

SERIAL 05124 RFP BOOKING AND FACILITY MANAGEMENT OF THE LECKY ROOM

DATE OF LAST REVISION: April 06, 2006 CONTRACT END DATE: APRIL 30, 2016

CONTRACT PERIOD THROUGH APRIL 30, 2016

TO: All Departments
FROM: Department of Materials Management
SUBJECT: Contract for **BOOKING AND FACILITY MANAGEMENT OF THE LECKY ROOM**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **April 06, 2006 (Eff. 03/23/06)**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

DL/mm
Attach

Copy to: Clerk of the Board
Harry Courtright, Library District
Mirheta Muslic, Materials Management



MARICOPA COUNTY MATERIALS MANAGEMENT

05124-RFP

CONCESSION AGREEMENT

BETWEEN

THE

MARICOPA COUNTY LIBRARY DISTRICT

AND

CHRIS CAMPBELL

FOR BOOKING AND FACILITY MANAGEMENT

OF

THE LECKY ROOM

TABLE OF CONTENTS

SECTION	TITLE	PAGE
1	DEFINITIONS.....	1
2	CONSTRUCTION OF PROVISIONS AND TITLES HEREIN	1
3	CONCESSION GRANTED	1
4	PREMISES	2
5	TERM OF CONCESSION AGREEMENT.....	2
6	FACILITY FEE	2
7	MANAGER’S RESPONSIBILITIES.....	2
8	QUIET ENJOYMENT.....	3
9	PROHIBITED ACTS.....	4
10	LIABILITY.....	4
11	GENERAL TERMS AND CONDITIONS.....	6
12	TERMINATION.....	8
13	SURRENDER OF POSSESSION	9
14	GOVERNING LAW.....	10
15	NOTICES.....	10
16	INTERPRETATION.....	10
17	TIME OF THE ESSENCE.....	10
17	FORCE MAJEURE	11
19	INCORPORATION OF DOCUMENTS	11
20	SIGNATURE PAGE	12
EXHIBITS		
A.	District-Provided Equipment and Furnishings	

THIS AGREEMENT, (hereinafter AGREEMENT) is made and entered into this 1st day of April, 2006, by and between Maricopa County Library District (hereinafter "DISTRICT"), a political sub-division of the State of Arizona, and Chris Campbell, an individual, 9513 E. Michigan Avenue, Sun Lakes, AZ 85248, (hereinafter MANAGER).

WITNESSETH

WHEREAS, the principal purpose of DISTRICT in entering into this AGREEMENT is to serve the public by providing booking and management services; and

WHEREAS, MANAGER desires to secure and enter into an AGREEMENT in accordance with the foregoing and undertakes to provide services of the type and character required therein by DISTRICT to meet the needs of the public at the Lecky Room, located within the Ed Robson Branch Library; and

NOW THEREFORE, in consideration for use of the PREMISES and of the terms, covenants and conditions hereinafter contained to be kept and performed by the respective parties, it is agreed as follows:

SECTION 1 DEFINITIONS:

For the purpose of this AGREEMENT, the following words and phrases are defined and shall be construed as hereinafter set forth:

AGREEMENT: This AGREEMENT consisting of 12 pages and Exhibit A attached hereto.

CONCESSION: The Lecky Room, located in the north section of the Ed Robson Branch Library building, 9330 East Riggs Road, Sun Lakes, Arizona 85248.

COUNTY: Maricopa County Materials Management Department

DISTRICT: Maricopa County Library District

MANAGER: Chris Campbell

SECTION 2 CONSTRUCTION OF PROVISIONS AND TITLES HEREIN:

All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this AGREEMENT shall be construed according to its fair meaning and not strictly for or against DISTRICT or the MANAGER. The word MANAGER herein and in any amendments hereto includes the party or parties identified in this AGREEMENT. The singular shall include the plural if there shall be more than one MANAGER herein, unless expressly stated otherwise, and their obligations and liabilities hereunder shall be joint and several. Use of the feminine and masculine or neuter genders shall be deemed to include the genders not used.

