

FIRST ADDENDUM TO BRANCH LIBRARY AGREEMENT

This First Addendum (“Addendum”) to the Branch Library Agreement (the “Agreement”) is made effective this ____ day of _____, 20____, by and between the Van Buren District Library, of 200 Phelps Street, Decatur, Michigan 49045 (the “District Library” or “Library District”), and _____, of _____ (“Local Unit”).
The parties agree:

1. The parties are parties to the Agreement dated _____, _____. The parties wish to add a provision to the Agreement as set forth in this Addendum.
2. The parties add new section 3. ____ to the Agreement as follows:

“3. ____ Notwithstanding Section 3.1, for calendar year 2026, the District Library may, in its sole discretion, contribute an amount not to exceed \$25,000 for maintenance costs associated with operating the Library Premises (“Maintenance Funds”). In any subsequent calendar year in December, the District Library may, if funds are available, contribute an amount not to exceed \$7,500 in Maintenance Funds. Maintenance Funds paid by the District Library to the Local Unit may only be used for costs incurred to maintain the Library Premises and for any other lawful library purpose in compliance with Public Act 24 of 1989, as amended, also known as the District Library Establishment Act. “Maintenance of the Library Premises” is defined as an expenditure intended solely to repair, restore, sustain, beautify, or improve the library facility and its grounds including lawns, gardens, landscaping, and adjacent entry or egress zones, paths, or routes including parking areas and walkways. Beginning in 2028, if the payment is made, it shall be increased in accordance with inflation as measured by the Consumer Price Index since the previous payment was made by the Library District, or 3% annually since the previous payment was made by the Library District, whichever is less. The Local Unit may also hold the Maintenance Funds until the Local Unit needs the Maintenance Funds for maintenance work on the Library Premises as defined in this Addendum or other lawful library purposes in compliance with Public Act 24 of 1989 as amended. If more than one (1) Local Unit is a party to this Agreement, the Local Units direct the Library to remit any Maintenance Funds to _____, who will be responsible for maintaining financial and other records related to the funds. The District Library or its representatives may at any time ask the Local Unit for, and the Local Unit will produce, documents such as paid receipts, financial ledgers, and bank statements to substantiate that the expenditure of all Maintenance Funds are in compliance with this Addendum and with Public Act 24 of 1989, as amended.

While it is the intention of the Library District to remit maintenance funds annually, the parties understand that with changing economic variables, climate, potential funding challenges, or other financial commitments, the

District Library may not pay Maintenance Funds for the Library Premises in any given year, and such non-payment will not be considered a breach of this Agreement.

3. Capitalized terms not defined in this Addendum have the meaning given the terms in the Agreement.
4. This Addendum may be executed in counterparts, which taken together constitute one Addendum. Electronic signatures on this Addendum have the same force and effect of original signatures.
5. Except as specifically modified in this Addendum, the terms of the Agreement remain in full force and effect.

VAN BUREN DISTRICT LIBRARY

By: _____

Print Name: _____

Its: _____

LOCAL UNIT

By: _____

Print Name: _____

Its: _____

LOCAL UNIT

By: _____

Print Name: _____

Its: _____

LOCAL UNIT

By: _____

Print Name: _____

Its: _____

MEMO

FOSTER SWIFT
FOSTER SWIFT COLLINS & SMITH PC || ATTORNEYS

ATTORNEY-CLIENT PRIVILEGE

TO: Van Buren District Library Board
FROM: Anne Seuryneck
DATE: February 19, 2026
RE: Opinion on Branch Issues

The Van Buren District Library (“VBDL”) requested our legal analysis of the continuing validity and legal effect of the 1997 and 1999 Branch Agreements, their interaction with the District Library Agreement, and the legal and operational consequences if a township declines to execute a proposed addendum or terminates a Branch Agreement. VBDL also asked for our explanation of how a participating municipality can withdraw from VBDL and the consequences that would follow. Our analysis follows.

Questions Presented and Short Answers

1. **Are the 1997 and 1999 Branch Agreements still legal and binding?** Yes, they remain legal and binding unless terminated according to their terms. While a few of the participating municipalities have cited the age of the agreements as the reason for questioning the validity, the age of the contract is not relevant in this case.
2. **How do the Branch Agreements interact with the District Library Agreement?** The Branch Agreements coexist with, but are subordinate to, the District Library Agreement and the District Library Establishment Act.
3. **Do the Branch Agreements obligate VBDL to pay building and maintenance costs?** No, the Branch Agreements do not obligate VBDL to pay building or maintenance costs, except for utilities and janitorial services.
4. **If a township does not sign the proposed addendum to a Branch Agreement, what happens legally and operationally?** Nothing. The existing Branch Agreement remains in effect if the addendum is not signed.
5. **If a township terminates a *Branch Agreement*:**
 - a. **What steps are required for termination?** Without cause, 180 days’ notice to the other party. For a breach of the agreement, 30 days’ notice to cure the breach.
 - b. **Is a township-wide vote required?** No.

