

LIBRARY ADMINISTRATION AND OPERATIONS AGREEMENT

This Agreement is made by and between OSCEOLA COUNTY, a political subdivision of the State of Florida, 1 Courthouse Square, Kissimmee, Florida 34741, hereinafter referred to as the "County", and LIBRARY SYSTEMS & SERVICES, LLC, 12850 Middlebrook Road, Germantown, Maryland 20874, hereinafter referred to as "LSSI". LSSI and County are each sometimes referred to herein as a "Party" and collectively, the "Parties".

The Parties agree as follows:

LSSI will work closely under the direction of the County Manager to manage and provide full staffing of all aspects of the day-to-day administration of the COUNTY's libraries, hereinafter referred to as "Library System" or "Library," so as to provide effective administration and delivery of library services. LSSI understands that general supervision of Library operations, including oversight and approval of the Library's policies, goals and priorities, will be provided by the COUNTY, which will have the final authority on all such matters. LSSI's performance will be monitored by the County Manager or his designee, who will also serve as the COUNTY's designated liaison for the day-to-day operations issues.

1. *Services and Goods.*

LSSI agrees that during the Term of this Agreement, to the extent required by law, all purchases of goods and services for use in or for the Library System shall only be acquired in accordance with Florida procurement procedures, specifically including but not limited to Chapter 287, Florida Statutes.

It is understood that LSSI shall provide and pay for all labor, tools, materials, and/or permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the services requested by the COUNTY, and shall not have the authority to create or cause to be filed any liens for labor and/or materials on or against the COUNTY or any property owned by the COUNTY. Such lien, attachment, or encumbrance, until it is removed, shall preclude any and all claims or demands for any payment expected by virtue of this Agreement. LSSI agrees that it shall abide by the terms and conditions and continue utilizing contracts for goods and services applicable to the Library System through the termination date of their current Terms.

(a) Services. During the term of this Agreement, LSSI will provide all library related services including non-library related labor and administrative services described on Exhibit A (collectively, "Services"). No additional non library related Services shall be implemented, including but not limited to revenue generating opportunities referenced in section 6(c) below, until the COUNTY and LSSI have entered a written agreement that includes, at a minimum, a written description of the Additional Services, the responsibility for costs related to providing such Additional Services, and the allocation of profit between the Parties that is generated by the Additional Services, if any.

(b) Provision of Goods. LSSI may purchase goods for use in the management and operation of the Library (as defined below). Subject to applicable state public procurement laws, LSSI

may select sources of goods. Title to all items purchased by LSSI shall at all times reside in The COUNTY. If LSSI furnishes any goods to The COUNTY, LSSI will use good faith efforts to extend the manufacturer's warranty, if any, to The COUNTY.

2. Term and Termination.

(a) *Term.* This Agreement shall be in effect for a period of five (5) years commencing on _____, 201_ ("Effective Date"), and terminating on _____, 201_ ("Expiration Date"), unless sooner terminated or renewed in accordance with this Section 2.

(b) *Termination for Convenience.* Either Party may terminate this Agreement with or without cause by giving the other Party three (3) calendar months written notice of termination.

(c) *Termination for Default.* If either Party breaches any material provision of this Agreement and fails to correct the breach within thirty (30) days after receiving written notice specifying the breach (or, if the breach cannot be corrected within thirty (30) days, fails to progress diligently towards correction), then the other Party may terminate this Agreement by giving written notice to the breaching Party, except that LSSI shall have the right to terminate this Agreement if The COUNTY fails to pay any amount due LSSI and such failure continues for ten (10) days after written notice thereof.

(d) *Automatic Renewal.* Subject to the termination provisions in accordance with this Section 2, this Agreement shall automatically renew for additional successive renewal periods equal in duration to the original term of this Agreement and for the same terms and conditions, by written agreement of LSSI and the COUNTY Manager. Either party may terminate this agreement at any time pursuant to section 2(b).

3. Price and Payment.

(a) *Price.* LSSI shall perform the Services for the Charges (exclusive of any current or future taxes) set forth in Section E of Exhibit A.

(b) *Payments.* LSSI shall invoice The COUNTY prior to each month's service for the monthly amount set forth in Section E of Exhibit A. Invoices shall separately indicate amounts being charged to the COUNTY for services, materials and books, and other equipment and capital expenditures. Invoices shall be paid by bank wire transfer to a bank account designated by LSSI on or before the twenty fifth (25th) day of such month (the "Due Date"). The parties acknowledge that the COUNTY is exempt from taxation per Section 125.019, Florida Statutes, as evidenced by the certificate of exemption attached hereto as Exhibit B.

(c) *Payment When Services are Terminated.* In the event of termination of this Agreement by the COUNTY, and not due to the fault of LSSI, the COUNTY shall compensate LSSI for all services performed prior to the effective date of termination. In the event of termination of this Agreement due to the fault of LSSI, or at the written request of LSSI, the COUNTY shall compensate LSSI for all services completed, prior to the effective date of termination, which have resulted in a usable product or otherwise tangible benefit to the COUNTY. All such

payments shall be subject to a set-off for any damages incurred by the COUNTY resulting from any delay occasioned by early termination. This provision shall in no way be construed as the sole remedy available to the COUNTY in the event of breach by LSSI.