SECTION 3 CONCESSION GRANTED:

- 3.1 MANAGER shall be granted the exclusive right to promote and operate the CONCESSION. The MANAGER shall be solely and exclusively responsible for the management, operation and booking of the CONCESSION.
- 3.2 MANAGER shall collect all fees for CONCESSION services, maintain proper accounting records for the CONCESSION and pay for insurance necessary for the operations granted.
- 3.3 MANAGER shall provide no other activity, service or amenity unless related to CONCESSION and without the express written approval of DISTRICT.

SECTION 4 PREMISES:

- 4.1 The Lecky Room (hereinafter referred to as (PREMISES)) to be authorized for use by MANAGER shall only include the Lecky Room, kitchen and adjacent office.
- 4.2 MANAGER shall not use or permit the PREMISES to be used, in whole or in part, during the term of this AGREEMENT, for any other purpose other than as hereinabove set forth except with the prior, written consent of DISTRICT, nor for any use in violation of any present or future laws, ordinances, rules and regulations at any time applicable thereto of any public or governmental authority or agencies, DISTRICT or officers thereof, including DISTRICT, relating to sanitation or the public health, safety or welfare of operations at and use of the PREMISES. MANAGER hereby expressly agrees at all times during the term of this AGREEMENT, at its own cost, to maintain, use and operate the PREMISES and all improvements and personality thereon in a safe, clean, wholesome and sanitary condition, and in compliance with any and all present and future laws, ordinances and rules and regulations relating to public health, safety or welfare.
- 4.3 DISTRICT undertakes and agrees to deliver to MANAGER the PREMISES specified herein and described in **Exhibit A** in "as-is" condition.
- 4.4 DISTRICT shall be responsible for all repairs and maintenance of the PREMISES other than trash removal, janitorial services and set-up.

SECTION 5 TERM OF CONCESSION AGREEMENT:

The term of this AGREEMENT shall remain in effect through April 1, 2016, unless sooner terminated under the terms and conditions of this AGREEMENT.

SECTION 6 FACILITY FEE:

6.1 Payments

As consideration for DISTRICT's granting the CONCESSION rights hereinabove set forth, MANAGER agrees to pay to DISTRICT, a fixed rate of \$985.00 per month, payable on the last business day of each month.

The MANAGER shall forward all revenue payments to the following address:

Maricopa County Library DISTRICT
17811 N. 32nd Street
Phoenix, AZ 85032
Attention: Accounts Receivable

6.2 Late Payment Fee

Failure of MANAGER to pay Facility Fee payments required herein on time is a breach of this AGREEMENT for which DISTRICT may terminate same or take such other legal action as it deems necessary subject to the notice and cure provisions of **SECTION 12, TERMINATION**. DISTRICT expects all compensation to be paid on time and MANAGER agrees to pay on time.

The charges for late or delinquent payments shall be interest calculated at the rate of ten percent (10%) per annum, assessed monthly on the balance of the unpaid amount.

SECTION 7 MANAGER'S RESPONSIBILITIES:

