



CONTRACT FOR
LIBRARY MANAGEMENT SERVICES
OF THE LANCASTER VETERANS MEMORIAL LIBRARY

This Contract ("Contract") is made this 25th day of June, 2001 between:

LIBRARY SYSTEMS & SERVICES, LLC, a Maryland limited liability company having a mailing address at 20250 Century Boulevard, Germantown, Maryland 20874 ("LSSI"); and

THE CITY OF LANCASTER, TEXAS, having a mailing address at 211 North Henry Street, P. O. Box 940, Lancaster, TX 75146-0940 ("City").

WHEREAS, the City, by and through its employees, operates the Lancaster Veterans Memorial Library ("LVML"); and

WHEREAS the City is empowered to contract and to generally do all things necessary and proper for the establishment and maintenance of the LVML within the City of Lancaster; and

WHEREAS, the City, wishes to improve the quality, quantity, and effectiveness of free public library services within the City of Lancaster; and

WHEREAS, entry into this Contract with LSSI will enhance the delivery of free public library services within the City of Lancaster;

WHEREAS, the City desires to enter into this Contract with LSSI for the management and operation of the LVML.

Now, therefore, the parties agree as follows:

1. Services and Warranty. (a) *Services.* During the Term of this Contract, LSSI will provide the following services (collectively, "Services") in connection with those specific tasks shown on the Statement of Work, attached as Schedule A:

(i) *Administrative Services.* LSSI will administer the LVML operations shown on Schedule A, including administering, accounting for, and paying those third-party vendors and suppliers, those payroll expenditures, and provision of insurance (which may include the Casualty Insurance described in Section 5(c) below), supplies, goods and services, specifically described on Schedule A; provided, however, that in no case shall LSSI be responsible for the payment of any LVML liabilities that occurred prior to the Effective Date of this Contract and in no case shall LSSI's obligation to make payments exceed the aggregate contract amount received by LSSI hereunder.

(ii) *Management Services.* LSSI will provide an on-site MLS-degreed and qualified Library Director/Project Manager that has the background and expertise to fulfill the expectations outlined in Schedule A. The Library Director/Project Manager hired

by LSSI shall be assigned to the project at the discretion of the City and shall be subject to evaluation and review under existing library policies and procedures. If the Library Director/Project Manager does not meet the City's expectations as outlined in Schedule A, LSSI will remove the Library Director/Project Manager and provide interim management services while searching for a permanent replacement. The Library Director/Project Manager is responsible for all management and supervision, including hiring, firing, assignment, reassignment, and discipline of the LSSI Workforce defined below. To the fullest extent permitted by law, LSSI will provide, through its Library Director/Project Manager, all management and supervision, including the hiring, firing, assignment, reassignment, and discipline of the existing LVML employees (collectively "Library Workforce"). It is understood that from the Effective Date (defined below) through September 30, 2001 (the "Transition Period"), the current Library Workforce will remain employed by the City and that all personnel decisions must adhere to the City of Lancaster Personnel Policies. It is agreed that at the expiration of the Transition Period, up to three members of the Library Workforce designated by the City may remain employees of the City until December 31, 2001, and shall continue to be subject to all of the City's Personnel Policies. The remaining members of the Library Workforce shall be hired by LSSI to become members of the LSSI Workforce, and they shall become employees solely of LSSI subject to all of LSSI's personnel policies and procedures.

(iii) *LSSI Workforce.* LSSI shall provide, by and through its own employees or independent contractors ("LSSI Workforce"), any labor LSSI deems necessary for the operation of the LVML as specifically described on Schedule A, other than the Library Workforce. No additional charge over the Operating Budget allocation listed in Schedule B may be made for LSSI Workforce.