4. Insurance.

(a) LSSI shall maintain the following types of insurance, with the respective limits, and shall provide proof of same to the COUNTY, in the form of a Certificate of Insurance prior to the start of any work hereunder:

1. AUTOMOBILE:
 - a. Combined Single Limit: \$300,000 per accident,

OR

b. Bodily Injury: \$300,000 per person,
AND
Property Damage: \$200,000 per accident;
2. GENERAL LIABILITY: One Million Dollars (\$1,000,000.00) each occurrence;
3. GENERAL AGGREGATE: Two Million Dollars (\$2,000,000.00);
4. EXCESS COVERAGE: One Million Dollars (\$1,000,000.00);
5. PRODUCTS LIABILITY: Two Million Dollars (\$2,000,000.00);
6. WORKERS' COMPENSATION: Employers' liability insurance which covers the statutory obligation for all persons engaged in the performance of the Services required hereunder with limits not less than One Million Dollars (\$1,000,000.00) per occurrence. Evidence of qualified self-insurance status will suffice for this subsection.

(b) LSSI shall name the "Osceola County Board of County Commissioners" as an additional insured, to the extent of the Services to be provided hereunder, on all required insurance policies (with the exception of Workers' Compensation), and provide the COUNTY with proof of same.

(c) LSSI shall provide the COUNTY with a Certificate of Insurance evidencing such coverage for the duration of this Agreement. Said Certificate of Insurance shall be dated and show:

1. The name of the insured,
2. The name of the insurer,
3. The number of the policy,
4. The effective date,
5. The termination date,

(d) LSSI shall mail notice to the COUNTY at least thirty (30) days prior to any material changes in the provisions or cancellation of any policy required herein.

(e) Receipt of certificates or other documentation of insurance or policies or copies of policies by the COUNTY, or by any of its representatives, which indicates less coverage than is required, does not constitute a waiver of the LSSI'S obligation to fulfill the insurance requirements specified herein.

(f) *Property Insurance.* The COUNTY will keep its buildings and their contents insured against loss, cost, damage or expense resulting from fire, explosion or any other casualty in an amount equal to the full replacement cost thereof ("Casualty Insurance"). If any loss, cost, damage or expense resulting from fire, explosion, or any other casualty or occurrence is incurred by the COUNTY in connection with its buildings or their contents, then except to the extent caused by the negligence of LSSI or its agents or employees, and except in case of LSSI's failure to meet its obligations as custodian of the facilities and property comprising the Library System, the COUNTY hereby releases LSSI from any liability it may have on account of such loss, cost, damage or expense to the extent of any amount receivable by reason of such Casualty Insurance, and waives any right of subrogation which might otherwise have existed or accrued to any person on account thereof.

5. *Information and Intellectual Property.*

(a) *Information.* In the performance of this Agreement, LSSI may be exposed to information regarding the identity of the COUNTY's patrons, the COUNTY may be exposed to information regarding LSSI's proprietary library management techniques, and either Party may be exposed to other information designated in writing by the disclosing Party as confidential (collectively, "Confidential Information"). To the extent allowed by law, each Party shall: (1) use the same care to protect the other Party's Confidential Information from disclosure that such Party uses to protect its own information of like importance; (2) limit duplication of Confidential Information to the extent needed to perform this Agreement; and (3) disclose Confidential Information only to employees having a need to know in connection with performance of this Agreement, and who are informed of the contents of this provision prior to disclosure. This provision shall survive termination or expiration of this Agreement; and, on such termination or expiration, each Party shall return all Confidential Information, including all copies, to the owner of such information and, if requested, shall certify in writing that all such information has been returned. Because the damage resulting from a breach of this provision would be difficult or impossible to quantify and remedy at law, in case of such breach, or the threat of such breach, the Party whose Confidential Information is threatened to be disclosed shall be entitled to injunctive or other equitable relief.

(b) *Intellectual Property.* Nothing in this Agreement confers any license or right to use any trademark, service mark, copyright or other intellectual property right, whether now owned or hereafter developed, of either Party. All reports, findings, data and documents compiled or assembled by LSSI under this Agreement become the property of the COUNTY and shall be transmitted to the COUNTY at the termination of this Agreement. LSSI may retain copies of any statistical, policy or procedural information produced by LSSI in performance of this

Agreement, excluding any information relative to specific Library patrons and information that is Confidential per federal and state law or regulation or declared as such by the COUNTY.

(c) Patron Information. LSSI understands and acknowledges that, subject to certain exceptions, Section 257.261, Florida Statutes makes Confidential as a matter of law all registration and circulation records of every public library. LSSI shall not utilize the patron list of the Library System, library circulation records kept for the purpose of identifying the borrower of items available through the Library System, or any other information identifying patrons of the Library System, for any commercial use. LSSI may not make the list(s) available to any other entity for any reason, except as approved by the COUNTY Manager or his designee. LSSI agrees to indemnify, defend, and hold the COUNTY harmless regarding any claims or damages by any person relating to the intentional or negligent release of Library records by LSSI relating to that person in violation of federal or state law or regulation, including, but not limited to Section 257.261, Florida Statutes.