- 7.1 The MANAGER's primary responsibility will be to maximize the use of the Lecky Room, by booking, coordinating and conducting events. All duties, responsibilities, and services shall be provided by MANAGER at no cost to the DISTRICT unless otherwise specifically agreed in writing.
- 7.2 The MANAGER will be responsible for the negotiation and communication with, and handling of all business matters concerning the Lecky Room and its operation.
- 7.3 The DISTRICT must approve the form of agreement and the agreement must provide that the DISTRICT shall not be liable in any way, including without limitation for any expenses, relating to the event. Agreements must require that the customer will maintain insurance acceptable to the DISTRICT, which fully insures against all general and specific liabilities and damages that, may occur because of the customer's event. The insurance maintained by the customer must meet the requirements set forth in the Event Agreement. The MANAGER is required to ensure that all customers meet the insurance requirements set forth in the Event Agreement.
- 7.4 All customer event revenue shall be paid directly to the MANAGER.
- 7.5 The MANAGER will develop and/or update a form of customer event agreement subject to the DISTRICT's approval, which form of agreement will be the basis of the Event Agreement.
- 7.6 The MANAGER must keep the DISTRICT informed of its activities as requested by the DISTRICT.
- 7.7 The MANAGER must make a representative available for meetings as reasonably scheduled by the DISTRICT.
- 7.8 Neither the MANAGER nor any form of related entity shall engage in any activity that is in conflict with its duties and obligations to the DISTRICT. For purposes of application of this Paragraph, the MANAGER's or related entity's employees, agents, or sub-contractors shall be regarded as the MANAGER.
- 7.9 The MANAGER will be responsible for the operation of the LECKY ROOM. This includes janitorial services.
- 7.10 MANAGER and its representatives, agents, servants, and employees shall at all times conduct its business in a professional and orderly manner to the reasonable satisfaction of the DISTRICT.
- 7.11 Equipment and Furnishings
- All equipment and furnishings required for MANAGER'S operations shall be purchased, installed and maintained and all expendables shall be purchased by MANAGER at its expense and shall remain its personal property. Upon expiration or sooner termination of the AGREEMENT, MANAGER has the right to remove its equipment and furnishings, from the PREMISES and shall be allowed a period of five (5) days to make such removal; and if not removed within that period, equipment, furnishings and expendables shall be and become the property of DISTRICT.
- The DISTRICT reserves the right at any time to replace any and all items of DISTRICT-owned equipment at this CONCESSION with functionally equivalent equipment.
- 7.12 The MANAGER shall allow use of the LECKY ROOM by the DISTRICT for DISTRICT events without charge, subject to calendar availability.
- 7.13 Permits and Licenses
- MANAGER shall obtain at its sole expense any and all permits, approvals, and licenses that may be required in connection with the operation of the CONCESSION including, but not limited to: tax permits, business licenses and/or health permits.

SECTION 8 QUIET ENJOYMENT:

DISTRICT agrees that MANAGER, upon payment of the Facility Fee specified herein under the terms of this AGREEMENT, and observing and keeping the conditions and covenants of this AGREEMENT on its part to be observed and kept, shall lawfully and quietly hold, use and enjoy the PREMISES during the term of this AGREEMENT.

SECTION 9 PROHIBITED ACTS:

MANAGER shall not:

- 9.1 Do or permit anything which may interfere with the effectiveness or accessibility of utility, heating, ventilating or air conditioning systems or portions thereof on the PREMISES or in any of the surrounding areas controlled by the DISTRICT.
- 9.2 Do or permit to be done anything which may interfere with free access and passage in the PREMISES, or hinder police, firefighters or other emergency personnel in the discharge of their duties;
- 9.3 Place any additional lock of any kind upon any window or interior or exterior door in the PREMISES, or make any change in any existing door or window lock or the mechanism thereof, unless a key therefore is maintained on the PREMISES, nor refuse, upon the expiration or sooner termination of this AGREEMENT, to surrender to the DISTRICT any and all keys to the interior or exterior doors on the PREMISES, whether said keys were furnished to or otherwise procured by MANAGER, and in the event of the loss of any keys furnished by the DISTRICT, MANAGER shall pay DISTRICT, on demand, the cost for replacement thereof;
- 9.4 Do or permit to be done any act or thing upon the PREMISES which will invalidate, suspend or increase the rate of any fire insurance policy required under this AGREEMENT, or carried by DISTRICT, covering the PREMISES which, in the opinion of the DISTRICT, may constitute a hazardous condition that will increase the risks normally attendant upon the operations contemplated under this AGREEMENT unless additional insurance coverage and all necessary permits are obtained. If, by reason of any failure on the part of MANAGER after receipt of notice in writing from DISTRICT to comply with the provisions of this paragraph, any fire insurance rate on the PREMISES, or any part thereof, or on the buildings in which the same are located, shall at any time be higher than it normally would be, then MANAGER shall pay DISTRICT, on demand, that part of all fire insurance premiums paid by DISTRICT which have been charged because of such violation or failure of MANAGER; provided, however, that nothing contained herein shall preclude MANAGER from bringing, keeping or using on or about the PREMISES such materials, supplies, equipment and machinery as are appropriate or customary in carrying on its business, or from carrying on said business in all respects as is customary;
- 9.5 Permit loitering on or about the PREMISES;
- 9.6 Use the PREMISES, or any part thereof, for lodging purposes or in any manner that will constitute waste;
- 9.7 Use or allow the PREMISES to be used for any improper, immoral, unlawful or objectionable purposes;
- 9.8 Permit gambling on the PREMISES or install or operate or permit to be installed or operated thereon, any device which is illegal; or use the PREMISES or permit it to be used for any illegal business or purpose. There shall not be conducted on or permitted upon the PREMISES any activity which would constitute a nuisance.
- 9.9 Permit smoking in any interior areas of the PREMISES.