- c. **What happens to the existing branch library facility, equipment, collections, and staff?** The equipment, collection, and staff remain with VBDL. The existing facility remains with the participating municipality, or whoever owns the property.
 - d. **Is Van Buren District Library statutorily obligated to operate a Branch Library within a particular municipality if that municipality’s governing body terminates the Branch Library Agreement?** No, VBDL does not have a statutory obligation to have a branch library in any location.
 - e. **If the branch agreement was terminated, would the township still be required to collect the library’s millage and transfer that money to VBDL?** Yes.
 - f. **If a township terminates the branch agreement, is that township still a participating municipality of VBDL?** Yes, if a township terminates its branch agreement it remains a participating municipality of VBDL.
6. **Do VBDL appointed board members owe a fiduciary obligation to VBDL or the participating municipality that appointed the board member?** The VBDL Board member has a fiduciary obligation to the VBDL not the participating member that made the appointment.
7. **Can a participating member replace or withdraw an appointed board member for any reason, or no reason at all, during that board member’s appointed term?** No, the participating municipalities do not have authority to remove district library board members.

District Library Establishment Act

The District Library Establishment Act (the “DLEA”), Public Act 24 of 1989, MCL 397.171 *et seq.*, allows two or more municipalities that are authorized by law to establish a library may jointly establish a district library. MCL 397.173(1). Participating municipalities must enter into a District Library Agreement (“DLA”) approved by the State Librarian. MCL 397.173(4)(a); MCL 397.175.

District Library Board Membership; Powers

DLAs must provide for the creation of a district library board to govern the operation of the district library. MCL 397.174(1)(c). DLAs must provide the method of selection of board members, which can be by election or appointment. *Id.* The DLA must specify how many board members will be selected from each participating municipality. *Id.*

A district library board may purchase, sell, convey, lease, or otherwise acquire or dispose of real or personal property. MCL 397.182(1)(d). A district library board may also enter contracts to receive library-related services from or give library-related services to a library or a municipality within or without the district. MCL 397.182(1)(g). District library boards have the authority to propose and levy a tax to support the district library. MCL 397.182(1)(i).

Withdrawal While a Districtwide Millage is in Effect

A districtwide millage for a district library operates as a property tax levied uniformly across all participating municipalities within the district. The millage is collected through the standard property tax system, with county boards of commissioners directing the spread of the tax among local units. Districtwide millages cannot exceed 4 mills total, and any portion exceeding 2 mills must be authorized for a period not exceeding 20 years. MCL 397.183.

Except to the extent that the DLA provides otherwise, a participating municipality in which a district library millage is in effect or authorized to be levied may withdraw from the district library if all of the following requirements are met:

- (a) Not less than 2 months before the next regularly scheduled election of the municipality, the legislative body of the municipality adopts a resolution to withdraw from the district library on a date specified in the resolution. The date specified shall be not less than 6 months after the next regularly scheduled election of the municipality.
- (b) Notice of an election on the resolution is published in a newspaper published or of general circulation in the municipality not less than 10 days before the next regularly scheduled election of the municipality following adoption of the resolution.
- (c) The resolution is approved by a majority of the electors of the municipality voting on the resolution at the next regularly scheduled election of the municipality following adoption of the resolution. If only a portion of the territory of a municipality is included in the district, the vote shall be conducted only in that portion of the municipality included in the district.
- (d) After approval of the resolution by the electors, the clerk of the municipality or, if the municipality is a school district, the school district election coordinator files with the Library of Michigan a copy of the official canvass statement and a certified copy of the resolution and files with the board a copy of the official canvass statement and a number of certified copies of the resolution sufficient for distribution to the legislative body of each of the participating municipalities.
- (e) Payment, or the provision for payment, to the district library or its creditors of all obligations of the municipality seeking to withdraw is made.
- (f) The legislative body of the withdrawing municipality furnishes to the Library of Michigan a plan for continuing, after the municipality no longer receives library services from the district library, public library service for all residents of the withdrawing municipality or the portion of the territory of the withdrawing municipality that is included in the district.