(iv) *Excluded Services.* Notwithstanding the foregoing, LSSI shall have no responsibility for administration or payment of, or any liability or duty to defend claims for: (A) any goods or services, including payroll, that were rendered to LVML prior to the effective date of this contract; (B) unfair labor practices, grievances, or any litigation whatsoever arising out of the hiring and/or firing, layoff, subcontracting, assignment, reassignment, or discipline of the Library Workforce, but not LSSI Workforce, described in subparagraph (iii) above, provided that such claims have not resulted from negligence or wrongful acts of LSSI under federal, state, or municipal law or City of Lancaster personnel policies; (C) any Capital Items and any costs of maintenance and upkeep of equipment, properties, and facilities; (D) any costs for electrical utilities; and (E) any increases in the cost of insurance, utilities, rent, fuel, Library Workforce payroll, and any state or federal tariff items over the rate for such items prevailing as of the date of execution of this Contract. Further, LSSI's responsibility and liability with respect to the payroll of the Library Workforce shall be limited to timely refunding to the City of Lancaster, out of the proceeds received by LSSI under this contract, the regular wages, payroll taxes, health, retirement, vacation, and sick leave (other than terminal leave) of the Library Workforce to be paid through the City of Lancaster's established payroll accounts and systems; and further limited to an amount that, when added to amounts paid under Section 1(a)(i) above, will not exceed the aggregate contract amount received by LSSI hereunder. The City of Lancaster shall be solely responsible for remitting all payroll amounts so funded by LSSI, together with those additional amounts for which LSSI is not responsible, to the Library Workforce.

Notwithstanding any other provisions of this Agreement, LSSI shall have no responsibility for any worker's compensation claims from any Library Workforce employee, and such claims shall be handled outside of the charges listed in LVML's annual operating budget ("Operating Budget") as shown in Schedule B.

(v) *Capital Items.* Capital Items means all capital acquisitions, improvements, and replacements of the Library in excess of \$500 (five hundred dollars) per item.

(vi) *Positions.* LSSI's responsibilities under Section 1 (a)(i) above are limited to the Library Workforce positions, which exist at the Library as of the date hereof, and not any additional positions. The City agrees not to increase the number of employees in existing positions or add positions to the Library Workforce after July 1, 2001 and during the term of this Contract. LSSI shall have the sole and absolute right to hire the LSSI Workforce to perform work under this Contract.

(b) *Warranty on Services.* LSSI warrants that it will perform the Services with at least the care, diligence, and expertise generally accepted in the library service industry.

(c) *Provision of Goods.* LSSI may purchase goods for use in the management and operation of the LVML under this Contract. LSSI may select sources of goods, which may include affiliates of LSSI, at LSSI's discretion. Transactions with LSSI affiliates must be reasonable and conducted at arm's length. Title to items purchased by LSSI out of the proceeds received by LSSI under this Contract that are used directly in the day-to-day operations of LVML shall at all times reside in the City. LSSI agrees not to sell, transfer, or remove any such items during the term of this Contract. Title to all other items purchased by LSSI out of the proceeds received by LSSI under this Contract shall at all times reside in LSSI. Whenever LSSI furnishes any goods to City, whether during the term of this Contract or upon its termination, LSSI will use its good faith efforts to assign, to the City, without recourse, the manufacturer's warranty, if any. LSSI makes no other warranties, express or implied, including warranties of merchantability or fitness for particular purpose.

2. *City's Obligations.* (a) *Facilities, etc.* City 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 LVML that is in the City's possession, custody, or control as of the date hereof. The City shall maintain the Library building and grounds. The City shall pay all LVML electric utility charges directly.