SECTION 10 LIABILITY:

10.1 Indemnification

To the fullest extent permitted by law, MANAGER shall defend, indemnify, and hold harmless DISTRICT, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses

and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions or mistakes relating to the performance of this AGREEMENT. MANAGER's duty to defend, indemnify and hold harmless DISTRICT, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting there from, caused by any negligent acts, errors, omissions or mistakes in the performance of this AGREEMENT including any person for whose acts, errors, omissions or mistakes MANAGER may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of DISTRICT.

10.2 **Insurance Requirements**

MANAFGER, at MANAGER's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of DISTRICT. The form of any insurance policies and forms must be acceptable to DISTRICT.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the AGREEMENT is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of DISTRICT, constitute a material breach of this AGREEMENT.

MANAGER's insurance shall be primary insurance as respects DISTRICT, and any insurance or self-insurance maintained by DISTRICT shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the DISTRICT's right to coverage afforded under the insurance policies.

The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to DISTRICT under such policies. MANAGER shall be solely responsible for the deductible and/or self-insured retention and DISTRICT, at its option, may require MANAGER to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

DISTRICT reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. DISTRICT shall not be obligated, however, to review such policies and/or endorsements or to advise MANAGER of any deficiencies in such policies and endorsements, and such receipt shall not relieve MANAGER from, or be deemed a waiver of DISTRICT's right to insist on strict fulfillment of MANAGER's obligations under this AGREEMENT.

The insurance policies required by this AGREEMENT, except Workers' Compensation, shall name DISTRICT, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against DISTRICT, its agents, representatives, officers, directors, officials and employees for any claims arising out of MANAGER's work or service.

MANAGER is required to procure and maintain the following coverages:

10.2.1 Commercial General Liability:

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

10.2.2 Workers' Compensation:

Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of MANAGER's employees engaged in the performance of the work or services under this AGREEMENT; and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

MANAGER waives all rights against DISTRICT and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by MANAGER pursuant to this AGREEMENT.

10.2.3 Certificates of Insurance.

Prior to commencing work or services under this AGREEMENT, MANAGER shall have insurance in effect as required by the AGREEMENT in the form provided by the DISTRICT, issued by MANAGER's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this AGREEMENT are in full force and effect. Such certificates shall be made available to the DISTRICT upon 48 hours notice. **BY SIGNING THE AGREEMENT PAGE THE MANAGER AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF THIS AGREEMENT.**

In the event any insurance policy (ies) required by this AGREEMENT is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of MANAGER's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the AGREEMENT, a renewal certificate must be sent to DISTRICT fifteen (15) days prior to the expiration date.

10.2.4 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the DISTRICT.

SECTION 11 GENERAL TERMS AND CONDITIONS:

11.1 Amendments

All amendments to this AGREEMENT must be in writing and signed by both parties.

11.2 Retention of Records

The MANAGER agrees to retain all financial books, records, and other documents relevant to this AGREEMENT for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The DISTRICT, Federal or State auditors and any other persons duly authorized by the DISTRICT shall have full access to, and the right to examine, copy and make

use of, any and all said materials.

11.3 Validity

The invalidity, in whole or in part, of any provision of the AGREEMENT shall not void or affect the validity of any other provision of this AGREEMENT.

11.4 Integration

This AGREEMENT represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

11.5 Removal of MANAGER's Personnel

The MANAGER agrees to utilize only experienced, responsible and capable employees in the performance of the work. DISTRICT may direct the MANAGER to remove from the job, by this AGREEMENT, employees who endanger person or property or whose continued employment under this AGREEMENT is, in the opinion of the DISTRICT, not justified due to unacceptable performance of duties, or is inconsistent with the interests of DISTRICT.

11.6 AGREEMENT Interpretation.

State of Arizona law applies to this AGREEMENT including, where applicable, the Maricopa County Library District Procurement Code, and Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23.

The MANAGER under this AGREEMENT is an independent contractor. Neither party to this AGREEMENT shall be deemed to be the employee or agent of the other party to this AGREEMENT.

