

Date Filed with the Pinellas County Clerk's Office: _____

AGREEMENT FOR THE OPERATION OF THE SHARED USE COMMUNITY LIBRARY
LOCATED ON THE ST. PETERSBURG COLLEGE CAMPUS AT 2465 DREW STREET,
CLEARWATER, FLORIDA

Between

CITY OF CLEARWATER, for and on behalf of the
Clearwater Public Library System

and

ST. PETERSBURG COLLEGE BOARD OF TRUSTEES,
for and on behalf of St. Petersburg College—Clearwater Campus

Operations Agreement Table of Contents

<u>ARTICLE 1 GENERAL PROVISIONS</u>	4
<u>1.1 Effective Date</u>	4
<u>1.2 Effect of Headings</u>	5
<u>1.3 Term</u>	5
<u>1.4 Limitations of Use</u>	5
<u>1.5 Title to Improvements</u>	5
<u>1.6 Grant of Right to Use</u>	5
<u>1.7 Library Name</u>	6
<u>1.8 Specific Definitions</u>	6
<u>1.9 Authority</u>	6
<u>ARTICLE 2 MISSION STATEMENT</u>	6
<u>ARTICLE 3 GOVERNANCE AND USE OF THE COMMUNITY LIBRARY BUILDING</u> ..	6
<u>3.1 Integrated Use and Staffing</u>	7
<u>3.2 Library Building</u>	8
<u>3.3 Space Designation and Allocation</u>	8
<u>3.4 Interior and City-exclusive Parking Space</u>	8
<u>3.5 Use of the Roof</u>	9
<u>3.6 Separate Jurisdiction and Identity</u>	9
<u>3.7 Designated Co-Managers</u>	10
<u>3.8 Operational Steering Committee Team</u>	11
<u>3.9 Executive Committee</u>	12
<u>ARTICLE 4 LIBRARY OPERATIONS</u>	12
<u>4.1 The Collection</u>	12
<u>4.2 Lending Policy</u>	12
<u>4.3 Collection of Fines</u>	13
<u>4.4 Electronic Materials</u>	13
<u>4.5 Intellectual Freedom</u>	14
<u>4.6 Integrated Library Systems</u>	14
<u>4.7 Library Privileges</u>	14
<u>4.8 Computer Use</u>	14
<u>4.9 Library Programs</u>	15
<u>4.10 Service Marks and Trademarks</u>	15
<u>4.11 Ancillary Functions</u>	15
<u>ARTICLE 5 RESPECTIVE DUTIES AND RESPONSIBILITIES</u>	15
<u>5.1 Definitions</u>	15
<u>5.2 General Statement of Site Responsibility; Cost Sharing and Reimbursement</u>	16
<u>5.3 Appearance of the Site</u>	17
<u>5.4 Routine Services and Maintenance; Reimbursement and Cost Sharing</u>	17
<u>5.5 Liens and Encumbrances</u>	18

<u>5.6</u>	<u>Storage of Hazardous Materials</u>	18
<u>5.7</u>	<u>Contents</u>	19
<u>5.8</u>	<u>Naming Rights</u>	19
<u>5.9</u>	<u>Advertising</u>	19
<u>5.10</u>	<u>Safety or Security</u>	19
	<u>ARTICLE 6 DISPUTES AND DEFAULTS</u>	19
<u>6.1</u>	<u>Dispute Resolution</u>	19
<u>6.2</u>	<u>Withdrawal from Agreement</u>	20
<u>6.3</u>	<u>Default</u>	20
<u>6.4</u>	<u>Notice of Default; Cure</u>	21
<u>6.5</u>	<u>Remedies</u>	21
<u>6.6</u>	<u>Default Procedures</u>	22
	<u>ARTICLE 7 INDEMNIFICATION AND INSURANCE</u>	22
<u>7.1</u>	<u>Indemnification</u>	22
<u>7.2</u>	<u>Insurance</u>	22
<u>7.3</u>	<u>Liability Claims</u>	25
<u>7.4</u>	<u>Indem. & Ins. Required of Contractors/Subs./Agents</u>	25
	<u>ARTICLE 8 STANDARD TERMS AND CONDITIONS</u>	25
<u>8.1</u>	<u>Successors, Assignment</u>	25
<u>8.2</u>	<u>Integration</u>	25
<u>8.3</u>	<u>Voluntary Agreement</u>	26
<u>8.4</u>	<u>Public Agency Authority</u>	26
<u>8.5</u>	<u>Notices</u>	26
<u>8.6</u>	<u>Applicable Law, Jurisdiction, and Venue</u>	26
<u>8.7</u>	<u>Approval of Budget into Next Fiscal Year</u>	27
<u>8.8</u>	<u>Public Records/Student Records</u>	27
<u>8.9</u>	<u>Nondiscrimination</u>	27
<u>8.10</u>	<u>Amendments</u>	27
<u>8.11</u>	<u>Exhibits</u>	27
<u>8.12</u>	<u>Waiver</u>	27
<u>8.13</u>	<u>Survival</u>	27
<u>8.14</u>	<u>Binding Effect and Entire Agreement</u>	27
<u>8.15</u>	<u>No Third Party Beneficiary</u>	28
<u>8.16</u>	<u>Headings</u>	28
<u>8.17</u>	<u>Understanding and Drafting of Agreement</u>	28
<u>8.18</u>	<u>Severability</u>	28

OPERATIONS AGREEMENT FOR THE SHARED USE LIBRARY LOCATED
ON THE ST. PETERSBURG COLLEGE—CLEARWATER CAMPUS AT 2465
DREW STREET, CLEARWATER, FLORIDA

(“AGREEMENT”)

THIS OPERATIONS AGREEMENT (“Agreement”) is entered into between the City of Clearwater, a municipal corporation (“City or Party”) on behalf of the Clearwater Public Library System (“City System”), and the St. Petersburg College Board of Trustees (“College or Party”), a political subdivision of the State of Florida, on behalf of St. Petersburg College—Clearwater Campus, (collectively, “Parties”).

