

2016 OPERATIONAL AGREEMENT WESTON RANCH BRANCH LIBRARY

This Weston Ranch Library Agreement ("AGREEMENT") is made by and between the City of Stockton ("CITY") a municipal corporation of the State of California and the Manteca Unified School District ("DISTRICT"). The agreement is made and entered into on _____ and is effective according to the Term of Agreement below. CITY and DISTRICT may be referred to collectively as "PARTIES" or in the singular as "PARTY" as the context requires.

The DISTRICT desires to engage the CITY, and the CITY desires to accept such engagement to provide library services at the Weston Ranch Branch Library, located at 1453 West French Camp Road, Stockton, California 95206 ("FACILITY") on the campus of the New Vision Educational Center ("NVEC") on the terms and conditions set forth within.

The CITY provides public library services in the City of Stockton through the Stockton-San Joaquin County Public Library to the residents of the County of San Joaquin and to the students and faculty of the Manteca Unified School District, the Weston Ranch community, and southwest Stockton area for purposes of operating a shared-use library program at FACILITY. The PARTIES wish to enter into an Agreement to continue the provision of library services in the Weston Ranch community. The CITY and DISTRICT will work cooperatively in order to ensure the use and enjoyment of the FACILITY as contemplated pursuant to this AGREEMENT.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises, covenants and agreements herein contained the PARTIES hereby agree as follows:

1. TERM AND TERMINATION

1.1 Term. The term of this Agreement is for a period of five (5) years commencing on September 1, 2016 and will automatically renew for an additional five (5) years on August 31, 2021 according to the terms and conditions of Section 1.2 unless otherwise terminated pursuant to Section 1.3 below.

1.2 Renewal of Term. The PARTIES agree that the AGREEMENT shall be automatically renewed for one additional five (5) year term.

1.3 Termination of Agreement. Notwithstanding section 1.1 and 1.2 above, this AGREEMENT may be terminated for any reason by either PARTY. The Party seeking to terminate the AGREEMENT must provide the other Party with a written Notice of Intent to Terminate on or before August 31 of any year for termination by September 1 of the following year. Prior to the automatic renewal, either PARTY may choose to opt out of the automatic renewal by providing the other PARTY written Notice of Intent to Terminate no less than 180 days prior to the end of the initial five-year term. The termination shall become effective no sooner than September 1 of the subsequent calendar year. If the

CITY shall for any reason hold over beyond such term with consent of DISTRICT, expressed or implied, such holding over shall be from month to month only, subject to the terms and conditions of this agreement, but shall be not a renewal thereof.

1.4 Vacation of Premises. CITY agrees to fully vacate CITY property located at FACILITY at the termination of this AGREEMENT. Each of the PARTIES shall be entitled to the exclusive possession and control of the property that each PARTY owns as defined by this AGREEMENT.

2. DEFINITIONS

In addition to terms defined elsewhere in this AGREEMENT, the following terms shall be defined as set forth in this Section:

2.1 "Branch Librarian" shall mean the City of Stockton Librarian assigned to the Library Facility, the Weston Ranch Branch Library, a branch of the Stockton-San Joaquin County Public Library.

2.2 "Library" shall mean the Stockton-San Joaquin County Public Library.

2.3 "Library Program" shall mean the programs and services and operations associated with the Library Facility, the Weston Ranch Branch Library, a branch of the Stockton-San Joaquin County Public Library.

2.4 "SSJCPL" Shall mean the Stockton-San Joaquin County Public Library System as operated by CITY.

3. MANAGEMENT, OPERATION, AND STAFFING

3.1 Management Responsibilities. CITY owes to DISTRICT the duty to perform its obligations under this AGREEMENT and to conduct the management, operation, and staffing of facility at all times with integrity and good faith consistent with the well-being of the greater Weston Ranch Community in a manner consistent with the shared-use agreement, Library practices, and SSJCPL policies and procedures. CITY will be responsible for all policies and procedures implemented at FACILITY.