The provisions of this AGREEMENT are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of this AGREEMENT.

11.7 The MANAGER shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

11.8 No Parol Evidence

The parties intend this AGREEMENT as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this AGREEMENT and no other understanding either oral or in writing shall be binding.

11.9 No Waiver

Either party's failure to insist on strict performance of any term or condition of this AGREEMENT shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

11.10 Taxes

The MANAGER shall be responsible for paying all applicable taxes.

The MANAGER and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the MANAGER. MANAGER shall, and require all subcontractors, to hold the DISTRICT harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

11.11 Right to Assurance

If the DISTRICT in good faith has reason to believe that the MANAGER does not intend to, or is unable to perform or continue performing under this AGREEMENT, the DISTRICT may demand in writing that the MANAGER give a written assurance of intent to perform. Failure by the MANAGER to provide written assurance within the number of days specified in the demand may, at the DISTRICT's option, be the basis for terminating the AGREEMENT under these General Terms and Conditions or other rights and remedies available by law or provided by this AGREEMENT.

11.12 Non-exclusive Remedies

The rights and the remedies of the DISTRICT under this AGREEMENT are not exclusive.

11.13 Permissions

Any permission required by this AGREEMENT shall be secured in writing by the DISTRICT or the MANAGER and any errors or omissions therefrom shall not relieve MANAGER of its obligations to faithfully perform the conditions therein. MANAGER shall immediately comply with any written request or order submitted to it by the DISTRICT.

11.14 Right of Inspection

The COUNTY, the DISTRICT, their authorized representatives, agents and employees shall have the right to enter upon the PREMISES at any and all reasonable times for the purpose of inspection and observation of MANAGER's operation. DISTRICT shall give prior written notice to MANAGER of an inspection only if DISTRICT representative shall use photographic devices during inspection. If DISTRICT makes any recording upon the PREMISES, DISTRICT or its authorized representative shall abide by all applicable copyright and trademark laws and DISTRICT will indemnify MANAGER for costs and/or damages caused by use/reuse of the recording. Said inspections may be made by persons identified to MANAGER as DISTRICT employees, or may be made by independent contractors engaged by DISTRICT. Inspections may be made for the purpose set forth below, however, the enumerations below shall not be construed to limit DISTRICT's right of inspection for any purpose incidental to the rights of DISTRICT:

To determine if MANAGER is complying with the terms and conditions of the AGREEMENT.

To observe transactions between the MANAGER and patrons in order to evaluate the quality and quantities of services provided, the courtesy extended to and method of dealing with the public, the performance and caliber of MANAGER's employees.

To allow for determination of compliance with health codes and/or regulations, fire marshal codes and/or regulations and risk management issues. MANAGER shall provide copies of all reports and/or inspections to the DISTRICT within five (5) days of any such inspection where the inspecting party issues a report.

DISTRICT will use the information gathered on these inspections to evaluate MANAGER in order to provide a basis for an action for the termination, renewal or denial of the CONCESSION or for any other appropriate action.

SECTION 12 TERMINATION:

12.1 Termination For Default

In addition to the rights reserved in this AGREEMENT, the DISTRICT may terminate this AGREEMENT in whole or in part due to the failure of the MANAGER to comply with any term or condition of this AGREEMENT, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing this AGREEMENT. The Procurement Officer shall provide written notice of the termination and the reasons for it to the MANAGER.

Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the MANAGER under this AGREEMENT shall become the property of and be delivered to the DISTRICT on demand.

The DISTRICT may, upon termination of this AGREEMENT, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this AGREEMENT. The MANAGER shall be liable to the DISTRICT for any excess costs incurred by the DISTRICT in procuring services in substitution for those due from the MANAGER.

The MANAGER shall continue to perform, in accordance with the requirements of this AGREEMENT, up to the date of termination, as directed in the termination notice.

12.2 Termination For Convenience

The DISTRICT reserves the right to terminate this AGREEMENT, in whole or in part at any time, when in the best interests of the DISTRICT without penalty or recourse. Upon receipt of the written notice, the MANAGER shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the DISTRICT. In the event of termination under this paragraph, all documents, data and reports prepared by the MANAGER under this AGREEMENT shall become the property of and be delivered to the DISTRICT on demand. The MANAGER shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

12.3 The MANAGER may terminate this AGREEMENT, in whole or in part, at any time by written notice to DISTRICT thirty (30) calendar days prior to the termination date.