RECITALS

WHEREAS, on _____, 2016 the City and College entered into an Intergovernmental Agreement (“Intergovernmental Agreement”) to jointly plan, design and construct a shared use library (the “Library”) to be located on the College’s Clearwater campus at 2465 Drew Street, Clearwater, Florida to provide cost-effective, enhanced services for both the general public and community college students; and

WHEREAS, that Intergovernmental Agreement is incorporated herein by reference; and

WHEREAS, the Parties are authorized to enter into this agreement, pursuant to section 163.01, Florida Statutes; and

WHEREAS, College will own and maintain the Library upon completion and the City will have a non-exclusive right to use the Library as well as shared space in the exterior of the Library including parking for a term specified in this Agreement; and

WHEREAS, the Parties enter into this operations agreement to better define their respective duties and responsibilities regarding the use and operation of the Library upon completion; and

NOW, THEREFORE, in consideration of the mutual promises herein, the Parties agree as follows:

ARTICLE 1
GENERAL PROVISIONS

1.1 Effective Date

This Agreement is contingent upon approval of the governing body of each Party. This Agreement will become effective upon substantial completion of the Library. The College shall be responsible for recording this Agreement with the Pinellas County

Clerk's Office.

1.2 Effect of Headings

The headings or titles of the several articles and paragraphs in this Agreement are solely for the convenience of reference. They shall not control, affect, modify, amend or change the meaning or construction of any term or provision contained in this Agreement.

1.3 Term

The term of this Agreement shall commence upon the Effective Date and expire thirty (30) years after the date that the Library first begins to provide library services to the public ("Initial Term"). The parties may extend the Agreement for two optional ten (10) year terms ("Renewal Terms") through a written amendment signed by authorized representatives of both parties as provided in paragraph 8.10. On the termination or expiration of this Agreement, the Library will cease to be a public library, and the College shall not be obligated to operate it as one.

1.4 Limitations of Use

Both Parties agree and promise that the Library and the land it will occupy will be used only as a joint academic and community public library consistent with the mission of the City and College for as long as this Agreement remains in place. Neither Party shall allow any use of the Library for any purpose or action that may compromise the mission of either party or this Agreement. If this Agreement is terminated by the College without cause prior to the expiration of the initial term, or if the City terminates this agreement for-cause, the City is entitled to a refund of any design and construction costs paid to the College up to the date of termination, in the manner detailed in Article 2, paragraph D of the Intergovernmental Agreement.

1.5 Title to Improvements

Subject to the terms to this Agreement, title to and ownership of the Library and improvements to it shall be and remain the sole property of the College.

1.6 Grant of Right to Use

1.6.1 The College grants to the City the non-exclusive, irrevocable right to use the City-dedicated Program Space and associated Shared Space/Common Area of the Library.

1.6.2 The College grants the city exclusive, irrevocable right to utilize 9,456 square feet of City-designated Space and a non-exclusive, irrevocable right to utilize 18,526 square feet of Shared Space in the Library building. Further, the City shall have the exclusive right to eighty (80) parking spaces that are located near the immediate vicinity of the Library, and such parking shall meet the City's requirements, as approved by the College.

1.7 Library Name

The College and the City shall agree to name the Library the Clearwater East Community Library at St. Petersburg College. Any subsequent name change to the Library shall be subject to the approval and guidelines of the City Council and the College's Board of Trustees and such change must be consistent with the College's Rule on Naming of College Facilities, located in the Board of Trustees Rules and College Procedures (<http://www.spcollege.edu/central/botrules/#>) and the City's Library Donor Naming Recognition Policy, as applicable.

1.8 Specific Definitions

As used in this Agreement, the following terms have the following meaning:

1.8.1 "Collection" means all materials such as books, magazines, microfilm, electronic resources, and other such materials, acquired, through contribution by a Party for the Library for educational or recreation purposes ("Collection").

1.8.2 "Library" means the library operated in the library building by the City and the College pursuant to the terms of this Agreement.

1.8.3 "Contents" means all property within the Library which is not permanently fixed to the building's structure, such as carpeting, furniture, and computers, but excludes the Collection and Special Contents.

1.8.4 "Special Contents" means special exhibits, fine arts, and any other special item identified and agreed upon by the City and the College to be located in the Library.

1.8.5 "City-dedicated Space" means space generally reserved for the City's exclusive use..

1.8.6 "College-dedicated Space" means space generally reserved for the College's exclusive use.

1.8.7 "Shared Space" means all space not designated College-dedicated space or City-dedicated space, which is utilized by both entities on the first floor of the Library. Shared Space includes first floor areas such as the Reception, Staff Workroom, Community Room, Storage, Galley, Library Point of Service, Shared Computer Space, the Seating & Circulation and Stack Areas related to the Audio Visual/Periodical, and Shared Workroom. The second floor of the Library contains no Shared Space beyond the "common areas" referenced in this paragraph. Shared Space also includes "common areas" which generally means space for electrical, mechanical and HVAC equipment, general circulation include stairs and elevators, student sanitation, staff and public sanitation, custodial, interior and exterior walls, open malls and under roof overhangs.

1.9 Authority

As required by the laws and policies that govern each Party, the City Council of the City of Clearwater is the governing board relating to the City's decisions, budgeting and expenditures, and the Board of Trustees of St. Petersburg College is the governing board relating to the College's decisions, budgeting and expenditures under this Agreement, notwithstanding the creation under this Agreement of a joint management structure. The authority of each Party to budget annually is preserved, as specified in Paragraph 8.7.

ARTICLE 2 MISSION STATEMENT

Through its information resources and services, accessible facilities, technology and professionally trained staff, the Library will support teaching and learning, cultural enrichment, increased opportunity, knowledge creation, and recreation of St. Petersburg College and the greater Clearwater community.

ARTICLE 3 GOVERNANCE AND USE OF THE COMMUNITY LIBRARY BUILDING

3.1 Integrated Use and Staffing

3.1.1 The Library will serve as an integrated use community library. Both parties will jointly operate the Library subject to the terms and conditions of this Agreement. The Parties fully commit to the philosophy of a shared use community library. It is the intent of each Party to hire or assign employees to staff the Library that understand and share such a commitment, and who will serve the clientele of the Library without any outward appearance of serving separate employers.