(d) Media Use of Library System. LSSI and its employees may not speak publicly on behalf of Osceola County or the Osceola County Library System without the express consent of the COUNTY Manager or his designee. LSSI agrees to provide the COUNTY Manager or his designee with information, upon request, which is necessary to respond to media and/or public inquiries regarding the provision of library and/or ancillary services for the Library System. Whenever such information requested exceeds the scope of the customarily collected, maintained and reported information by LSSI in connection with its operations under this Agreement, LSSI shall be entitled to reimbursement of its actual costs of collecting and reporting such information subject to mutual consent obtained in advance between the COUNTY and LSSI. LSSI shall not use specific information regarding the Library System, including photographs or other pictorial representations, without the prior review and approval of the County Manager or his designee. This review and approval shall apply to use in any of LSSI's marketing activities and articles and/or papers for publication or consideration by trade and/or professional organizations or conferences.

6. *The COUNTY's Obligations.*

(a) Facilities, etc. The COUNTY shall make available to LSSI without charge, solely for LSSI's use in performing the Services, all properties, facilities, equipment, collections, supplies, records, files and data used or useful in the operation of the Library that are in the COUNTY's possession, custody or control as of the date hereof. The COUNTY reserves all ownership rights in such properties and LSSI shall return such properties to the COUNTY, ordinary wear and tear excepted, at the termination or expiration of this Agreement. Notwithstanding, in the event of substantial damage to, or the destruction of any Library facility and/or a substantial portion of the Library's collection, the COUNTY may, at its sole discretion, immediately suspend the performance of this Agreement, or if such damage or destruction is due to the action or inaction of LSSI, terminate this Agreement upon providing written notice to LSSI. In the event this Agreement is suspended or terminated for damage or destruction of one or more Library facilities, the COUNTY agrees to pay LSSI for Services rendered to the date of the suspension or termination of the Agreement pro-rated to the date of the suspension, but shall have no further obligation to LSSI as to the portion of the

Agreement so suspended or terminated. If, following damage or destruction to the Library facility the COUNTY determines to temporarily relocate Library operations without terminating this Agreement, the COUNTY and LSSI agree to negotiate in good faith the fees to be paid by the COUNTY to LSSI for any reduced Services provided by LSSI during such temporary period and for any additional Services that LSSI provides upon the written agreement with the COUNTY, if any, relating to the re-establishment of services following repair of the Library facility.

(b) Policies. The COUNTY shall be responsible for setting all policies that govern the operations of the Library.

(c) Revenue Generating Opportunities. The COUNTY shall make available to LSSI without charge adequate space in the Library to develop and implement new revenue generating services, such as services to the business community, retail sales (books, gifts, refreshments, etc.) and other fee based services, to benefit the community, the COUNTY and LSSI ("Additional Services"). The COUNTY shall have the final approval of all Additional Services. Unless otherwise approved by the COUNTY, the provision of these Additional Services shall not in any way substantially reduce the space or Library services provided prior to the implementation of these Additional Services.

7. Excluded Services.

Notwithstanding any other provision of this Agreement to the contrary, the Services shall not include, LSSI shall have no responsibility for, and the COUNTY shall be fully responsible for the following:

(a) Any goods or services, including payroll, that were rendered to the COUNTY prior to the Effective Date.

(b) Unfair labor practices, grievances, or any claims or litigation whatsoever arising out of the hiring and/or firing, layoff, subcontracting, assignment, reassignment or discipline of any Library staff not employed by LSSI at the time of the relevant incident.

(c) Any worker's compensation or other claims arising from injuries sustained prior to the Effective Date by any Library staff not employed by LSSI at the time of such injuries.

(d) Any costs of any current or future employee benefits, including retirement benefits, voluntary retirement incentives, pension contributions, employee buyouts or other similar programs adopted by the COUNTY.

8. Miscellaneous.

(a) Independent Contractors. The relationship of the parties is that of independent contractors, and no partnership, joint venture, agency, employment, or other relationship is intended.

(b) Employees. Except for materials furnished by the COUNTY, LSSI shall supply all materials, equipment, and labor required for the Work and/or Services to be provided under this Agreement. LSSI will ensure that all of its employees, agents, subcontractors, representatives, and the like, fully comply with all of the terms and conditions set herein when providing services for the COUNTY in accordance herewith and subject to the policies established by the COUNTY as provided in this Agreement, LSSI shall have ultimate control over the execution of the Work and/or Services. LSSI shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the COUNTY shall have no control of or supervision over the employees of LSSI or any of LSSI subcontractors. LSSI shall be responsible for payment and deduction of all employment-related taxes on LSSI's behalf and for LSSI's employees, including but not limited to all federal and state income taxes and withholdings. The COUNTY shall not be required to make any deductions from compensation payable to LSSI for these purposes. LSSI shall indemnify the COUNTY against any and all claims that may be made against the COUNTY based upon any contention by a third party that an employer-employee relationship with the COUNTY exists by reason of any act or omission of LSSI under this Agreement; provided that the COUNTY provides prompt written notice of any such contention to LSSI and provides LSSI the opportunity to assume the defense thereof.

