintain those basic structural parts of the Premises, which the parties hereto agree to be exterior walls, roof, foundation, and the basic electrical and plumbing systems. Lessor shall replace all glass of any windows and doors as may become cracked or broken. Lessor is further responsible for maintaining all light fixtures, plumbing fixtures, and the heating and cooling systems in a good state of repair. Lessor will maintain the sidewalks and the off-street parking area. Lessor will maintain the exterior building light bulbs. The Lessee shall promptly advise the Lessor in writing of any defects in the basic electrical and plumbing systems and in the structure of the Premises should Lessee become aware of the same. The Premises have been inspected by Lessee and Lessee has provided Lessor a list of deficiencies, attached as Exhibit A, that represents the present condition of the obvious elements. Lessor agrees that the list delineates present condition of those elements listed. Lessee accepts the premises in their present condition. Lessee is further responsible for maintaining the interior portion of the Premises in a state of repair as good as the present condition. All maintenance and repair work done or performed by Lessee or at Lessee's request on the Premises shall be at Lessee's sole expense. Except for reasonable wear and tear and damage caused by unavoidable casualty, Lessee shall at all times preserve the Premises in as good a state of repair as when the Lessee took possession of the Premises.

13.2 All work done by either of the parties hereto shall be in compliance with all federal, state and local laws, rules, and regulations.

14 **POSSESSION, ACCEPTANCE AND SURRENDER OF PREMISES:** Lessee shall be entitled to possession of the Premises and contents of the premises, delineated in Exhibit B, upon commencement of this Lease and thereafter in accordance with the terms herein. By entering into and executing this Lease, Lessee acknowledges that the Premises are in a good state of repair, excepting those conditions denoted in Exhibit A, attached, and in a sanitary condition. Lessor and Lessee agree that the premises content is full depreciated and surrendered to the Lessor for services rendered in the past. Lessee shall surrender the Premises at the end of the lease term, in the same condition as when Lessee took possession, allowing for reasonable wear and tear and damage by unavoidable casualty.

15 **ALTERATIONS, ADDITIONS AND IMPROVEMENTS:** The Lessee shall not make any alterations, additions or improvements in or on said Premises not otherwise provided for herein without the prior written consent of Lessor. All alterations, additions and improvements which shall be made shall be made at the sole expense and cost of Lessee, shall become the sole property of the Lessor at the end of the lease term or upon the termination of this Lease, and shall remain in and on and be surrendered with the Premises as a part thereof at the end of this lease term or upon the termination of this Lease. If the Lessee shall perform any work with the consent of Lessor as aforesaid, Lessee agrees to comply with all federal, state and local laws, rules and regulations. Lessee further agrees to indemnify and hold and save harmless Lessor, its employees, its agents, its assigns, and its successors from any damages, loss or expense arising out of said work. Lessee also agrees to that Lessor shall have the right to, but in no way shall be obligated to, make alterations, additions, and/or improvements to the Premises, provided that such alterations, additions, and improvements shall not unreasonably interfere with the Lessee's use of the Premises.

16 **DESTRUCTION OF BUILDING:** In case of substantial damage to or destruction of the leased building by fire, earthquake, or other casualty, Lessor shall have the option to repair or rebuild the same or cancel this Lease. If the Lessor elects to repair or rebuild, written notice thereof shall be given to Lessee not more than ten (10) days after such damage or destruction and, during the period of rebuilding, the rent shall be abated in proportion to the area of the Premises unfit for occupancy during the repairs or construction. In the event the repairs or construction work cannot be completed by Lessor within sixty (60)

days of giving notice thereof, the Lessee shall have the option to cancel this Lease.