3.1.2 At all times during this Agreement, individuals assigned to staff the Library will be employees of the Party that hired them, and those employees will be subject solely to the pay scales and employee benefits of the employing Party. To ensure compliance by each Party with laws and regulations relating to employment, the Parties may at their discretion, each conduct an annual employment audit of their staff working in the Library. Each Party agrees to ensure that its supervisors working in the Library have been trained on and are knowledgeable about issues relating to joint employees, and are aware that they must avoid, where possible, creating a situation in which a joint employment issue may arise.

3.1.3 Each Party will provide professional staff trained and knowledgeable about the learning resources, information, media materials and services required for the clientele of the respective Parties.

3.1.4 The Parties will provide cross-training of their respective staff to ensure all staff have a comprehensive overview of the Library's operation. All staff in joint or shared use areas, such as circulation, will be trained to provide seamless service to both college and public users. Certain functions performed by staff within the Library may from time to time be functions that the Co-Managers determine shall be the shared responsibility of the City and the College. Additionally, the College shall provide library personnel up to a total of 80 hours per week, which shall be qualified professionals performing reference and circulation services. The Co-Managers shall review and periodically revise their staffing plans as deemed necessary and in accordance with paragraph 3.7 of this Agreement.

3.1.5 Because minors will be using the Library, each Party must require a Level 2 background check on each of its employees who provide services within or immediately around the Library and who may have direct access to minors and students.

3.2 Library Building

3.2.1 The College will own the Library, and the land on which it sits as well as the infrastructure and facilities that support it, the Collections that it has purchased or will purchase with its own funds and the Contents. Likewise, the City shall own the Collections and Special Contents that it has purchased or will purchase and houses in the Library. Upon expiration of the Term or a Renewal Term under Paragraph 1.3, the City shall be entitled to remove the Collections and Special Contents it purchased or contributed.

3.2.2 Unless restricted by law or contract, each Party's Collections in the Library will generally be available to all library patrons.

3.2.3 The Library shall be open a minimum of six days a week, with the exception of weeks that contain holidays. The Parties shall mutually develop a plan for establishing operational hours of the Library, to include evening and weekend hours, during which the Library shall be staffed by employees of the City and College. The hours of operation shall be reviewed and adjusted by mutual agreement of the Co-Managers and the Operational Steering Committee in accordance with paragraphs 3.7 and 3.8, herein.

3.3 Space Designation and Allocation

The Parties, through the Operational Steering Committee ("Operational Committee") described in Paragraph 3.8, shall work with the design consultant during design of the Library to designate the functions of specific spaces within the interior of the library, and needed infrastructure. The Operational Committee shall also be responsible for reviewing the function of space on an on-going basis, and recommending to the Executive Committee ways to achieve effective use of the Library.

3.4 Interior and City-exclusive Parking Space

3.4.1 The interior of the Library shall generally be shared space to be used jointly and freely by both Parties unless otherwise designated herein, but the parties understand that the City is receiving 9,456 square feet of City-dedicated Space within the Library, which shall not exceed a total 43,515 square feet. The College understands that the City's assigned, proportionate percentage for operational costs within the Library shall not exceed the 37.8% threshold nor will its share of Shared space exceed 7,010 square feet during the span of this agreement.

3.4.2 At minimum, eighty (80) City-exclusive parking spaces will be located near the immediate vicinity of the Library building, and such City-exclusive parking shall meet the City's requirements, as approved by the College. City patrons shall be required to use the City-exclusive parking spaces before non City-exclusive parking spaces.

3.5 Use of the Roof

Either party may request through the Operational Committee that it be permitted to purchase telecommunications antennas, microwave or satellite dishes or other communications equipment for installation on the Library roof for the benefit of library clientele. Placement of the equipment on the roof is subject to required government approvals at the cost and expense of both Parties, such expense subject to the Parties' respective Cost Sharing Percentages. The Parties will bear the cost of routine maintenance of the equipment based on their Cost Sharing Percentages. Before any equipment is installed, the Parties and the Library's property insurer(s) or other consultant(s) shall approve the plans and methods for any aesthetic, structural, safety or technological concerns. The Parties will not unreasonably withhold their approval.

3.6 Separate Jurisdiction and Identity

3.6.1 Each Party shall maintain sole authority over those non-library specific activities that are related to the overall management and administration of their operations of which the Library is a part, such as budgeting, human resources, and procurement, subject to the terms and conditions of this Agreement. Additionally, each Party shall follow its own processes for those activities, subject to the terms and conditions of this Agreement. The Parties agree to provide notice to each other promptly of any of those activities that might materially affect or impair the operation of the Library as described in this Agreement or as a full-service library for the public and the College.

3.6.2 The Co-Managers, as defined in Section 3.7, shall determine those functions within the Library that the Parties will jointly operate, such as circulation and meeting space, and shall mutually develop and implement policy and procedure accordingly.

3.6.3 Each Party shall coordinate any use by third parties of the Library through the Operational Committee, which will then develop a third-party use policy that is consistent with those of the City and the College for its other buildings. The Parties shall jointly agree to the third-party use policy in advance of any third party use. Fundraising or social events sponsored by the College, the City or by entities related to either the College or the City will not be subject to the payment of rental fees so long as the use is not continuous for those types of activities during any year. A meeting room, within the Shared Space, will be available for third parties that choose to utilize such space for informative or cultural programs that are free to the public, and pursuant to the City's library policy, such third parties will not be subject to the payment of rental fees for the use of such space. The College may elect to charge rental fees in compliance with its use facilities use policy.

3.6.4 Since the Library is a building owned by the College, the College's policies and administrative regulations and requirements for timely reporting that relate to its property, such as restrictions on smoking, solicitation, and child welfare apply to the use of the Library. Children may utilize the Library, so long as their conduct and supervision meets with the College's policies, operational procedures, and administrative regulations of the College and the Library.

3.6.5 Any and all monies provided to the City by or through the Clearwater Library System Foundation or any third party, such as the Clearwater Friends of Library, shall be for the sole use and benefit of the City and are not subject to this Agreement. Likewise, any and all monies provided to the College or SPC Board of Trustees by or through the SPC Foundation, Inc., or any third party shall be for the sole use and benefit of the College and are not subject to this Agreement.