(c) Assignment. Neither Party may assign this Agreement to a third party without the prior written consent of the other Party. In no case shall the COUNTY be liable to any party other than LSSI, or for any amount in excess of the price specified on Exhibit A, plus any additional charges permitted hereunder.

(d) Warranty. LSSI warrants that it will perform the Services with at least the care, diligence and expertise generally accepted in the library service industry. **There are no other warranties, express or implied, including warranties of merchantability or fitness for a particular purpose.**

(e) Indemnification. LSSI shall indemnify, and hold harmless the COUNTY, special districts, their respective directors, Board of County Commissioners, officers, employees, elected and appointed officials, and agents from any liability whatsoever, including wrongful death, based or asserted upon any act or omission of LSSI, its employees, subcontractors or agents, connected with the accomplishment of the work or performance of service under this Agreement. As part of the foregoing indemnity, LSSI agrees to protect and defend at its own expense, including but not limited to, attorney's fees, Osceola County, special districts, their respective directors, Board of County Commissioners, officers, employees, elected and appointed officials, and agents in any legal action based upon any such alleged liability.

(f) Sovereign Immunity. The COUNTY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of sovereign immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of the COUNTY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, shall not exceed the dollar amount set by the Florida Legislature for tort. Nothing

in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the COUNTY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

(g) Force Majeure. LSSI shall not be liable for any failure or delay in performance of this Agreement due to strike, war or civil disturbance, weather emergency, or general failure of any necessary supply, service or utility.

(h) Customer's Representation. The COUNTY represents and warrants that it has all necessary legal authority to enter into and perform this Agreement and that the person executing this Agreement on its behalf is legally authorized to do so.

(i) Notices. Notices required or permitted under this Agreement shall be effective upon the third (3rd) business day after deposit in First Class mail, or the next business day after deposit with a recognized overnight courier, or upon receipt if e-mailed or faxed to the respective e-mail addresses or fax numbers, if addressed to the parties' respective addresses and marked to the attention shown on the first page of this Agreement.

(j) Law and Enforceability. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Osceola County, Florida. If any provision of this Agreement is conclusively determined to be illegal, invalid or unenforceable, then such provision shall be severed, and the remaining provisions of this Agreement shall be so construed to carry out, as nearly as legally permitted, the intentions of the parties.

(k) Fines and Fees. All fine and fee schedules applicable to the Library System shall be as set forth in schedules established by the COUNTY. LSSI shall use commercially reasonable efforts to collect all Library fines and fees to which the COUNTY is lawfully entitled. LSSI shall pay all fines and fees collected to the COUNTY by the tenth (10th) day of the month following the calendar month in which said fines and fees are collected.

(l) Public Records. LSSI agrees to provide all of its documents, records, and materials to the extent required by all applicable laws.

(m) Right to Review and Monitor. The COUNTY shall have the right to review and monitor the Library facilities, programs, and procedures at any time.

(n) Applicable Licensing. LSSI, at its sole expense, shall obtain and maintain for the duration of this Agreement, all required Federal, State, and local licenses, occupational and otherwise, required to successfully provide the services set forth herein. LSSI shall furnish certified copies of the required licenses to the COUNTY prior to the commencement of the Term of this Agreement. Failure to obtain any of these prior to the commencement of the Term of this Agreement, or failure to maintain any of these during the Term of the Agreement, shall be grounds for immediate suspension and/or termination of this Agreement by the COUNTY.

(o) Compliance with All Laws. LSSI, at its sole expense, shall comply with all applicable laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and municipal governments, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Agreement, or are adopted at any time following the execution of this Agreement.

(p) Bankruptcy or Insolvency. If LSSI shall file a Petition in Bankruptcy, or if the same shall be adjudged bankrupt or insolvent by any Court, or if a receiver of the property of LSSI shall be appointed in any proceeding brought by or against LSSI, or if LSSI shall make an assignment for the benefit of creditors, or proceedings shall be commenced on or against LSSI'S operations of the Library System, the COUNTY may terminate this Agreement immediately notwithstanding the notice requirements of Section 2 hereof.

(q) Conflict of Interest. LSSI warrants that LSSI has not employed or retained any company or person, other than a bona fide employee working solely for LSSI, to solicit or secure this Agreement, and that LSSI has not paid or agreed to pay any person, company, corporation, individual, or firm any contingent fee, commission, percentage, gift, or any other contingent consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this Paragraph, the COUNTY shall have the right to terminate this Agreement immediately, without liability and without regard to the notice requirements of Section 2 hereof.

(r) Public Entity Crimes. As required by Section 287.133, Florida Statutes, LSSI warrants that it is not on the convicted contractor list for a public entity crime committed within the past thirty six (36) months. LSSI further warrants that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in connection with this Agreement for a period of thirty six (36) months from the date of their being placed on the convicted contractor list.

(s) Equal Opportunity Employer. LSSI is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. LSSI will further ensure that all sub-contractors it utilizes in providing the services required hereunder will comply with all equal opportunity employment laws.