- 17 **ENTRY ON PREMISES BY LESSOR:** The parties agree that the Lessor shall have the right to enter the Premises at reasonable times to inspect the Premises, to perform any work required to be done by Lessor under the terms of this Lease, or to exhibit or display the Premises to prospective or actual purchasers, tenants, agents or contractors.
- 18 **ASSIGNMENT OR SUBLEASE:** This Lease is personal to the Lessee, and Lessee shall not assign, transfer, or sublease this Lease or any portion thereof, or any of Lessee's rights or interests in this Lease or the Premises without first obtaining Lessor's written consent which consent shall not be unreasonably withheld. Consent by Lessor in one situation or circumstance shall not be viewed as or be considered by either party as consent to a subsequent assignment or transfer.
- 19 **TERMINATION:** Either party may terminate this Lease by giving a written notice to the other party at least 1 year prior to December 31 of any year this Lease is in effect.
- 20 **TIME OF ESSENCE:** Time is of the essence of each and every condition, term, and covenant of this Lease and the failure of Lessor or Lessee to insist upon strict performance of any of the covenants, terms and/or conditions of this Lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such or any other covenants, terms, or conditions, but the same shall be and remain in full force and effect.
- 21 **REMEDIES CUMULATIVE:** All of the rights and remedies provided in this Lease are distinct and cumulative to any other right or remedy under this Lease or afforded to the parties by law or equity, and may be exercised concurrently, independently, or successively.
- 22 **NON-WAIVER:** No waiver of default by the Lessor or Lessee of any of the terms, conditions, or covenants herein to be performed, kept and observed by the Lessee or the Lessor shall be construed to be or act as a waiver of any subsequent default in any of the terms, conditions, and covenants herein contained to be performed, kept and observed the Lessee or Lessor. The acceptance of rental by the Lessor for any period or periods after a default of any of the terms, covenants and conditions of this Lease shall not be deemed a waiver of any right on the part of Lessor to terminate this Lease for failure of

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Lessee to perform the terms, conditions and covenants of this Lease. No act or conduct of Lessor shall constitute an acceptance of the surrender of the Premises before expiration of the term. Only a notice from Lessor to Lessee shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease. Any waiver by Lessor of any default must be in writing.

23

NOTICES: Any notices, demands or communications to be given or served hereunder shall be in writing and shall be delivered or sent via certified mail or registered mail with return receipt requested, postage prepaid, to the following addresses or to such other respective address as either party may hereafter from time to time designate in writing:

To Lessor: City of Othello
Office of the Mayor
500 E Main
Othello WA 99344-1195

To Lessee: Adams County Rural Library District One
Chair Library District One
101 East Main Street
Othello WA 99344

Such notices, demands, and communications shall be deemed given and served on the date on which such document is physically delivered to the other party or the date on which the document is properly mailed to the other party.

24

ATTORNEYS FEES AND VENUE: In the event any action is brought by Lessor or Lessee to interpret or construe this Lease or any of the provisions herein or to enforce this Lease or any of the provisions herein, then the unsuccessful party in such action shall pay to the prevailing party a reasonable attorney's fee and costs fixed by the Court, including attorney's fees and costs on appeal, if such be had. In the event an action is brought as set forth above, venue of any court proceedings shall lie in Adams County, Washington. In the event that one party is required to expend fees on attorney's services because of a breach or default by the other party, then the breaching/defaulting party shall pay to the other party the actual attorney's fees incurred as a result of the breach and/or default, provided, however, that the defaulting/breaching party shall be given prior notice of the default and/or breach so that it may have a reasonable opportunity to cure such default and/or breach before attorney's fees are incurred.