MCL 397.194(1).

A district library tax in effect or authorized to be levied by the district library before the adoption of the resolution to withdraw shall be levied in the municipality for its original purpose for the period of time originally authorized. MCL 397.194(2). Additionally, a municipality that withdraws from a district library shall continue to receive library services from the district library

so long as a districtwide tax continues to be levied in the municipality. *Id.* Because there are two district-wide millages in effect, including one in perpetuity, any participating municipality seeking to withdraw would be required to follow this process. Although Subsection (f) above requires the withdrawing legislative body to provide a plan of service after the municipality no longer receives library service from this district library, that provision would not apply in this case because the municipality will continue to receive service because the millage is in perpetuity.

Analysis

Status of the Branch Agreements

The Antwerp and Lawrence Branch Agreements (collectively, the “Branch Agreements”) are still binding, legally enforceable contracts. The DLEA expressly authorizes district library boards to enter into contracts with municipalities for library services. MCL 397.182(1)(g). There is no sunset provision in the Branch Agreements, and they remain binding unless terminated pursuant to their express termination clauses. The age of the Branch Library Agreements is not factually or legally relevant in terms of the Agreements’ binding effect.

Interaction of Branch Agreements and District Agreement

The Branch Agreements are supplementary to the District Agreement. The District Agreement governs the creation of VBDL’s district, governance of VBDL, taxation, Board composition, and withdrawal from VBDL. The Branch Agreements govern operational details of specific Branch Library locations, including staffing, maintenance, facilities, and maintenance.

If a conflict were to arise, the District Agreement and the DLEA would control because they are the statutory instruments establishing the district library and its taxing authority. The Branch Agreements cannot alter district membership, millage obligations, or statutory withdrawal requirements.

Obligations of VBDL Under the Branch Agreements

The Branch Agreements do not obligate VBDL to pay building and maintenance costs for the Branch Libraries. Under Section 3 of both Branch Agreements, the municipalities are responsible for providing the building and for making and paying for all repairs, renovations, improvements, and maintenance. VBDL’s financial obligations, apart from general operations and staffing, are limited to utilities and janitorial services (excluding maintenance). There is no contractual obligation for VBDL to pay capital or maintenance costs. Any proposed addendum or amendment would represent a voluntary, discretionary change, not a clarification of existing duties.

Unsigned Addendum

Legally, nothing changes if a township or village does not sign the proposed addendum. The original Branch Agreement remains in full force and effect according to its terms.

Operationally, VBDL continues to operate the branch library under the current allocation of responsibilities. The municipalities remain fully responsible for maintenance and repairs, and

VBDL remains responsible for staffing, collections, utilities, and janitorial services. Failure to sign an addendum does not constitute breach, default, termination, or withdrawal.

Terminating a Branch Agreement vs. Withdrawing from VBDL

Termination of a Branch Agreement is contractual; withdrawal is statutory. There are two ways to terminate a Branch Agreement. Either VBDL or the township/village can terminate the Branch Agreement without cause by providing 180 days prior notice to the other party. Either party can also terminate the Branch Agreement for default if the default is not cured within 30 days of written notice to the breaching party. There is no statutory procedure for terminating the Branch Agreement, and doing so does not require a vote of the citizens.

If a Branch Agreement is terminated, the facility/physical library building remains with the township or village (or whoever owns the building). Equipment and furnishings purchased by VBDL remain VBDL property, as well as the library collection. Staff remain VBDL employees. Staff may be reassigned or laid off in accordance with the applicable employment agreements, policies and law. VBDL is not required to continue operating a branch library in the township or village if the Branch Agreement is terminated.

In the event that a Branch Agreement is terminated, the township or village would still be a Participating Municipality of VBDL under the District Agreement. To withdraw from VBDL, there are several statutory requirements for the withdrawing municipality. Because there is a VBDL districtwide millage in effect, the withdrawing municipality would be required to:

1. Adopt a resolution of intent to withdraw;
2. Obtain voter approval at the next regularly scheduled election;
3. Pay any outstanding obligations;
4. Submit a post-withdrawal library service plan to the Library of Michigan for continuing library service for all residents of the withdrawing municipality; and
5. Amend the District Agreement.

Until and unless that process is completed, the withdrawing municipality remains a participating municipality in VBDL.

If a participating municipality withdraws from the District Agreement, the township or village would still be required to collect and pay the VBDL millage. Under MCL 397.194(2), district library taxes continue to be levied for their originally authorized term, even if a municipality withdraws from the district. Termination of a Branch Agreement does not affect millage obligations at all.