(t) Employment Eligibility Verification (E-Verify). In accordance with State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this Agreement is or will be funded using state or federal funds, LSSI must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, LSSI must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if LSSI is a state or local government, LSSI may choose to verify only new hires assigned to the Agreement; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include these requirements in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be

obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(u) Auditing Records and Inspection. In the performance of this Agreement, LSSI shall keep books, records, and accounts of all activities, related to the Agreement, in compliance with generally accepted accounting procedures. Throughout the term of this Agreement, books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY, and shall be retained by LSSI for a period of three (3) years after termination or completion of the Agreement, or until the full County audit is complete, whichever comes first. The COUNTY shall retain the right to audit the books during the three-year retention period. All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes, which may require longer retention periods. The COUNTY also has the right to conduct an audit within sixty (60) days from the effective date of this Agreement to determine whether LSSI has the ability to fulfill its contractual obligations to the satisfaction of the COUNTY. The COUNTY has the right to terminate this Agreement based upon its findings in this audit without regard to the termination provision set forth in Section 2 above.

(v) Availability of Funds. It is mutually agreed and understood that the obligation of the COUNTY is contingent upon the amount of dedicated tax proceeds for the Library System. In the event that such funds are not forthcoming for any reason, this Agreement may be rendered null and void by the COUNTY, in which case the COUNTY shall immediately notify LSSI in writing. This Agreement shall be deemed terminated and of no further force and effect immediately upon the COUNTY's notification to LSSI in such event. In the event of such termination, LSSI shall be entitled to payment in accordance with the compensation terms set forth herein through the date of such termination. Alternatively, in the event funds do not become available in the amount anticipated, after this Agreement is entered into, the amount of this Agreement may be decreased by said amount by written agreement of LSSI and the COUNTY Manager. To the extent that the COUNTY can provide additional fiscal resources for the Library System, LSSI shall allocate said amount to enhance Library System operations, including, but not limited to, service hours and/or materials. In the case of either decreased or increased funding, the COUNTY and LSSI shall re-negotiate the description of services and performance standards to reflect the decrease or increase of available funds, which shall be set forth in an amendment signed by LSSI and the COUNTY Manager.

(w) Gifts and Donations. The COUNTY may accept and administer any gifts, bequests, donations and/or grants, as identified and authorized by the COUNTY Manager, pursuant to the authority as granted by the Board of County Commissioners.

(x) Performance Standard Review. LSSI agrees that, in consultation with the COUNTY Manager or his designee, an annual qualitative performance standard review shall be conducted. The scope of the review shall be determined by the COUNTY in accordance with the parameters of this Agreement.

(y) *Survival.* The provisions of Sections 5 and 8 shall survive any termination or expiration of this Agreement.

(z) *Entire Agreement.* This Agreement contains the entire understanding of the parties on the subject matter hereof and supersedes all prior statements and agreements on that subject. No failure or delay by either party in enforcing any provision of this Agreement shall operate as a waiver. This Agreement may be modified or waived only in writing signed by the party against whom such modification or waiver is sought to be enforced. All headings of the sections, exhibits, and attachments contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such sections, exhibits, and attachments. This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives have executed this Agreement effective the _____ day of _____, 2011.

BOARD OF COUNTY COMMISSIONERS
OSCEOLA COUNTY, FLORIDA

By: _____
Chairman/Vice Chairman

ATTEST:

Clerk/Deputy Clerk of the Board

LIBRARY SYSTEM & SERVICES, LLC

By: _____
Brad King, CEO

STATE OF _____
COUNTY OF _____

The foregoing instrument was executed before me this ____ day of _____, 2011, by _____ as _____ of **LIBRARY SYSTEMS & SERVICES, LLC**, who personally swore or affirmed that he/she is authorized to execute this Agreement and thereby bind the Corporation, and who is personally known to me OR has produced _____ as identification.

NOTARY PUBLIC, State of _____

(stamp)

Exhibit A

Agreement for Library Administration and Operations

A. Statement of Work

1. LSSI will administer the operations of the COUNTY's library facilities (collectively, "Library" or "Library System"), including the accounting for, purchase of and payment for payroll services and goods and services from vendors for supplies, repairs and maintenance (as set forth in section 10 below), and Library Materials (as defined below) sufficient to operate the Library in accordance with the policies and guidelines approved by the COUNTY. LSSI will operate the COUNTY's Library System in accordance with relevant Florida laws and regulations, and except as waived by the COUNTY Manager in writing, adhere to professional standards promulgated by the Florida Library Association.
2. LSSI shall provide, by and through its own employees or independent contractors ("LSSI Staff") experienced, well-qualified staff members necessary for the operation of the Library. The cost of the LSSI Staff shall be paid by LSSI and is included in the Operating Budget (as defined below). Although LSSI shall have the sole and absolute right to hire and/or terminate the employment of the LSSI Staff from time to time to perform work under this Agreement, LSSI shall staff the Library System to meet the COUNTY's stated objectives providing senior leadership and staffing in all sites to provide efficient patron services, engaging and useful programming, access to up-to-date technology services, and other services such as clubs and groups desired by the communities. In order to meet the COUNTY's required level of service at the various Libraries, LSSI shall offer positions to all staff currently employed by the COUNTY in the Library System who apply for such positions, at the employees' then current level of base salary compensation, and maintain, during the first six (6) months of Service, the base salary compensation as they exist on the Effective Date hereof. Thereafter, changes to levels of service shall require written approval of the COUNTY Manager.
3. In addition, LSSI will develop, and update yearly, a strategic plan, including a long-range plan, for the COUNTY in cooperation with the COUNTY, its elected and appointed local officials, other community stakeholders and the LSSI Staff ("Plan"). Using current professional standards and practice, the Plan will identify challenges and opportunities for the LSSI Staff and corresponding strategic responses, including specific goals and measurable objectives. This Plan, when approved by the COUNTY, will help govern the direction and focus of the LSSI Staff in fulfillment of their mission of providing effective and efficient Library service to meet the personal, professional and lifelong learning needs of the citizens served by the Library System.