(b) *Indemnification.* To the fullest extent allowed by law, City shall defend, indemnify, and hold LSSI, its employees, officers, directors, members, and agents harmless from and against any and all charges, suits, claims, demands, disputes, costs, losses, and expenses (including reasonable attorney fees and disbursements except that the City shall have the absolute right to assign or retain counsel to defend LSSI) that may be incurred by or accrued against LSSI arising out of or relating to (i) any retirement, pension or 403(b) plan benefits for the Library Workforce; (ii) unfair labor practices, grievances, or any litigation whatsoever arising out of the hiring, firing, layoff, subcontracting, assignment, reassignment or discipline, or any employment action whatever relating to the Library Workforce; (iii) any matter of any kind whatsoever arising or accruing before execution of this Contract, except

for those matters described in section 5(b) and except for LSSI's actual bad faith. Bad faith shall include, but not be limited to, a failure of LSSI to follow federal, state, or local laws, ordinances, or City Personnel Policies.

(c) *Powers.* Under this Contract, and notwithstanding anything to the contrary herein, the powers and authorities vested in the City under any Texas law, to make policy, to maintain authority over the LVML, to contract, to exercise essential City powers, and to hire (except as provided in the second sentence of section 1 (a) (vi) above), fire, discipline, terminate, layoff, demote, transfer, assign, reassign, negotiate with and pay the Library Workforce remains exclusively in the City of Lancaster.

3. *Term and Termination.* (a) *Term.* This Contract takes effect on July 1, 2001 ("Effective Date"), and continues in force until September 30, 2006 (the "Term"), unless sooner terminated in accordance with this Section 3. This Contract shall be subject to the availability and the appropriation of funds for the LVML by the Lancaster City Council, it being understood that the City shall use its best efforts to ensure such availability and appropriation.

(b) *Termination for Convenience.* Either party may notify the other of its intent to terminate this Contract with or without cause by giving written notice at least six (6) calendar months prior to the end of each fiscal year of the City.

(c) *Termination for Default.* If either party breaches any material provision of this Contract, 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 Contract by giving written notice to the breaching party, except that LSSI shall have the right to terminate this Contract if City fails to pay any amount due LSSI and such failure continues for ten (10) days after written notice thereof.

(d) *Renewal.* Subject to the termination provisions in accordance with this Section 3, this Contract shall automatically renew or be extended for an additional five year term, unless written notice of intent to not renew is given at least six (6) calendar months prior to the expiration of the initial five (5) year term.

(e) *Survival.* The provisions of Sections 2, 6 and 7 shall survive any termination or expiration of this Contract. In case of any termination or expiration of this Contract, City's obligation to pay in accordance with Section 4 shall be pro-rated to the effective date of termination or expiration, as the case may be.

4. *Price and Payment.* (a) *Price.* For the period from the Effective Date until September 30, 2002, LSSI shall perform the Services for the Charge shown on Schedule A. Commencing not later than August 31, 2002, and each August 31st thereafter during the term of this Contract, the City and LSSI shall use their good faith efforts to negotiate the Charge and the Statement of Work as defined in Schedule A applicable to the periods October 1, 2002 through September 30, 2003, and each subsequent fiscal year thereafter, through the expiration of this Contract, respectively. If the parties have failed to agree upon the Charge and Statement of Work applicable to such periods by the first day of such respective periods,

and to amend Schedule A to reflect such agreed Charge and Statement of Work, then this Contract shall nevertheless continue in force, the monthly Charge shall be one-twelfth (1/12th) of the approved LVML Operating Budget, and the Statement of Work shall remain as last in force, immediately preceding such period.

(b) *Materials Handling Fee.* On behalf and for the benefit of the City, LSSI will use its best efforts to negotiate the most favorable discounts and prices from library suppliers for the purchase of all library materials. The responsibility for collection development policies will remain with the City, and all book and material selection will be the responsibility of LSSI's on-site workforce. LSSI will place orders with the suppliers and perform all the accounting functions related to those orders, including prompt payment of the invoices. For this service, LSSI shall include a fee of five percent (5%) of the cost of the materials ("Materials Handling Fee"). Such fee will be added to all invoices for library materials in accounting for LSSI's Costs, as defined in Section 4(e) below.