3.7 Designated Co-Managers

The College and the City shall each select a person to serve on its behalf as a co-manager of the Library (“Co-Managers”). The Co-Managers will establish and communicate library operational procedures and protocols as well as manage the operations of the Library. In the event of a permanent vacancy in the position of one of the Co-Managers, a representative of the other Party or his or her designee may serve on a selection committee as a resource for the Party filling the vacancy. Both Parties recognize that any hiring decision is the sole and exclusive decision of the Party employing that Co-Manager. The responsibilities of the Co-Managers or their designees include the following, in addition to other responsibilities as may be specified in this Agreement:

3.7.1 When practical to both Parties, jointly develop a coordinated plan for publicizing scheduled events, programs and services to be adopted and followed by both Parties; otherwise, each party will individually plan to publicize scheduled events, programs, and services on its own;

3.7.2 Provide, at the request of the other Party, a staff member to serve on any selection committee of the other Party to select new or replacement staff for librarians and other professional staff, recognizing that the hiring decision is solely that of the hiring Party;

3.7.3 Supervise their respective staff and agree on supervisory and communication procedures, including delegation procedures, in the event of one Co-Manager’s absence;

3.7.4 Jointly schedule staff to ensure adequate service coverage in the Library based on the hours the Library is open, including a staffing plan for all library functions for each year;

3.7.5 Periodically update the staffing plan to reflect the changes in position assignments between and within programs and functions, and to ensure that the work schedules of employees in all positions are maintained on a current basis and provided to the appropriate employees and supervisors as necessary;

3.7.6 Discuss and identify factors that are important to the mission of the Library for evaluating the performance of the individuals assigned to work at the Library, recognizing that each Party will evaluate its employees using its own required forms and procedures, and that decisions relating to evaluation and discipline are the sole responsibility of the Party that employs the individual;

3.7.7 Identify the library functions that the Parties will jointly perform and establish benchmarks, procedures and guidelines for those functions;

3.7.8 Jointly assess and recommend Deferred Maintenance, Capital Improvements and Capital Repairs (as defined in Paragraph 5.1) program for the Library and make recommendations to the Operational Committee, as deemed necessary;

3.7.9 Develop any remodeling ideas and recommend them to the Operational Committee;

3.7.10 Serve on the Operational Committee to oversee management and operations of the Library;

3.7.11 Act as the lead point of contact for each Party, and assume day-to-day responsibility to the leadership of both Parties concerning the operation and management of the Library;

3.7.12 Resolve disagreements and disputes referred to them by the Operational Committee; and

3.7.13 Ensure that the staff of the Library is cross-trained and trained in the policies and procedures of the Library, and that the staff attends appropriate meetings and training sessions.

3.8 Operational Steering Committee Team

An Operational Committee shall be established and comprised of the Co-Managers, the Clearwater Library Director or his/her designee and the College's Director of Learning Resources or his/her designee. The responsibilities of the Operational Committee shall be as follows:

3.8.1 Meet monthly during the first year of the Library operations, at least quarterly thereafter and at such other times deemed necessary by the Operational Committee;

3.8.2 Discuss the mutual needs and goals of the College and the City as they relate to the Library;

3.8.3 Foster and develop an integrated library operation by drafting an Integrated Procedures Manual that will address policies, procedures, and day-to-day matters regarding the Library with approval of such Integrated Procedures Manual or subsequent modifications from the Executive Committee. Such Integrated Procedures Manual shall include, but not be limited to, policy, protocol and procedures related to public meeting space and scheduling, facility use and accessibility policies, computer usage policy, security protocols, print services and copyright policies, and shared technology policies;

3.8.4 Recommend the days and hours of operation for the Library to the appropriate entity or entities within each Party that are responsible for approving those operational issues, if applicable;

3.8.5 Recommend lending procedures appropriate to the operation of the

Library;

3.8.6 Attempt to resolve disputes and disagreements that may arise under this Agreement or due to inconsistencies between the policies of the College and the City as to book and material loans, returns and renewals, staffing, and access to Library Collections, computers, the internet and other services, for members of the general public and the college community;

3.8.7 Recommend, by dates that permit each Party to comply with its budgeting process, an annual operating and capital budget for the Library to the Executive Committee;

3.8.8 Develop an immediate communications plan for routine and non-routine events that integrate with that of the Library, including developing procedures for compliance with the Library's Emergency Operations Plan and the College's Emergency Management Plan and operational continuity protocols; and

3.8.9 Review remodeling recommendations of the Co-Managers and forward any approved recommendations through each Party's process for funding and final approval of such recommendations.

3.9 Executive Committee

3.9.1 The SPC Clearwater Campus Provost and Clearwater's Assistant City Manager shall serve on, and comprise, the Executive Committee.

3.9.2 The Executive Committee shall meet annually for the first three years of the initial term of the Agreement and may meet as-needed during the remaining portion of the initial term or renewal terms to discuss other issues as determined by the Parties.

3.9.3 The Executive Committee shall meet as-needed to resolve disputes and disagreements referred to it by the Operational Committee, in the event the members of that committee are unable to reach a consensus, and to approve the Integrated Procedures Manual and any subsequent changes to such Manual.

ARTICLE 4 LIBRARY OPERATIONS

4.1 The Collection

4.1.1 The members of the general public and users connected to the College shall have the right to on-site use of the Collection. The Collection shall be of sufficient scope and currency to serve the greater Clearwater area as well as support specific needs of College.

4.1.2 Each Party shall own that part of the Collection that it purchases using its own funds. If the Parties determine that it is necessary to purchase any Collection materials jointly, they shall confer, before making the purchase, with their respective Finance and Risk-management Departments to ensure that any jointly-owned property will be properly inventoried and valued.

4.1.3 Each Party shall retain the right to select materials for the Collection appropriate to its specific clientele who use the Library, and shall be responsible for selecting the Collection materials that best meet the needs of its constituency within the dollars that each Party has separately budgeted and available.

4.1.4 Each Party will have a written collections development policy. The policy will establish clear guidelines for the types of materials to be acquired, acquisition priorities, procedures, processing for leasing and rental of materials, challenge and withdrawal as well as disposition of materials and the processes and procedures, if any, for the imposition and enforcement of penalties, fees or fines, if any, for the delinquent return of materials or loss of or damage to materials.