3.2 Budget for Services, Staffing and Materials. CITY will provide facility services, staffing, and materials based on the Library budget approved each fiscal year by the CITY. The funding level for the Weston Ranch Branch Library will increase or decrease accordingly, as it does for all other Stockton-San Joaquin County Public Library Branches.

3.3 Library Program. The Library Program shall be the sole responsibility of CITY on behalf of SSJCPL. Supervision and administration of all library programs and events will be the sole responsibility of CITY.

3.4 NVEC Activities. All Library activities related to NVEC will be mutually agreed upon and provided by CITY in consultation with NVEC and DISTRICT staff.

3.5 Related Programs at FACILITY. Related library and community activities may be accommodated pursuant to this AGREEMENT and by agreement of the PARTIES from time to time.

3.6 Current Library Staffing and Identification. CITY will provide a current directory of CITY staff members and related duties when assigned to FACILITY to NVEC Principal. When at FACILITY, Library staff will wear Library and CITY identification badges at all times.

3.7 Room Reservations. CITY will be responsible to maintain a current calendar for room reservations for meeting room.

3.8 DISTRICT use of Meeting Room. DISTRICT and NVEC have the right to use the meeting room for appropriate, library-related purposes. DISTRICT and NVEC will not be charged for use of meeting room.

3.9 Standard of Operation and Library Hours. Library Program standards of operation and services will be consistent with standards established for the operation of SSJCPL branch libraries. DISTRICT services will be consistent with standards established for the operation of other DISTRICT facilities and services. LIBRARY will operate on days and hours as set forth in Exhibit 1: "Weston Ranch Operating Hours" which is attached hereto and incorporated by reference. CITY and LIBRARY hours may modify this schedule and related costs as mutually agreed upon by PARTIES. Such modifications will contemplate NVEC's schedule as well as needs of the community.

4. STAFFING AND FACILITY HOURS

The PARTIES shall be responsible for providing the following staff for the operation and maintenance of the FACILITY:

4.1 Library Program Staffing. CITY is responsible for staffing and operation of Library Program. All Library staff will be employees of the City of Stockton. Staffing levels will be consistent with CITY's annual budget process as defined in Section 3. Subject to CITY policies and procedures, CITY will interview and select qualified individuals to fill vacant positions. CITY will be responsible to recruit, hire, evaluate, and manage all FACILITY staff. Any advertising, job announcement, and interviews shall specifically state these positions are at the shared- use FACILITY require a demonstrated ability to work cooperatively in a joint use environment, and successful candidates will work cooperatively with DISTRICT personnel, students and parents.

4.2 Library Hours. LIBRARY hours will conform to CITY holidays and SSJCPL staff development days. DISTRICT may contract for additional hours as mutually agreed upon. The Library may modify the days and hours of service during NVEC's summer

vacation to best meet the needs of the community. Any modification to dates and hours of service must be mutually agreed upon by the PARTIES.

4.3 Staff and Facility Funding. The CITY shall have sole responsibility to provide funding for library staff assigned to the Facility. DISTRICT will annually provide funding for FACILITY maintenance and repair as contribution to the FACILITY and LIBRARY PROGRAM.

4.4 Responsibilities of Branch Librarian. According to the terms of this AGREEMENT, the Branch Librarian shall be responsible for the supervision, training and scheduling of staff, operation of the facility, and collection development. Branch Librarian shall be responsible to operate the facility in accordance with CITY policies and procedures. Branch Librarian shall be responsible for the day to day operations of FACILITY.

4.5 Joint Responsibilities of Branch Librarian and NVEC Principal. Branch Librarian shall consult with the Principal of NVEC on all FACILITY matters that impact the operation of the alternative high school or adult education programs and/or Weston Ranch High School. The Principal of NVEC will consult with the Branch Librarian on NVEC operational matters that may impact the operation of the FACILITY.

4.6 Annual Plan. Annually, CITY and DISTRICT will meet and confer on an annual Plan. This Annual Plan will include the scope of work for Facility staff, staffing levels, hours of operation (if any changes are contemplated) and an annual review of policies and procedures.