(c) *Payment.* Each month that this Contract is in force, LSSI shall invoice City monthly on the first of the month in the amount of one-twelfth (1/12th) of the total annual Operating Budget shown on Schedule B. Invoices are payable by the fifteenth (15th) of the month in which they are rendered. If LSSI has not received payment by the 15th, it may suspend disbursements required under this contract until payment has been received. LSSI shall add to its invoices any unknown current or future taxes (other than LSSI's income tax) payable by LSSI on account of this Contract, the Services, or the City's payments hereunder, except to the extent City furnishes a valid certificate of exemption from such taxes. Both parties understand that the LVML is exempt from sales tax and that the City will furnish to LSSI documentation of such.

(d) *Payroll Reimbursement.* For each payroll period during the Transition Period, the City shall make payroll disbursements for the Library Workforce. The City will notify LSSI of the Library Workforce payroll expenses incurred for the pay period; and LSSI will transfer funds to the City to cover the Library Workforce payroll for the period (the "Payroll Reimbursement Procedure"). After the Transition Period, LSSI shall be solely responsible for calculating and disbursing payroll to the Library Workforce personnel who became members of the LSSI Workforce pursuant to Section 1(a)(ii) above. For the members designated by the City to remain part of the Library Workforce after the Transition Period under Section 1(a)(ii), the parties shall continue to participate in the Payroll Reimbursement Procedure. The parties agree that LSSI shall only be responsible to reimburse the City for the Library Workforce payroll expenses set forth herein that occur during the Term.

(e) *Reporting.* Each month LSSI shall report to the City regarding the progress of work performed by LSSI under this Contract and account for any expenditures made by LSSI on behalf of LVML under this Contract, including the materials handling fee noted in section 4(b), (collectively, "LSSI's Costs"). The City reserves the right to audit any or all transactions paid on behalf of the Lancaster Public Library.

5. *Insurance and Indemnification.* (a) *Insurance.* During the term of this Contract, LSSI shall maintain in force at its own expense comprehensive general liability insurance coverage of at least one million dollars (\$1,000,000) combined single limit. LSSI shall name

the City, its agents, servants, and employees as additional insureds under this insurance policy.

(b) *Indemnification.* Except as provided in Section 5(c) below, LSSI shall defend, indemnify, and hold City harmless from and against any loss, amount paid in settlement, cost, or expense (including reasonable attorney fees) arising out of injury or death of any person (except losses covered by worker compensation insurance), or loss or damage of any property, caused by the negligent or willful act of LSSI or its employees in performance of this Contract.

(c) *Waiver of Subrogation.* City agrees to keep the contents of LVML buildings 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) through City of Lancaster policies and standard practices. If any loss, cost, damage, or expense resulting from fire, explosion, or any other casualty or occurrence is incurred by City and the City of Lancaster in connection with the contents of LVML buildings, then City 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.

6. *Information, Intellectual Property, and Employees.* (a) *Information.* In the performance of this Contract, LSSI may be exposed to information regarding the identity of LVML patrons, City 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"). 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 Contract; (3) disclose Confidential Information only to employees having a need to know in connection with performance of this Contract, and who are informed of the contents of this provision prior to disclosure; and (4) comply with applicable law. This provision shall survive termination or expiration of this Contract, 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. It is the intent of this paragraph that the parties will use due care to treat confidentially all matters except those things which of necessity must become part of a public record. It is further specifically understood and agreed in this regard that the City is a public body under Texas law and thus is subject to the open records and open meeting laws.

(b) *Intellectual Property.* Nothing in this Contract confers any license or right to use any trademark, service mark, copyright, or other intellectual property right, whether now owned or hereafter developed, of the other party.

(c) *Employees.* The City shall not actively solicit to hire any employee of LSSI during the term of this Contract or for a period of six (6) months after termination or expiration of this Contract, unless such employee previously was an employee of the City.

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

(b) *Assignment.* Neither party may assign this Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld.