4.1.5 Each Party, through its respective Co-Manager, shall retain the right to establish rules and procedures regarding the on-site use of that part of the Collection that it owns. Additionally, each Party, through its Co-Manager, shall be allowed to set its own off-site lending policies for certain materials in the Collection.

4.1.6 Regarding its materials, each Party, through its respective Co-Manager, shall retain the right to discontinue any periodicals, reduce that portion of the Collection that it owns, repair its books, discontinue lending certain types of its materials (for example, videos) and reclassify or catalog them.

4.1.7 Each Party shall catalog its own Collection pursuant to its own cataloging system and will participate in its own separate integrated library system (“ILS”). The parties understand that there will not be completely integrated Collection amongst the parties; however, to the extent possible, both parties will work toward sharing information and creating as much transparency as possible between the two catalogs and ILS’s. Each party understands that it will be separately responsible for maintaining its own Bibliographic records, borrower records, and item records in the standard manner utilized by each respective party.

4.2 Lending Policy

The College and the City shall adhere to its respective lending policies for each Collection. The term “lending policy” shall mean all policies, rules and regulations promulgated by either Party regarding the off-site use of any materials within the Collection. Such lending policy shall include, without limitation, the time period for such off-site use, early return policies, reserve policies, the amount of any late fines, and the number of materials that can be borrowed at one time by a single borrower.

4.3 Collection of Fines

The Co-Managers will establish a procedure for the collection of fines and for the distribution or use of any monies collected.

4.4 Electronic Materials

When negotiating license or other use agreements for electronically-available materials, both Parties shall attempt to negotiate for the benefit of all libraries within each Party’s

library network as long as such negotiations do not result in that Party's incurring additional costs. Under circumstances where a Party is not able to negotiate use beyond its own clientele without incurring additional costs, that Party shall have the right to restrict access to those materials so as not to violate the license or use agreement.

4.5 Intellectual Freedom

It is the intent of the College and the City to continue to honor the current policy of both the College and the City to provide access to all services and materials. If laws or ordinances are passed that restrict one or both of the Parties' ability to provide services, or if a Party imposes rules, policies or regulations that restrict access for certain groups of users to material within the Collection or either Party's sponsored services or programs, each Party through its Co-Manager agrees to promptly notify the other Party. Upon notification, the Parties, through their Co- Managers, will meet and mutually establish a policy to address the issue.

4.6 Integrated Library Systems

Each respective party will be responsible for purchase and maintenance of its own ILS. To the extent possible, both parties' ILS will be accessible from computers and equipment throughout the Library. The College will ensure, to the best of its ability, that its ILS technology or ILS-related technology upgrades work with the City's technology.

The City also utilizes RFID technology and will provide the sorting equipment and technology that supports only the check-in and -out and security for the City's Collection. If the College adopts RFID technology while this Agreement is in place, the City will, to the best of its ability, attempt to have its RFID technology work with the College's.

4.7 Library Privileges

Members of the general public and the College's students and faculty shall have access to the Shared Space during all hours that the Library is open; however, the general public and/or students and faculty may not have access to the City-dedicated or the College-dedicated Program Space, if such respective area is closed. The City and the College will work to provide whatever service is needed, in the event that the other is closed, and each Party reserves the right to adjust its hours of operation and staffing. Each party will honor, to the best staffing and operational capacity, service to Library patrons when one of the Parties is closed pursuant to mutually agreed to accessibility rules. The College may suspend or revoke student library privileges for-cause, and City may suspend or revoke library privileges of the general public for-cause, as determined in their sole discretion.

4.8 Computer Use

Co-Managers shall establish procedures for access to computers based on the management of access that, to the extent feasible, provides the same access to each Party's clientele as they have at each Party's separately-operated locations. Use of, and access to, computers shall be subject to the established computer usage policies and

procedures of the Library and the College, and as incorporated into the Integrated Procedures Manual.

4.9 Library Programs

The College and the City shall each retain the right to create, sponsor and operate separate library programs for their clientele within the Library. Each Party shall be solely responsible for funding its separate programs. The Parties agree to cooperate in good faith with each other in facilitating all library programs operated within the Library. Neither Party shall have the right to sponsor a library program that imposes an unreasonable burden on shared costs of the Parties or Library facilities.

4.10 Service Marks and Trademarks

Neither Party shall use any service marks, trademarks, logos or other marks of the other Party without the express written approval of the other Party. The use of any marks must comply with the owner's requirements, including using the "circle R" indication of a registered trademark.

4.11 Ancillary Functions

The Parties shall have the right to provide separate services to their clientele that are ancillary to the core library services, so long as they do not burden Library resources or costs.

ARTICLE 5 RESPECTIVE DUTIES AND RESPONSIBILITIES

5.1 Definitions

For the purposes of this Article, the following definitions shall apply:

5.1.1 "Capital" means that dollar amount at which each Party considers an expense to be capitalized and depreciable for accounting purposes.

5.1.2 "Capital Improvement" means a planned Capital expenditure to renovate or expand the Site or the Site's infrastructure, including major building systems.

5.1.3 "Capital Repair" means a planned periodic Capital expenditure that corrects a defect or degradation of major building systems, site improvements, components, assemblies or capital equipment. It is a subset of regular or normal facility maintenance that refers to costly repairs or the replacement/rebuilding of major facility components. For example, roof replacement at the end of its anticipated useful life is typically a Capital Repair item, while replacing a roof several years after its normal useful life is considered a Deferred Maintenance item. Capital Repair does not include expansion or renovation of facilities.

5.1.4 "Deferred Maintenance" means expenditures for repairs not

accomplished as a part of routine maintenance or Capital Repair that have accumulated to the point where facility deterioration is imminent and could impair the proper functioning of the Library. Deferred Maintenance will generally involve a Capital expense.

5.1.5 “Emergency Maintenance or Repair” means a sudden and unanticipated event that causes an imminent or actual significant property loss, damage or deterioration to the Site and that requires an immediate response and expenditure, generally a Capital expense, to avoid danger to persons or property, or hindrance of the proper functioning of the Library.

5.1.6 “Routine Maintenance” means the day-to-day efforts to control deterioration of facilities (up-keep expenses) through scheduled repetitive activities (such as cleaning), periodic scheduled work (such as inspections and equipment adjustments) and minor repairs made on an as-needed basis. Routine Maintenance may or may not involve a Capital expense.