- 25 **SEVERABILITY:** In the event any portion of this Lease should be held to be invalid by any Court of competent jurisdiction, such holding shall not affect the remaining provisions hereof.
- 26 **GOVERNING LAW:** This Lease shall be governed by and interpreted and construed in accordance with the laws of the State of Washington.
- 27 **BINDING LEASE:** This Lease and the provisions herein shall be binding upon and shall inure to the benefit of the parties hereto, their assigns and their successors in interest.
- 28 **STATUS:** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture, between the parties hereto, it being understood and agreed that none of the provisions contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties hereto other than the relationship of Lessor and Lessee. Whenever herein the singular number is used, the same shall include the plural, and the neuter gender shall include the feminine and masculine genders. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not for or against either Lessor or Lessee.
- 29 **PARAGRAPH HEADINGS:** The underscored words or words appearing at the commencement of paragraphs and subparagraphs of this Lease are included only as a guide to the contents thereof and are not to be considered as controlling, enlarging or restricting the language or meaning of those paragraphs or subparagraphs.
- 30 **ENTIRE AGREEMENT — AMENDMENTS AND MODIFICATIONS:** The parties agree that this Lease contains the entire agreement of the parties hereto and supercedes all of the parties' previous understandings and agreements, written and oral, with respect to this transaction and that there are no terms, obligations, covenants or conditions other than those contained herein. The parties further understand and agree that no modification or amendment of this Lease shall be valid, binding and effective unless evidenced by a written agreement which has been executed by both parties in the same manner as this Lease.
- 31 **RECORDING LEASE:** Unless both parties consent thereto in writing, neither this Lease nor a Memorandum thereof shall be placed of record.

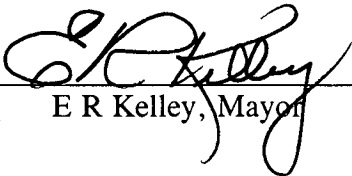
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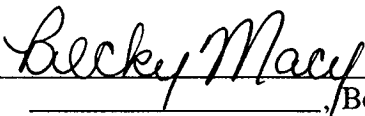
INDEPENDENT ADVICE: The Lessee acknowledges that they have ascertained and weighed all of the effects and circumstances likely to influence their judgment with respect to this Lease; that they have had the opportunity to seek and obtain independent legal advice, that all for the provisions hereof, as well as all questions pertinent thereto, have been fully, satisfactorily and independently examined and explained to them.

The parties have executed this Lease on the day and year shown in the following acknowledgments; said Lease to be effective on January 1, 2001.

LESSOR:
City of Othello

LESSEE:
Adams County Rural Library District One

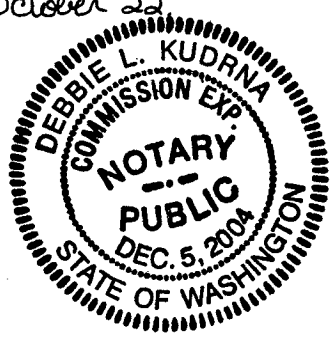
by 
E R Kelley, Mayor

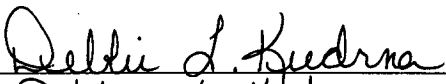
by 
Board Chair

STATE OF WASHINGTON
ADAMS COUNTY

I certify that I know or have satisfactory evidence that E R Kelley, Mayor of the City of Othello, Lessor herein, signed this instrument and acknowledged it to be the free and voluntary act of the City of Othello as authorized by its City Council for the uses and purposes mentioned in this instrument.

DATED: ~~August~~ October 22, 2001.



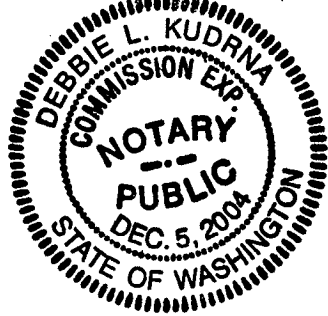

Debbie L. Kudrna
Type or print name
NOTARY PUBLIC for Washington State
My commission expires: 12-5, 2004

STATE OF WASHINGTON
ADAMS COUNTY

I certify that I know or have satisfactory evidence that Becky Mace,
Chair of the Board of Commissioners of Adams County Rural Library District No. 1, Lessee
herein, signed this instrument and acknowledged it to be the free and voluntary act of t Adams
County Rural Library District No. 1 as authorized by its Board of Commissioners for the uses
and purposes mentioned in this instrument.

DATED: August , 2001.

~~October~~ November 8, 2001



Debbie L. Kudrna

Debbie L. Kudrna

Type or print name

NOTARY PUBLIC for Washington State

My commission expires: 12-5-04