(c) *Limitation of Liability.* In no case shall LSSI be liable for any damages, losses, costs, or expenses under or in connection with this Contract, whether for breach of contract, tort or otherwise, except for those matters described in Section 5, in excess of an amount equal to the lesser of (i) the actual damages suffered by City, or (ii) one-twelfth (1/12th) of the Charge shown on Schedule B, as it may be amended.

(d) *Force Majeure.* LSSI shall not be liable for any failure or delay in performance of this Contract due to causes beyond its control, including, but not limited to, strike, slowdown or other job action, war or civil disturbance, weather emergency, or general failure of any necessary supply, service or utility.

(e) *City's Representation.* The City represents that it has all necessary legal authority to enter into this Contract, and that the person executing this Contract on its behalf is legally authorized to do so.

(f) *Notices.* Notices required or permitted under this Contract shall be deemed given the fifth (5th) day after deposit in First Class mail, or the third (3rd) day after deposit with a recognized overnight courier, if addressed to the parties' respective addresses shown on the first page of this Contract, and marked to the attention of (if to LSSI) Frank A. Pezzanite, President, or, as applicable, to the City Manager or his/her designee.

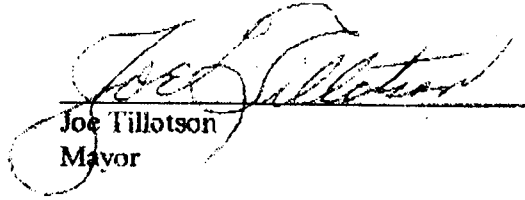
(g) *Law.* This Contract shall be governed by and construed in accordance with the laws of the State of Texas.

(h) *Enforceability.* If any provision of this Contract is conclusively determined to be illegal, invalid, or unenforceable, then such provision shall be severed, and the remaining provisions of this Contract shall be so construed to carry out, as nearly as legally permitted, the intentions of the parties.

(i) *Entire Agreement.* This Contract 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 Contract shall operate as a waiver. This Contract may be modified or waived only in writing signed by an authorized agent of the party against whom such modification or waiver is sought to be enforced.

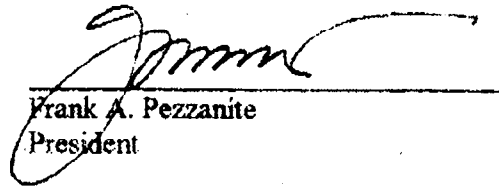
Intending to be legally bound, the parties have caused this Contract to be executed by their duly authorized representatives.

THE CITY OF
LANCASTER, TEXAS



Joe Tillotson
Mayor

LIBRARY SYSTEMS &
SERVICES, LLC



Frank A. Pezzanite
President

Schedule A

Lancaster Veterans Memorial Library Contract For Library Management And Operations

Statement of Work:

LSSI will provide the services described in Section 1 and operate the library facilities in accordance with the policies and guidelines approved by the City. During the Transition Period, LSSI will keep the Library open to the public at least 38 hours per week. During the remaining Term, LSSI will keep the Library open to the public at least 48 hours per week. LSSI will provide the appropriate staffing levels to keep the Library open to the public for the agreed upon hours of operation.

During the initial fifteen (15) months of the contract, LSSI will propose and implement a set of action plans based on assessments undertaken by LSSI. These assessments and related action plans will address the areas enumerated below. The purpose of these assessments and resulting action plans is to provide the City with service direction that responsively addresses the needs of the Lancaster community and effectively utilizes the resources available for library services.

A. Scope of Work

In undertaking the assessments and developing action plans, LSSI will:

1. Combine the input of the staff, the public, and the Library Board within the context of the Texas State Library standards for long-range planning.
2. Address interrelated issues (e.g. relevant and improved service within fiscal responsibility).
3. Set realistic goals and establish time lines with measurable objectives at interim steps.
4. Provide a strong communications component to the public.
5. Include a formal, timely report process to the Library Board and City that incorporates a method for determining success.