B. Scope of Work

1. Governance – Develop and maintain effective working relationships with local staff, elected officials, Library board members, other appointed officials and community groups such as the Friends of the Library.

2. Fiscal Responsibility:

- a. Develop and maintain effective and efficient financial procedures to include detailed financial records and employment of standard accounting practices to ensure scrupulous internal control of, and full accountability for the County's resources.
- b. Review all aspects of Library operation and service for efficiency and cost-effectiveness, while making changes as appropriate.
- c. Lead preparation of annual operating and capital budget requests.
- d. Continue to seek innovative means of adding value for the COUNTY at little or no additional cost, including the procurement of grants, foundation funds, research funds, and property mitigation fees where available.

3. Reporting:

- a. Prepare and provide regular reports to the COUNTY, describing Library activities and recommending changes in policies as necessary and appropriate.
- b. Prepare and provide timely statistical reports to the COUNTY on Library activities.
- c. Prepare and provide annual reports to the COUNTY of all statistical information necessary and timely to meet state reporting requirements.
- d. Make available to the COUNTY copies of all documents necessary to verify billing, for payment of invoices, as payment agent, as well as necessary for audit purposes.
- e. Prepare and provide such additional financial reports, as may be requested by the COUNTY no more than monthly, at LSSI's expense, during the period of performance of this Agreement and prior to any renewals of this Agreement. Any financial reports requested by the COUNTY shall reflect the current contract year of LSSI.
- f. Prepare and provide, within one hundred eighty (180) days after the close of LSSI's fiscal year, financial statements of LSSI and its parent companies certified by their respective Chief Financial Officers (CFO's), for such fiscal year. The certified financial statements shall specifically identify all financials related to the Osceola County Library System and shall be forwarded to the COUNTY Manager or his designee.

4. Staff Development and Coaching:

- a. Support orientation and professional development of all LSSI Staff.
- b. Provide leadership and guidance to maximize LSSI Staff effectiveness in Library operations.

5. Public Services:

- a. Provide prompt, friendly and accurate assistance in the use of the Library.
 - b. Provide prompt and accurate circulation, information and reference services.
 - c. Provide requested materials promptly.
6. Collections:
- a. Provide high quality materials on a wide variety of subjects in varied formats for all age groups present in the community, according to an established collection management plan. The plan will comply with the American Library Association's Library Bill of Rights, the joint statement from ALA and the Association of American Publishers, "Freedom to Read," and the American Film and Video Association's "Freedom to View" as prescribed by Standard 69 of Florida's Standards for Public Libraries. Additionally, In accordance with Florida's Standards for Public Libraries, number 75 (regarding diversity) and 76 (regarding items needed and wanted by the majority), the collection development plan will be derived from community demographics and expressed interest. The plan will also define procedures for dissenting members of the public to express their concerns about an item in the collection as well as steps to be followed by Library staff for addressing those concerns. In addition the plan will specify the nature of records to be kept about such concerns and their resolution.
 - b. Where materials, including books, are required to be purchased by LSSI for the Library System, pursuant to this Agreement: On an annual basis, to the extent required by law, LSSI shall conduct a competitive bidding process for general material acquisitions in accordance with state public procurement laws, including but not limited to Chapter 287, Florida Statutes, as legally applicable, and shall retain all documents relating to those processes during the term of this Agreement. LSSI shall make all materials on the solicitations, responses, selection process and criteria, and the final award available to the COUNTY Manager or his designee. All general material acquisitions shall be presented for prior approval by the COUNTY Manager or his designee, and shall not be acquired by LSSI until approval has been granted by the COUNTY Manager or his designee. LSSI agrees that any materials deemed by LSSI to be ready for removal from the collection of the Library System shall not be discarded without the prior approval of the COUNTY Manager or his designee.
7. Programming – Provide high quality, effective educational, recreational and cultural programs of interest to all age groups present in the community and maintain current partnerships between the Library System and the community such as the Genealogy Club, Adult Literacy League, Osceola Center for the Arts, Friends of the Library and the Osceola County School District. All programming shall be presented for prior approval by the COUNTY Manager or his designee, and shall not be commenced until approval has been granted by the COUNTY.
8. Information Technology – Develop and implement short and long range plans to procure, install and support sufficient hardware, software, network, telecommunications and other resources necessary to support the Library's mission.