12.4 Failure to Pay

The DISTRICT may terminate this AGREEMENT if MANAGER fails to pay any charge when due or fails to perform or observe any other material term or condition of the AGREEMENT, and such failure continues for more than ten (10) days after receipt of written notice of such failure from DISTRICT, or if MANAGER becomes insolvent or generally fails to pay its debts as they mature.

12.5 Statutory Right of Cancellation for Conflict of Interest

Notice is given that pursuant to A.R.S. §38-511 the DISTRICT may cancel this AGREEMENT without penalty or further obligation within three years after execution of the AGREEMENT, if any person significantly involved in initiating, negotiating, securing, drafting or creating the AGREEMENT on behalf of the DISTRICT is at any time while the AGREEMENT or any extension of the AGREEMENT is in effect, an employee or agent of any other party to the AGREEMENT in any capacity or consultant to any other party of the AGREEMENT with respect to the subject matter of the AGREEMENT. Additionally, pursuant to A.R.S §38-511 the DISTRICT may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the AGREEMENT on behalf of the DISTRICT from any other party to the AGREEMENT arising as the result of the AGREEMENT.

12.6 Waiver of Redemption and Damages:

MANAGER hereby waives any and all rights of redemption granted by or under any present or future law or statute in the event it is dispossessed for any cause, or in the event DISTRICT obtains or retains possession of the PREMISES in any lawful manner.

SECTION 13 SURRENDER OF POSSESSION:

- 13.1 MANAGER covenants and agrees to yield and deliver possession of the PREMISES to DISTRICT on the date of the expiration or earlier termination of this AGREEMENT promptly, peaceably, quietly and in as good order and condition as the same now are or may be hereafter improved by MANAGER or DISTRICT, normal use and wear and tear thereof excepted.
- 13.2 Subject to the provisions of **SECTION 12, TERMINATION** herein, within thirty (30) days, MANAGER shall have the right to remove its equipment, supplies, furnishings, inventories, removable fixtures and personal property from the PREMISES. If MANAGER fails to remove said property within that 30 days, said property shall be considered abandoned and DISTRICT may dispose of same as it sees fit.

SECTION 14 GOVERNING LAW:

This AGREEMENT shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this AGREEMENT will be in Maricopa County Superior Court or in the United States COUNTY Court for the COUNTY of Arizona, sitting in Phoenix, Arizona

Venue of any action brought under this AGREEMENT shall, at DISTRICT's option, lie in Maricopa COUNTY, Arizona.

SECTION 15 NOTICES:

- 15.1 All notices given pursuant to the terms of this AGREEMENT shall be addressed to:

MANAGER	DISTRICT
Attn: Chris Campbell 9513 E. Michigan Avenue Sun Lakes, AZ 85248 Telephone: 480-895-6946 Fax: 480-883-9166 E-mail: clac2483@yahoo.com	Maricopa County Library District Attn: Director 17811 N. 32 nd Street Phoenix, Arizona 85032 Telephone: 602-506-5751 Fax: 602-506-4689 E-mail: harrycourtright@mcl.d.maricopa.gov

- 15.2 The execution of any such notice by DISTRICT's Procurement Officer shall be as effective for MANAGER as if it were executed by DISTRICT, or by Resolution or Order of said DISTRICT. All such notices may either be delivered personally to the Procurement Officer, in the one case, or to any officer or responsible employee of DISTRICT in the other case, or may be deposited in the United States mail, properly addressed as aforesaid with postage fully prepaid for delivery by registered or certified mail. Service in such manner by registered or certified mail shall be effective upon receipt.

SECTION 16 INTERPRETATION:

- 16.1 In each instance herein where DISTRICT's or COUNTY's approval or consent is required before MANAGER may act, such approval or consent shall not be unreasonably withheld.
- 16.2 If any provision of this AGREEMENT is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this AGREEMENT, and all such other provisions shall remain in full force and effect. It is the intention of the parties hereto that if any provision of this AGREEMENT is capable of two constructions, one of which renders the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

SECTION 17 TIME OF THE ESSENCE:

Time is of the essence for all provisions of this AGREEMENT.