Because a township would still be a participating municipality even if the relevant Branch Agreement is terminated, the township would retain its Board member position. However, if a township were to withdraw from VBDL, then the District Agreement would be amended and that township would no longer have a position on the VBDL Board.

Fiduciary Obligation of VBDL Board Members.

Although the Participating Municipalities combined their resources to establish the Library, the Library itself is operated independently by the Board. In such case, and as supported by MCL 397.182 and the Library's bylaws, the Board manages the day-to-day responsibilities of the Library autonomously without the need for direct oversight from the Participating Municipalities.

Such autonomy means that Board Members' obligation is to the Library. This creates a fiduciary relationship between the Board and the Library, meaning that members of the Board of Trustees must act in the Library's best interest in all Library-related matters.¹ While there is no case law that specifically addresses the fiduciary duty owed by a district library board member to a district library, there is legal guidance that suggests a breach of duty arises when a public officer has conflicting interests, thus diminishing their ability to protect, advance, or promote the interest of their role as a board member. OAG, 1995, No. 6859 (July 18, 1995). This is because public officers are trusted with public functions and, therefore, owe a duty of loyalty to the public. OAG, 2006, No. 7184 (January 12, 2006).

Here, while the Board Members are appointed by the respective Participating Municipalities, their powers come from the DLEA and the Library's bylaws unless otherwise limited by the District Library Agreement. Therefore, the Board does not answer to the governing participating municipality that appointed them, which means that members of the Board of Trustees must exercise independent judgment and perform their duties without subordination to, or supervision of, the Participating Municipalities. The Michigan Court of Appeals recognized that participating municipalities do not have oversight district library activities that are delegated by laws specifically to the district library board, such as approval of the budget. *Charter Twp of Washington v Romeo Dist Library*, per curiam of the Michigan Court of Appeals, Docket No. 326279 (May 19, 2016). So, if district library board members appointed by municipalities appear to be "representing" or acting in an oversight capacity for the participating municipalities, this would likely violate their fiduciary obligation to the Library.

Removal of VBDL Board Members

Although Board Members are appointed by the Participating Municipalities, the Participating Municipalities do not have authority to remove Board members; only the Governor has the authority to remove district library board members. The DLEA provides as follows regarding vacancies of appointed board members:

- (2) The office of board member becomes vacant when the incumbent dies, resigns, is convicted of a felony, **is removed from office by the governor pursuant to section 10 of article V of the state constitution of 1963,** or ceases to be a resident of the district. In addition, the office of an appointed board member becomes vacant

¹ A fiduciary relationship is defined, in part, as a relationship in which one person is under a duty to act for the benefit of the other on matters within the scope of their relationship. *Calhoun Cnty v Blue Cross Blue Shield Michigan*, 297 Mich App 1, 4; 824 NW2d 202, 204 (2012).

when the incumbent ceases to be a resident of the participating municipality that appointed the incumbent.

MCL 397.178(2) (emphasis added). The above provision addresses how a vacancy is created. There are six separate ways in which a vacancy can occur. However, there is only one way in which a vacancy can occur by removal – removal by the Governor. Therefore, the governing boards of Participating Municipalities may not remove VBDL Board Members.

Conclusion

The Branch Agreements remain enforceable contracts that allocate operational responsibilities for specific library branches but do not alter district governance, taxation, or membership. Declining to sign a proposed addendum has no legal effect. Termination of a Branch Agreement affects only the operation of that branch and does not, by itself, remove a township from VBDL or relieve it of millage obligations.

Withdrawing from VBDL would require a vote of the electors in the relevant participating municipality. After withdrawing, that municipality would no longer have a position on the VBDL Board. However, any millage in effect within that municipality would continue to be levied and paid to VBDL for the life of the millage. The withdrawing municipality would not receive the proceeds of the District Library millage in effect to operate their own locally established library, or for any other purpose.

Further, nothing in the DLEA requires the Library District or its Board to operate a library facility at any particular location within its service area. Terminating a Branch Library Agreement would allow the Library District to cease the operations of the relevant library facility, while the residents of the terminating municipality would still be required to pay all existing library tax levies to Van Buren District Library for as long as they are in effect. The library tax funds would not be redirected to the terminating municipality for the purposes of establishing and operating their own locally governed library. The residents of the terminating municipality would be paying millage funds to Van Buren District Library without the benefit of a local VBDL branch library facility located within their neighborhood.

Please let us know if you have any questions.

:AMS

83980:00001:202460022-1