5.1.7 “Site” means the Library and the parking spaces necessary to meet the City’s requirements as approved by the College.

5.2 General Statement of Site Responsibility; Cost Sharing and Reimbursement

5.2.1 As the owner of the Site, the College shall be solely responsible and authorized to contract for and undertake Capital Improvements, Capital Repairs, Deferred Maintenance, Emergency Maintenance or Repairs or Routine Maintenance to the Site, except as specified in this Paragraph. Any of those activities that the College undertakes on the recommendation of the Executive Committee or as part of the College’s standards for maintaining its facilities shall be funded by the Parties according to paragraph 5.4 herein. The College agrees to use its best efforts to accommodate the City’s recommended schedule as reflected in Exhibit A or as such is modified from time to time.

5.2.2 The College shall undertake Emergency Maintenance or Repairs either unilaterally or on the recommendation of the Co-Managers and will request the Executive Committee to ratify any such actions. Upon ratification by the Executive Committee, the College shall draw funds from the Operational Fund, as detailed in paragraph 5.4 herein, and this shall constitute the City’s full contribution to the cost of any such Emergency Maintenance or Repairs.

5.2.3 For any Capital Improvements, Capital Repairs, Deferred Maintenance, or Routine Maintenance the College shall select a contractor using its competitive procurement process. For Emergency Maintenance or Repairs, the College shall obtain competition to the extent it is practicable under the circumstances. For instances in which it is appropriate to obtain the services of a contractor through an existing job order contract, either awarded by either Party or by another Florida public entity and available through cooperative purchasing, the College may use that contract instead of procuring bids.

5.2.4 For Capital Improvements requested by the Executive Committee, or

Capital Repairs or Deferred Maintenance recommended by the Executive Committee, the College shall draw funds from the Operational Fund, as detailed in paragraph 5.4 herein, and this shall constitute the City's full contribution to the cost of any such Capital Improvement, Capital Repair, or Deferred Maintenance.

5.2.5 For Routine Maintenance, the College shall draw from the Operational Fund and, as detailed in paragraph 5.4 herein, this shall constitute the City's full contribution to the cost of any such Routine Maintenance.

5.3 Appearance of the Site

During the term of this Agreement and unless the Parties agree otherwise, the College shall keep the Site in good repair, operating condition, working order, and appearance, including without limitation:

5.3.1 maintaining and keeping the interior and exterior of the Site clean, painted and in good condition and repair, reasonable wear and tear excepted; and

5.3.2 operating and maintaining (and replacing as applicable) all parts of the Site, including, but not limited to, air conditioning, heating, plumbing, bathrooms, electrical distribution systems, elevators, concrete foundation floors, roofs, building structure systems, fire alarm systems and parking; keeping them in clean and good condition, reasonable wear and tear excepted.

5.4 Routine Services and Maintenance; Reimbursement and Cost Sharing

5.4.1 Unless the Parties determine otherwise, the College shall be responsible, through the SPC Board of Trustees, to provide or secure the services as needed to maintain and service the Site including, but not limited to, telecommunications, particularly providing for City-specific time clock and a method to direct City phone calls to City staff, janitorial, utilities, trash removal, landscape, electrical and heating and air conditioning services.

5.4.2 The City shall contribute with quarterly payments to an Operational Fund to be maintained and administered by the College in accordance with the provisions herein. The Operational Fund shall be used to cover 100% of the City's share of costs for "Emergency Maintenance & Repair" & "Routine Maintenance," as defined by this Agreement; janitorial services; utility services including electric, sewer/water, and gas; for "Capital Improvements;" "Capital Repairs;" and "Deferred Maintenance" as defined by this Agreement. The City agrees to contribute the following amounts to the Operational Fund:

5.4.2.1 A minimum of \$118,884.52 per year to the Operational Fund for maintenance of the City-dedicated Space and the City's proportionate share (37.8%) of the Shared Space. This amount is based on \$7.22 per square foot of 16,466 square feet.

5.4.2.2 After the first year of the Agreement, the College reserves the right to increase the City's annual contribution toward the Operational Fund in subsequent years of the Agreement no more than a maximum of three percent (3%) over the previous year's contribution or by the Operational Costs—New Facilities (OCNF) rate established by the State of Florida for that contract year, whichever increase amount is less. In the event that there is an OCNF decrease or no OCNF increase, then there shall be no increase (0%) to the City's annual contribution for that contract year.

5.4.3 Regarding the College's obligations and contribution towards operational and maintenance costs, the College shall:

5.4.3.1 Pay all construction costs for the project over and above the City's contribution as described herein or the Intergovernmental Agreement.

5.4.3.2 Pay all costs over and above the City's contribution as described herein for Emergency "Maintenance & Repair" & "Routine Maintenance" as defined by the Operating Agreement; janitorial services; and utility services including electric, sewer & water and gas.

5.4.3.3 Pay all costs over and above the City's contribution as described herein for "Capital Improvements" & Capital Repairs" as defined by the Operating Agreement.

5.4.4 The College shall secure other services that the Parties mutually agree are desired or become necessary to promote or maintain optimal use of the Library. Such services include those that are provided in the interest of the health or safety of the patrons, such as pest control or emergency medical services equipment. The College shall draw the City's shared cost of such other service from the Operational Fund, as detailed in paragraph 5.4.2 herein.

5.5 Liens and Encumbrances

5.5.1 Both Parties agree that the Site shall be kept free and clear from any and all mechanics' and materialmen's liens, claims and charges. To the extent allowable by law, each Party shall indemnify and hold the other Party harmless from any and all cost, expenses, claims, liens or demands, including reasonable attorney's fees, (collectively "costs") arising out of or by virtue of any nonpayment of any obligations incurred by the indemnifying Party relating to the Library.

5.5.2 Both Parties agree that this Agreement and their respective interests shall not be subordinated or subject to any encumbrances.

5.6 Storage of Hazardous Materials

Neither Party shall use or store hazardous materials except for required cleaning supplies or other necessary substances kept in reasonably necessary quantities for normal library functions, provided such substances shall be stored in accordance with all applicable laws and regulations.