4.7 City Librarian Responsibilities. Any complaints regarding FACILITY staff, operations, volunteers, or Library Program shall be handled by City Librarian.

5. FACILITY MAINTENANCE, REPAIR, IMPROVEMENTS, JANITORIAL, AND SECURITY.

5.1 Facility Maintenance and Repair. DISTRICT shall have sole responsibility for planned and emergency maintenance and repair of FACILITY including, but not limited to: building, roof, building structural integrity, HVAC (heating, cooling, and ventilation), plumbing (including fixtures, water, wastewater, storm water connections and service), carpeting/flooring (installation, repair and cleaning), interior and exterior paint, windows, doors, locks, built-ins. DISTRICT will pay for and maintain all exterior facilities including fencing, gates, electrical and mechanical systems, roadways, parking lots, landscaping, exterior lighting, exterior maintenance, walkways, graffiti removal, and irrigation. DISTRICT shall also provide and pay for garbage and solid waste containers and removal service.

5.2 Furniture, Fixtures and Equipment. CITY shall be responsible for providing and repairing library furniture, fixtures, and equipment (FF&E) including shelving, equipment, office equipment, cash registers, telephones, materials, bookshelves, desks, tables,

chairs, study carrels, and signage for identification of areas within the Library. CITY will provide staff break room appliances. City shall provide a fax machine for Library administration use. All FF&E provided by CITY shall remain property of CITY.

5.3 Automation and Telecommunication. The Library Program will provide and use the automated circulation and on-line catalog system that is presently used by SSJCPL. DISTRICT may request to add items to the on-line catalog.

5.4 Telecommunications. District shall supply the telecommunications connections. Each PARTY shall supply respective equipment, telephone service, and internet charges including repair and maintenance. District shall supply cable network, and CITY shall have the right to include this site for CITY library cable services as applicable.

5.5 CITY Computers, Terminals, and Software. CITY will supply computers and terminals connected to CITY and SSJCPL main networks. City will provide Library Program telecommunications needs, computer storage, software, and equipment. CITY hardware and software shall remain the responsibility of the CITY.

5.6 DISTRICT Computers and Software. DISTRICT shall supply DISTRICT computers, software, equipment, and networks. DISTRICT will provide its own telecommunication needs, storage equipment, software, and equipment. DISTRICT shall maintain sole responsibility for its computers and should DISTRICT wish to connect DISTRICT equipment to CITY network, DISTRICT shall pay all related costs (including network access fees) and ensure that DISTRICT equipment connected to CITY network or equipment meets CITY standards. DISTRICT hardware and software connected to DISTRICT network shall comply with DISTRICT standards. All DISTRICT hardware and software shall remain the responsibility of DISTRICT.

5.7 Security. DISTRICT shall be responsible to determine the security needs of the FACILITY, and arrange for and provide security. DISTRICT shall supply the equipment, service, and monitoring of Fire and burglary alarm systems. Fire and Burglary Systems shall be mutually agreed upon by the PARTIES.

5.8 Janitorial and Custodial Service. DISTRICT shall be responsible for maintaining the safe and sanitary conditions of the FACILITY and shall remedy to the best of their ability any dangerous or defective or unsanitary conditions therein according to this AGREEMENT. In addition, DISTRICT shall be responsible for the maintenance and housekeeping of the FACILITY and adjacent areas, keeping them in a safe, clean wholesome and sanitary condition. District shall provide and pay for all janitorial and custodial service.

5.9 Pest Control. DISTRICT shall be responsible for all Pest Control services.

5.10 Utilities. DISTRICT shall be responsible for all utility costs.

5.11 NVEC Principal Responsibilities. The NVEC Principal shall have ultimate responsibility for FACILITY maintenance, security and safety. Principal shall facilitate DISTRICT responses to concerns regarding NVEC student or staff behavior as well as parking lot concerns. All FACILITY repair requests and custodial requests will be forwarded to Principal for resolution.

5.12 Parking Lot. DISTRICT will provide forty-eight (48) parking spaces adjacent to the Library Facility, including the required number of handicapped spaces, for the use of general library customers. In addition, customers and staff shall have use of additional spaces in the NVEC parking lot, if available.