SECTION 18 FORCE MAJEURE:

- 18.1 The term “force majeure” as used herein is defined as acts of God; strikes, lockouts, or other labor disturbances (when not brought solely against MANAGER, its subcontractors, or material suppliers); acts of public enemy, blockades, wars, terrorism, insurrections, or riots; epidemics; landslides, earthquakes, fires, storms, or floods; arrests, title disputes; governmental restraints, either federal or state, civil or military; civil disturbances; explosions; inability to obtain necessary materials, supplies, or labor (no extension of time will be granted for a delay caused by the inability to obtain materials, supplies, or labor unless MANAGER furnishes to the DISTRICT documentary proof of the inability to obtain such materials, supplies, or labor in a timely manner in accordance with sequence of the MANAGER’s operations and the approved construction schedule); inability to obtain timely approvals and inspections or permits due to administrative procedure, existing or future rules, regulations, orders, laws, or proclamations, either federal, state, city or DISTRICT, civil or military; so long as the above causes or events are beyond the control of the affected party.
- 18.2 Should MANAGER or DISTRICT, during construction and/or operations be delayed, materially interrupted or prevented, in whole or in part, from performing any obligations or conditions hereunder or from exercising its rights by reason of or as a result of any force majeure, it shall be excused from performing such obligations or conditions during such period of delay, material interruption, or prevention. Should either party be delayed, materially interrupted or prevented from performing any obligation or exercising any right hereunder for a period exceeding six (6) months by a force majeure event, the delayed party shall meet and confer with the other party on plans and schedule to resolve delay or commence performance.
- 18.3 If the DISTRICT, for any reason outside of its control, cannot deliver possession of the concession premises to the MANAGER at the commencement of the term of this AGREEMENT, MANAGER shall have the option to terminate the AGREEMENT, but DISTRICT shall not be liable to MANAGER for any loss or damage resulting therefrom.
- 18.4 However, without limiting the preceding language in this Section, should national or international events occurring any time after the date this AGREEMENT is signed by all parties, such as terrorism or the threat of terrorism have a material impact on the ability of MANAGER to present concert performances on the PREMISES and meet its financial obligations to the DISTRICT under this AGREEMENT, DISTRICT or COUNTY and MANAGER shall meet and confer in good faith to review and determine what remedies, relief or abatement is equitable or appropriate as a result of or response to such events or terrorism.

SECTION 19 INCORPORATION OF DOCUMENTS:

The following Exhibits are to be attached to and made part of this AGREEMENT by reference:

EXHIBIT A, District-Provided Equipment and Furnishings

IN WITNESS WHEREOF, this AGREEMENT is executed on the date set forth above.

MANAGER:

AUTHORIZED SIGNATURE

PRINTED NAME AND TITLE

ADDRESS

DATE

MARICOPA COUNTY LIBRARY DISTRICT:

BY: _____
CHAIRMAN, BOARD OF DIRECTORS

DATE

ATTESTED:

CLERK OF THE BOARD

DATE

APPROVED AS TO FORM:

MARICOPA COUNTY LIBRARY DISTRICT ATTORNEY

DATE

EXHIBIT A

District-Provided Equipment and Furnishings

15	Tables 8'x2'6"
145	Chairs
1	Chair trolley
1	Piano, Roland, model HPI-7-MH, with bench
1	Television, GE, model GE 25GT534
1	TV stand
1	VCR, Sharp, model XA-705
1	VCR, Toshiba, model SD-V291U
1	Artificial tree, 6'
1	Portable display sign and letters
1	Microwave oven, GE, model ME940PV 002
1	Refrigerator, Frigidaire, model FRT 18G4AWC
1	Wall-hanging Art Piece

CHRISTINE L. CAMPBELL, 9513 E. MICHIGAN AVENUE, SUN LAKES, AZ 85248

Terms: NET 30

Vendor Number: W000007191 X

Telephone Number: 480/323-0620

Fax Number: 480/883-9166

Contact Person: Christine Campbell

E-mail Address: clac2483@yahoo.com

Certificates of Insurance Required

Contract Period: To cover the period ending **April 30, 2016.**