5.7 Contents

Before the Library opens, the Parties, through the Co-Managers, shall be responsible for providing their own Contents to house in the Library. The City shall provide its own security for its Contents, and such security measures include circulation RFID equipment, self-check machines, sorters, and security gates. The City shall be solely responsible the replacement and purchase of its contents, per City Council budgetary restraints.

5.8 Naming Rights

5.8.1 Library Name. The College and the City shall agree to name the Library the Clearwater East Community Library at St. Petersburg College.

5.8.2 Names of Allocated Space. The College and the City shall each retain the right to name spaces within the College-designated Space and the City-designated Space, respectively, subject to the reasonable approval of the other Party.

5.8.3 Names of Shared and Common Space. Either Party shall have the right to propose to the other Party names for any shared or common space within the Library. Such proposed names shall be submitted by the Party proposing such name to the other Party, and the Parties, each using their respective guidelines and procedures, shall decide whether or not to approve of such names. In the event the Parties do not agree as to any such proposed name, such shared space or common space shall not be named.

5.9 Advertising

Except for routine announcements regarding programs and services, no form of publicity, advertising, or promotion concerning the Library shall be issued by either Party without the prior written consent of the other Party, except as such release or announcement may be required by law, in which case the Party required to make the release or announcement shall, to the extent possible, allow the other Party reasonable time to comment on such release or announcement in advance of such issuance.

5.10 Safety or Security

The College, at its sole expense, shall be responsible for safety or security services both inside and outside the Library. Each Party shall ensure that the provider acknowledges and agrees to comply with the College's and the City's Comprehensive Emergency Operations Manual and coordinates delivery of its services with Clearwater's Police Department, where necessary. The safety or security service provider shall be properly licensed and insured.

ARTICLE 6 DISPUTES AND DEFAULTS

6.1 Dispute Resolution

In the event that the Executive Committee is unable to reach a consensus regarding a

dispute, the Executive Committee may refer the dispute to the President of the College or his or her designee and the City Manager or his or her designee for resolution. Disputes relating to matters of the City's or College's policies or procedures, or to the laws that govern each Party, may require that the dispute be referred to each Party's governing board, which may agree to submit the dispute to some alternative dispute resolution process. If a Party believes that a dispute involves a default by the other Party of this Agreement or a disagreement involving the interpretation of a material provision of this Agreement, the procedures and remedies specified in Article 6 apply. In all cases of disputes or defaults under this Agreement, the Parties will first attempt to resolve differences, in good faith, between themselves.

6.2 Withdrawal from Agreement

6.2.1 The Parties recognize that this Agreement requires cooperation between the Parties and a long term financial commitment by each Party. Accordingly, withdrawal from this Agreement is a default as specified in Paragraph 6.3.8.

6.2.2 Notwithstanding Section 6.2.1, if a Party's withdrawal is due to budget reductions or program elimination during the Term, or any other reason mutually agreed to by the parties, the withdrawing Party shall give written notice as specified in this Agreement immediately on knowing that withdrawal is necessary, but in any event, no later than 180 calendar days before October 1st of the following fiscal year. If the College withdraws from or this Agreement is terminated, by the College without cause, or the City for-cause, then the College agrees to pay the City an amount equal to the unamortized design and construction funds provided to the College by the City, calculated as detailed in Exhibit A of the Intergovernmental Agreement, on the date of the termination, such unamortized design and construction costs to be determined by amortizing on a straight line basis over a thirty (30) year period commencing on the Operating Agreement commencement date. If the Operating Agreement is terminated during the span of an agreement year, then the amount of the City's refund will be prorated for that particular agreement year. The baseline year shall be the first year of joint operation. If the City withdraws from or terminates the Operating Agreement without cause, the College may keep all funds paid toward the construction and design of the Library, without any reimbursement to the City.

6.2.3 The withdrawing Party shall be entitled to remove its Collection and Special Contents.

6.2.4 Alternative to the option provided in 6.2.2, if the College is the withdrawing Party, the City can opt to enter into a lease for the Library under which the City may continue to operate the building as a public library. While the City shall not pay rent, the lease will address issues such as the terms under which the City continues to use the Contents, insuring those Contents, and the City's reimbursement of costs related to maintaining and operating the Library.

6.3 Default

"Without cause" withdrawal or termination occurs under this Agreement as follows:

6.3.1 The City fails to pay its quarterly payment into the Operational Fund, as required under this Agreement;

6.3.2 The College fails to perform maintenance or repairs required under this Agreement;

6.3.3 A Party fails to comply with any other material provision of this Agreement;

6.3.4 A Party fails to pay its respective share of the funds as provided for in the Library Project Budget;

6.3.5 The College fails to pay all construction costs for the project over and above the City contribution as described in paragraph 5.4 herein;

6.3.6 The College fails to pay all costs over and above City contribution, as described in paragraph 5.4 herein, for Emergency “Maintenance & Repair” & “Routine Maintenance” as defined by this Agreement; janitorial services; and utility services including electric, sewer & water and gas;

6.3.7 The College fails to pay all costs over and above the City’s contribution, as described in paragraph 5.4 herein, for “Capital Improvements” & Capital Repairs” as defined by the Operating Agreement; or

6.3.8 A Party unilaterally withdraws from the Agreement during the Term.

6.4 Notice of Default; Cure

If a Party fails to cure its default within thirty (30) calendar days following written notice from the other Party, that Party shall be considered in default.

6.5 Remedies

Upon the occurrence of a default and until the defaulting Party cures it, the non-defaulting party may exercise all, any or any combination of the following remedies, in any order and repetitively:

6.5.1 The non-defaulting Party may perform any of the defaulting Party’s obligations under this Agreement without incurring any liability to the non-defaulting Party for any loss or damage that it may sustain as a result. The non-defaulting party shall be entitled to recover all of its costs and expenses incurred in connection with that performance, plus an administrative fee equal to the prime rate times the total costs and expenses, together with interest at the rate of 10% per year from the date that the non-defaulting Party paid or incurred it until the defaulting Party fully pays the cost or expense.