5.13 Access: DISTRICT will provide public access to the Library Facility and parking lot 24 hours per day, 7 days per week, to allow for after-hours use of the FACILITY Community Meeting room, return of books and library materials into the exterior book drop, and emergency repairs that require City of Stockton staff to enter the electrical room or other areas of the Library Facility, and other situations when after-hours (FACILITY and DISTRICT hours) access is required.

5.14 Safety Emergency Response: FACILITY staff shall follow the District's School Site Safety Plan for the NVEC. DISTRICT shall provide CITY copies of both emergency and non-emergency safety and security procedures and protocols and be responsible for all contractors to follow those plans. A copy of the plan will be provided to Branch Librarian.

6. LIBRARY MATERIAL ACQUISITION AND COLLECTION

The material collection of the Library program will be broad and general in nature, and to the greatest extent possible, will be consistent with the other SSJCPL branches while recognizing the needs of the individual branch, adjacent school facilities, and surrounding community.

6.1 Materials Funding. CITY shall provide funding and supply materials for the FACILITY. DISTRICT shall provide funding and supply textbooks and other DISTRICT reference curriculum material specifically to support the needs of the DISTRICT. DISTRICT materials will be accessible through SSJCPL online catalog

6.2 Materials Selection and Funding. SSJCPL staff will be responsible to select materials for Library Program, including juvenile, teen, and adult materials. CITY shall pay for materials acquisition; however, DISTRICT shall pay for any NVEC volumes and materials selected to support the DISTRICT curriculum. CITY will be responsible to catalog NVEC material and provide a link between CITY and DISTRICT catalogs. CITY shall have final authority over CITY materials and DISTRICT shall have final authority over DISTRICT materials. CITY shall handle the weeding of CITY purchased materials, and in consultation with the NVEC Principal, handle the weeding of DISTRICT materials.

6.3 Donations. PARTIES may provide FACILITY with donated equipment and supplies. Unless otherwise specified by written agreement, such donations will remain the property of the donating PARTY. Donations to the Library Facility from outside sources will become the property of the City unless otherwise specified by the donor.

7. FINGERPRINTING AND BACKGROUND CHECKS.

CITY shall comply with CITY's Administrative Directive HR 40 (which is in compliance with Education Code 45125.1) with respect to fingerprinting all CITY staff and volunteers. All CITY personnel having direct contact with minors must complete a LIVESCAN fingerprint background which is completed prior to the first day of work. If there is a change of duties, no personnel paid or volunteer shall have direct contact with minors unless first obtaining a satisfactory criminal record check. Any individual who has been convicted of certain criminal offenses as identified by CITY and DISTRICT policy, will not be eligible to work or volunteer at this FACILITY. All volunteers must sign a waiver and hold harmless agreement which includes DISTRICT and CITY in a form as mutually agreed upon both PARTIES.

8. INSURANCE

The parties are self-insured for General/Automobile liability, including bodily injury, property damage and Workers' Compensation. All liability coverage is at least \$1,000,000 CSL. The self-insurance program is managed and administered by the respective party's Risk Management Division and the Workers' Compensation program is managed and administered by PARTIES Benefits Section of the Human Resources Department. Each party will provide the other with proof of said insurance annually June 1.

9. INDEMNITY AND HOLD HARMLESS

To the fullest extent permitted by law, DISTRICT shall hold harmless, defend at its own expense, and indemnify the CITY, its Mayor, Council, officers, representatives, agents, employees and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions to act of DISTRICT or its officers, agents, or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages, or expenses arising from the CITY's sole negligence or willful acts. The duty to defend and the duty to indemnify are separate and distinct obligations. The indemnification obligations of this section shall survive the termination of this agreement.

To the fullest extent permitted by law, CITY shall hold harmless, defend at its own expense, and indemnify the DISTRICT, its officers, agents, and employees, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions to act of CITY, its Mayor, Council, officers, representatives, agents, employees and volunteers in rendering services under this contract; excluding, however, such liability, claims, losses, damages, or expenses arising from the DISTRICT's sole negligence or willful acts. The duty to defend and the duty to

indemnify are separate and distinct obligations. The indemnification obligations of this section shall survive the termination of this agreement.