9. Marketing – Effectively disseminate information and promote use of the Library, resources and services.

10. Facilities:

- a. Work with LSSI Staff and local officials to ensure effective building maintenance by promptly identifying and reporting problems with the physical facilities.
- b. LSSI will cause to be performed, routine janitorial and interior maintenance and repair of the Library System facilities to be funded out of LSSI's Operating Budget. LSSI agrees to utilize the COUNTY for all necessary interior repairs and maintenance, which the COUNTY shall perform and bill to LSSI at competitive rates for such services performed by professionals providing same within Osceola County.
- c. Capital Improvements to the Library System facilities, the cost of which is equal to or greater than Ten Thousand and No/100 Dollars (\$10,000), exterior maintenance of the Library System facilities, and utility service to the Library System shall remain the responsibility of the COUNTY. Improvements and maintenance may be performed as determined necessary or appropriate by the COUNTY in its sole and absolute discretion.
- d. As a result of carrying out this Agreement, LSSI becomes the day-to-day custodian of the property associated with the Library System. Such property shall include the land upon which the Library facilities are located: including but not limited to landscaping; walkways; parking and stairs; the buildings, including (to the extent observable by LSSI) but not limited to all building systems such as heating, air conditioning, plumbing, electrical and security; and all contents including but not limited to books, shelves, furniture, computers and all other articles of personal property. As custodian of the COUNTY property, LSSI shall take reasonable actions that would be expected of a reasonably prudent custodian of real and personal property. Such actions will include, but not be limited to, the observation of the property on days of Library operation noting any apparent hazards, damage, needed maintenance and security concerns. Hazards are physical conditions of the premises that could cause physical injury to visitors or staff. LSSI shall take immediate action, upon discovery, to prevent any hazards from causing damage to others, and such action taken shall be appropriate for the hazards involved up to and including the evacuation and closure of the Library until the hazards are corrected. For most hazards discovered, immediate, minor actions can be taken to prevent injury such as, but not limited to: cordoning off an area, taping a rip in the carpet, posting warning signs, or closing off a room. Hazards that come to the attention of LSSI shall be reported to the COUNTY Manager or his designee after LSSI has taken any immediate, protective action LSSI deems prudent. If, in the opinion of LSSI, a reported hazard has not been corrected in a timely manner, the hazard should be reported to the COUNTY Manager or his designee. LSSI shall advise the COUNTY Manager or his designee of minor damage and maintenance needs of the Libraries. In the event of serious damage to any Library property from any cause, including but not limited to fire, LSSI shall first notify the appropriate emergency services and then notify the COUNTY Manager or his designee. LSSI shall, while awaiting emergency services and afterwards, protect all undamaged property with any means available and will

properly secure the remaining structure to prevent vandalism or any type of further damage. LSSI shall cooperate with and provide claims related information requested by the COUNTY's insurance company representatives after any loss. LSSI shall train the manager of each Library as to their duties as required herein and make sure they have the equipment, knowledge and training to respond correctly.

e. All assets, including capital expenditures which are purchased and/or procured by LSSI for use in the operation of the Library System pursuant to this Agreement, shall be and shall remain the property of the COUNTY.

f. If the COUNTY closes the Library System for such purpose, prior to provision of the Services set forth herein, LSSI shall conduct a pre-operational inventory of all Library facilities including, but not limited to, real property improvements, collections, furniture, office equipment, IT equipment, supplies and all other personal property located therein. If the COUNTY determines not to close the Library System for such purpose, LSSI shall conduct and provide the results of such inventory within ninety (90) days of its commencement of provision of Services. LSSI shall attest to the accuracy of the inventory and the COUNTY shall acknowledge its acceptance thereof in writing, prior to commencement of Services. Additionally, LSSI shall keep a current inventory of any and all the equipment and/or furniture of the Library System and on a monthly basis, LSSI shall provide a report of any and all equipment purchased in that month for the Library System, and the location for the use of such equipment. Disposal or exchange of any equipment and/or furniture shall require prior approval of the COUNTY Manager or his designee and shall only be accomplished in accordance with state laws regulating disposal of local government owned property, including but not limited to Chapter 274, Florida Statutes.

11. Ray Shanks Law Library – Operate the Ray Shanks Law Library housed in the Hart Library with appropriate staffing, resources, and services in accordance with Osceola County Code Section 8-2.
12. Disaster Recovery Centers – Following policies and procedures established by Emergency management authorities for the COUNTY, provide Library facilities in accord with the Library System's role as Disaster Recovery Centers for the continuity of government during natural disasters.
13. Support Emergency Operations Center – As required by Osceola County Ordinance No. 11-16 Section 6(b)(c), provide Library staffing that is adequate in number, trained, and equipped to provide 24-hour coverage for the Center.
14. Polling Places – Provide necessary Library facilities and staffing in accordance with the Supervisor of Election's needs for early, primary, and general election voting.
15. Interlibrary and Other Reciprocal Borrowing Agreements – Maintain all current interlibrary loan agreements, reciprocal borrowing agreements, and other agreements to benefit Library System users in accordance with those agreements.
16. Memberships – Maintain professional partnerships through paid memberships with the American Library Association, Florida Library Association and Tampa Bay Library Consortium.