B. Action Plans

Assessments and action plans will be developed for, but not necessarily be limited to: technical services, automation, revenue opportunities, collection protection, policy and practices, operating hours, patron input, public relations, performance benchmarks, staff development, and physical plant. The action plans (the list, respective scopes, and priority ranking) to be addressed by LSSI during the initial year may be amended by mutual written consent.

1. *Priorities.*

LSSI will address each area during the initial fifteen (15) months, within a time line to be determined by LSSI following an initial overview of the Library. LSSI will use the priority rankings given below in undertaking the assessments and proposing action plans to the City. As appropriate, LSSI will address sub-areas and emergencies on an as-needed basis.

2. *Scope of Study Areas.*

a. *Priority I Grouping.*

- (1) *Patron input*
Systematic approach to soliciting, receiving and responding to patron suggestions for service improvement.
- (2) *Policy and practices*
Policies and practices for standardized patron registration, materials lending, materials selection, materials cataloging, and processing criteria.
- (3) *Automation*
Inventory control (circulation, collection, bar coding, and patron registration) on-line public access catalog (OPAC), on-line resources, acquisitions, serials control, and office support.
- (4) *Public relations*
Program for communicating with patrons, residents, and organizations about services and plans that might include such methods as direct mail (newsletter, calendar), radio, television, sponsorships, and visits to civic associations.
- (5) *Revenue opportunities.*
Services to the business community and retail sales (books, gifts, refreshments, etc.)

b. *Priority II Grouping.*

- (1) *Services*
Public service hours (including evenings and weekends), programming (children's, adult, and young adult), Internet access (in-library services, off-site access to library services, web page), interlibrary loan (OCLC and the interlibrary loan service), and appropriate staffing mix.
- (2) *Collection protection*
Return of overdue materials, collection of fines and theft prevention.

- (3) Performance benchmarks
Utilization of the American Library Association/Public Library Association publication *Planning for Results: A Public Library Transformation Process* to improve professional measures on library use, users, and resources.
- (4) Staff development
Improvement of staff readiness levels through performance planning for service units and for individual staff members, and through continuing education opportunities such as in-library training, seminar and conference attendance, individualized learning plans, and tuition reimbursement.
- (5) Physical plant.
Improvements on cleaning, maintenance, and repairs in the Library.

For the period July 1 to September 30, 2001: \$ 48,980.00 per month

For Fiscal 2002:

Operating Budget \$ 587,760.00*

Included in the above Operating Budget total, the following amounts must be spent on the specific items listed or returned to the City:

Total library materials including books, periodicals, newspapers, microfilms, electronic database subscriptions, standing orders, audio tapes, video tapes, records, CDs, automated reference services, binding, related cataloging, processing costs, and LSSI handling fee: \$ 53,000.00

* Estimated 2002 Budget, exclusive of building maintenance and electric utility charges, final budget amount and terms of Schedule A to be finalized by August 31, 2001.

Schedule B
LVML 2001 Operating Budget

Full Time Staff	
Full Time-OT	
Part Time w/benefits	
Health Insurance	
FICA 6.2%	
Medicare 1.45%	
City Pension 5.5%	
Life Insurance Benefit	
Legal Services	
Other Services	
General Equipment Repair	
Computer Equipment Repair	
Maintenance Service Contract	
Property Insurance	
General Liability Insurance	
Regular phone service	
Cellular Phone service	
Telecommunications	
Innovative Interfaces System	
OCLC Charges	
Marketing	
Recruitment	
Meals/Lodging/Other Travel	
Mileage Reimbursement	
Travel Expenses	
Dues & Membership	
Seminars & Conferences	
Office Supplies	
Medical Supplies	
General Supplies	
Janitorial Supplies	
Postage	
Books & Materials	
Misc.	
Safety Compliance	
TOTAL LIBRARY BUDGET	

2002 Budget to be attached upon approval