10. NOTICES

Any notices, which are required or may be given under this Agreement, shall be delivered in person; by mail; or by a nationally recognized overnight courier to the addresses of the Parties set forth below. Either Party may change its address by notice given in the manner described in this Section.

DISTRICT: Manteca Unified School District
Jason Messer, Superintendent
2901 E. Louise Ave
Manteca, CA 95267
(209) 858-0729

CITY: City of Stockton
John Alita, Director of Community Services
605 N. El Dorado Street
Stockton, CA 95202
(209) 937-8362

11. FINES AND REVENUE

The City shall have the right to all fines, fees, and collected as an operating duty. Except as otherwise may be agreed by the Parties, the Party owning or leasing any particular coin-operated or pay-per-use equipment or machine shall be entitled to any revenue attributable to the equipment or machine.

12. CITY SPONSORED ACTIVITIES

DISTRICT has determined that the use of any facilities at the School by the CITY, for City-sponsored activities as expressly provided for in this Agreement, will promote the educational function of the District and will be in the overall best interests of the District.

13. GRANT OF EXCLUSIVE USE

In consideration of covenants, conditions, agreements and stipulations provided in this AGREEMENT, the DISTRICT grants to CITY the exclusive right to administer and operate the FACILITY.

14. NON-DISCRIMINATION

In performing services under this AGREEMENT, DISTRICT and CITY agree they shall not discriminate in the employment or engagement of any staff, volunteers, contractors or subcontractors for FACILITY on the basis of race, color, religion, sex, marital status, national origin, ancestry, age, orientation, or any other criterion prohibited by law.

15. ASSIGNMENT

Neither PARTY shall assign its rights or obligations under this AGREEMENT without the prior written consent of the other PARTY.

16. THIRD PARTY BENEFICIARIES

This AGREEMENT shall inure solely to the Parties and their respective successors and assigns.

17. AMENDMENT OR WAIVER

This AGREEMENT may not be modified or amended except by written Agreement of the Parties hereto. No waiver of any right hereunder shall constitute a waiver of any same or any other or future right of such Party. Any waiver by CITY or DISTRICT of any obligation or condition in this AGREEMENT must be in writing.

18. GOVERNING LAW

This AGREEMENT shall be governed by and construed under the laws of the State of California with venue for all claims in the Superior Court of the County of San Joaquin Stockton Branch, or where applicable, in the federal District Court of California, Eastern District, Sacramento Division.

19. DISPUTE RESOLUTION

Prior to undertaking any litigation, PARTIES shall make reasonable efforts to resolve all disputes informally, including by means of a conference between the senior managers of each PARTY having authority to resolve the dispute.

If any litigation action or proceeding is commenced in connection with this AGREEMENT, the prevailing PARTY, as determined by the court, shall be entitled to reasonable attorney's fees (including allocated costs for in-house legal services), costs, and necessary disbursements incurred in such action or proceeding.

20. SEVERABILITY

The provisions of this AGREEMENT are severable to the extent that should any of its provisions or terms be declared void in whole or in part by operation of law or agreement

of the parties, the remainder of the provisions or terms not expressly declared void shall remain enforceable and in full effect.

21. INTEGRATION AND MODIFICATION

This AGREEMENT represents the entire integrated agreement between DISTRICT and CITY and supersedes all prior negotiations, representations, or agreements, either written or oral between the PARTIES and may be amended only by written instrument signed by DISTRICT and CITY.

All Exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached Exhibits, the terms of this AGREEMENT shall prevail.

22. TITLE AND PARTS AND SECTIONS

The Title of parts and sections of this AGREEMENT are for convenience only and shall not be deemed to be dispositive in resolving any questions of interpretation or intent.