17. Services to the Homebound – Continue to provide library services for homebound customers free of charge.
18. Daily Courier Service – Provide daily courier service to deliver materials and other items among Osceola County’s Libraries and monthly service to nursing homes in the County.
19. Provision of Five Basic Services Free of Charge for All Users – Ensure that five basic services (lending of resources, provision of information on request, offering of programming, offering public space as available, and provision of access to the internet) will be provided to persons using the Library System, free of charge to all users.

C. Library Materials

1. On behalf and for the benefit of the COUNTY, LSSI will negotiate favorable discounts and prices from Library suppliers for the purchase of all Library materials, which shall include books, periodicals, newspapers, microfilms, electronic database subscriptions, standing orders, audio and video materials and cases, automated reference services, binding, cataloging and processing costs (collectively, “Library Materials”). The responsibility for Library collection development policies will remain with the COUNTY, and all Library Materials selections will be the responsibility of LSSI, subject to the COUNTY Manager or his designee’s approval, which approval may be rescinded in his sole discretion. LSSI will place orders with the suppliers and perform the accounting functions related to those orders, including prompt payment of the invoices.
2. In accounting for the cost of the Library Materials, LSSI shall include a fee of five percent (5%) of the cost of the Library Materials ordered (the “Handling Fee”). This amount is included in the Operational Budget and shall not be invoiced separately.
3. **Most Favored Nations Clause** - LSSI agrees that in the event it contracts for a lesser Library Materials Handling Fee with another entity, it will reduce the Handling Fee and total Charges to be invoiced herein consistent with said lower amount. Any such reduction shall be effective the month following the effective date of any such contract containing the lesser Handling Fee.

D. Excluded Costs

The COUNTY shall be responsible for the following:

1. Any costs, expenses, damages or losses occurring prior to the Effective Date.
2. Library System utility costs for electricity, water, reclaimed water and sewer. The COUNTY shall have the authority to set policies for the conservation of said utilities in its sole and absolute discretion. LSSI hereby agrees to abide by said policies.
3. Capital repair and/or replacement costs greater than or equal to Ten Thousand and No/100 Dollars (\$10,000).

4. Any increases in the cost of insurance, utilities, rent, fuel and any state or federal tariff items over the rate for such items prevailing as of the date of execution of this Agreement.

E. Operating Budget and Charges

Period	Charges ("Operating Budget")		Minimum Library Materials*
	Period	Monthly	
Year 1	\$4,714,380	\$392,865	\$ 600,000
Year 2	\$4,755,888	\$396,324	\$ 600,000
Year 3	\$4,817,208	\$401,434	\$ 612,000
Year 4	\$4,879,440	\$406,620	\$ 624,240
Year 5	\$4,941,996	\$411,833	\$ 636,725

* Total cost of Library Materials is included in the Operating Budget.

The Operating Budget is contingent on other existing contractual terms, obligations and responsibilities remaining the same except as expressly noted herein.

Prior to three (3) months before the end of the last Period to which the amount of Charges have been agreed upon, the Parties shall begin to negotiate in good faith the amount of Charges that will apply to the next Period. If the Parties have not reached such agreement thirty (30) days before the end of such Period, then the new charge shall be equal to the Charge for the last month of such Period multiplied by twelve (12) or the number of Remaining Months, whichever is less, plus or minus a percentage increase or decrease equal to the percentage increase or decrease in the Consumer Price Index-U in the immediately preceding twelve (12) month for the reporting region of the country in which the Library is located. Any increase or decrease based upon changes to the CPI shall not exceed a maximum increase or decrease of five percent (5%) over the previous Term.

F. Hours of Operation*

Hart Central Library	72	Monday - Thursday: 9 a.m. - 9 p.m. Friday - Saturday: 9 a.m. - 6 p.m. Sunday: 12 noon - 6 p.m
Buenaventura Lake Library	72	Monday - Thursday: 9 a.m. - 9 p.m. Friday - Saturday: 9 a.m. - 6 p.m. Sunday: 12 noon - 6 p.m
Poinciana Branch	72	Monday - Thursday: 9 a.m. - 9 p.m. Friday - Saturday: 9 a.m. - 6 p.m. Sunday: 12 noon - 6 p.m
St. Cloud Branch	72	Monday - Thursday: 9 a.m. - 9 p.m. Friday - Saturday: 9 a.m. - 6 p.m. Sunday: 12 noon - 6 p.m
West Osceola Branch	54	Monday - Saturday: 10 a.m. - 7 p.m. Sunday: Closed
Kenansville Library	28	Sunday - Tuesday: Closed Wednesday: 10 a.m. - 6 p.m. Thursday: Closed Friday - Saturday: 10 a.m. - 6 p.m.

*Proposed changes to the hours of operation, and/or the total weekly hours per branch, may only be implemented with the prior written approval of the COUNTY Manager or his designee. Changes in hours of operation and/or total weekly hours per branch that result in adjustment to the Operating Budget shall be evidenced by written amendment to this Agreement, executed by authorized representatives of the parties, prior to any proposed changes taking effect.