23. LANGUAGE CONSTRUCTION

The Language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity any status of any person

24. RECORDS, AUDITS, REPORTS

CITY and DISTRICT shall keep true and correct records of all gross receipts operating revenue and expenditures regarding FACILITY. The PARTIES shall follow generally accepted accounting principles for similar governmental operations. in recording financial transactions. All records shall be kept for not less than five (5) years after delivery of required annual report. PARTIES shall have the right, after giving reasonable notice, to do any of the following: audit records, review all accounts, reports, and records used in this operation, including tax records, cause an audit at each PARTY'S expense, make abstracts from records, copy records, and examine all permits and licenses.

25. CONDEMNATION

If the whole or any substantial part of the FACILITY shall be taken by any paramount public authority under the power of eminent domain, then this AGREEMENT shall be terminated as to such FACILITIES from the day when the possession of that part shall be taken for said public purpose. All damages awarded for this taking shall belong to and be property of DISTRICT, and all agreements pertaining to that sale including without

limitation all related agreements. However, CITY shall be entitled to any portion of the award made for loss of business installation or improvements belonging to CITY.

26. ENTIRE AGREEMENT

This AGREEMENT and any Exhibits attached hereto constitute the sole and entire agreement of the PARTIES hereto with respect to the matters herein and correctly sets for the rights, duties, and obligations of each to the other as of the date first written above. There are no other Agreements or understandings, written or oral, between the parties regarding this AGREEMENT other than those set forth herein. All prior or contemporaneous negotiations, agreements and understandings, oral, written, are revoked, cancelled, and rescinded, and are all merged herein and superseded hereby.

27. CONFLICT OF INTEREST

DISTRICT and CITY covenants that other than this AGREEMENT, CITY has no financial interest with any official, employee, or other representative of the DISTRICT and DISTRICT has no financial interest with any official, employee or other representative of CITY.

28. FORCE MAJEURE

For purposes of this AGREEMENT, "Force Majeure" shall mean earthquake, fire, or other casualty, flood, landslide, epidemic, unforeseeable adverse weather, "acts of God", war, civil disturbance, court ordered injunction, intervention by civil or military authorities or government strikes, lockouts, boycotts, or other labor disputes, to the extent any of the foregoing are beyond the reasonable control of either CITY or DISTRICT and which cause either party to be delayed or hindered in or prevented from the performance of any covenant or obligation under this AGREEMENT other than the payment of money.

If either CITY or DISTRICT is delayed or prevented from the performance of any act required by this AGREEMENT by reasons of Force Majeure, performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent of the period of such delay. The PARTIES shall take reasonable steps during the existence of the condition to assure performance of their contractual obligations when the condition no longer exists. Failure to fulfill contractual obligations due to conditions beyond either PARTIES reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of the conditions.

29. DIGITAL SIGNATURE

The Parties agree that this agreement may be signed with a digital signature, which has the same force and effect of a handwritten signature.

30. AUTHORITY AND EXECUTION

The undersigned hereby represent and warrant that they are duly authorized to execute this Agreement on behalf of the PARTIES. This AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts constitute one and the same instrument.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the date set forth herein.

ATTEST:

CITY OF STOCKTON

BONNIE PAIGE
CITY CLERK, CITY OF STOCKTON

BY: _____
KURT O. WILSON
CITY MANAGER

APPROVED AS TO FORM:
JOHN M. LUEBBERKE
CITY ATTORNEY

MANTECA UNIFIED SCHOOL DISTRICT

BY: _____
SUSANA ALCALA WOOD
ASSISTANT CITY ATTORNEY

BY: _____
JASON MESSER
SUPERINTENDENT



EXHIBIT 1**Weston Ranch Operating Agreement****Weston Ranch Branch Library Service Schedule**Schedule: Effective July 1, 2016

Monday	3:00 p.m. – 8:00 p.m.	5 hours
Tuesday	1:00 p.m. – 6:00 p.m.	5 hours
Wednesday	1:00 p.m. – 6:00 p.m.	5 hours
Thursday	1:00 p.m. – 6:00 p.m.	5 hours
Friday	10:00 a.m. – 3:00 p.m.	5 hours
Saturday	Closed	

Total hours	25 hours
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