6.5.2 The non-defaulting Party may suspend certain privileges and services provided to the defaulting Party or to which it normally has access. In no event, however, shall any active student in good standing of the College or a City library patron in good standing be denied admittance to the Library or access to any library services as a result

of the default.

6.5.3 The non-defaulting Party may pursue any and all other remedies to which it may be entitled at law, in equity or under the provisions of the agreement. These rights and remedies are intended to be and shall be cumulative, and the exercise or attempted exercise by the non-defaulting party of a given remedy shall not preclude or limit the right or ability of the non-defaulting Party to exercise, at the same or at any different time, any other remedy or remedies.

6.6 Default Procedures

If a Party defaults under this Agreement, the Parties may, with the approval of the process by their governing boards, refer the matter to non-binding mediation. The initiation of non-binding mediation shall not in any way impair the right of the non-defaulting Party to file a claim under Florida Statutes and the statute of limitations shall be tolled for the period from the date of the approval of the governing boards to mediate until the date that the mediation is complete. The non-defaulting Party, however, may still opt to institute litigation without instituting non-binding mediation. Legal expenses in the event of any litigation instituted by either the City or the College against the other in any way connected with this Agreement shall be covered by each respective party, and the successful party to any such action (whether or not prosecuted to judgment) shall not recover from the other party attorney's fees and court costs.

ARTICLE 7 INDEMNIFICATION AND INSURANCE

7.1 Indemnification

7.1.1 Each party hereto shall indemnify and hold harmless and defend the other party, their trustees, officers, agents, elected officials, or employees, from any and all liability, damages, cost, or expense any indemnified party shall become obligated to pay by reason of any claim, lawsuit, or judgment on account of injury to property or injury received or death suffered to persons, which is caused by the act or omission of any duty that the indemnifying party or their trustees, officers, agents, elected officials, or employees under this Agreement. This indemnification clause shall survive the expiration or earlier termination of this Agreement until all claims against the Parties involving any indemnified matters are resolved or barred by the applicable statute of limitation.

7.1.2 All of the indemnification obligations of the College and City shall be limited to the extent permitted by law. Nothing in this Agreement shall alter the waiver of sovereign immunity or extend the College's or City's liability beyond the limits established in Section 768.28, Florida Statutes.

7.1.3 Nothing herein shall be construed as consent by the City or College to be sued by third parties in any matter arising out of this Agreement.

7.2 Insurance

7.2.1 It is understood that the City and the College shall, at each Party's own cost and expense, acquire and maintain (and cause any contractors, subcontractors,

representatives, or agents to acquire and maintain) during the term of this Agreement, sufficient insurance, self-insurance, or a combination of self-insurance and excess insurance, to adequately protect the respective interests of the parties. Specifically both Parties shall carry the following minimum types and amounts of insurance on an occurrence basis or in the case of coverage that cannot be obtained on an occurrence basis, then coverage can be obtained on a claims-made basis with a minimum three (3) year tail following the termination or expiration of this Agreement:

- 7.2.1.1 **Commercial General Liability Insurance** coverage in the minimum amount of \$200,000 (two hundred thousand dollars) per occurrence and \$300,000 (three hundred thousand dollars) general aggregate. Coverage should include but not be limited to, premises operations, products/completed operations, products liability, independent contractors, personal injury and advertising injury.
- 7.2.1.2 **Commercial Automobile Liability Insurance** coverage for any owned, non-owned, hired or borrowed automobile is required in the minimum amount of \$200,000 (two hundred thousand dollars) combined single limit.
- 7.2.1.3 Unless waived by the State of Florida, statutory **Workers' Compensation Insurance** coverage in accordance with the laws of the State of Florida, and **Employer's Liability Insurance** in the minimum amount of \$100,000 (one hundred thousand dollars) each employee each accident, \$100,000 (one hundred thousand dollars) each employee by disease and \$500,000 (five hundred thousand dollars) aggregate by disease with benefits afforded under the laws of the State of Florida. Coverage should include Voluntary Compensation, Jones Act, and U.S. Longshoremen's and Harbor Worker's Act coverage where applicable. Coverage must be applicable to employees, Public Entities, sub Public Entities, and volunteers, if any.

The above insurance limits may be achieved by a combination of primary and umbrella/excess liability policies, and are subject to applicable changes, including changes in limits, by the Florida Legislature to the rules and provisions governing such coverage and to §768.28, Florida Statutes.

7.2.2 In addition to coverage required in section 7.2.1 above, after the Certificate of Occupancy has been issued, the College shall acquire and maintain **Property Insurance** on the Library to repair, rebuild, or replace the Library to its original, new condition. In particular, the College shall acquire and maintain an "all-risk" type of insurance, including coverage for flood and other catastrophes. The policy shall cover the Library, appurtenant structures and outbuildings, improvements and alterations, fixtures, furnishings, equipment, and College-owned contents. The City shall acquire and maintain such Property Insurance or self-insure to cover 100% of the full replacement value of City-owned contents within the Library.

7.2.3 The College shall purchase and maintain, or cause the Construction Manager to purchase and maintain, Builder's Risk insurance, property insurance written

on an “all risk” policy form including coverage as detailed in section 7.2.2 in an amount at equal to 100% of the estimated completed value of the project plus any subsequent modifications to that sum, and shall include property in transit and property stored on or off premises that shall become part of the project. Such Builder’s Risk insurance shall be maintained until the final payment has been made and the Certificate of Occupancy is received. In the event of damage to or destruction of the Library caused by the perils covered by insurance, the proceeds thereof shall be applied to the reconstruction, repair, or replacement of the damaged or destroyed portion of the Library and/or fixtures and personal property of the Party whose insurance is providing the proceeds. The College shall begin such reconstruction, repair, or replacement promptly after such damage or destruction occurs and shall continue and properly complete such reconstruction, repair, or replacement so that same shall be completed expeditiously; the Library shall be free and clear of all claims and liens. Under no circumstances will the College be required to spend more funds on reconstruction, repair or replacement than the proceeds it receives from insurance, except as provided in Paragraph 7.2.4.

7.2.4 In the event the insurance proceeds are not sufficient to complete reconstruction, repair or replacement of the Library, the Parties shall, through the Operational Committee, meet and confer with representatives of each Party to devise a plan for accommodating their clientele through a building that is smaller in size or provides fewer services than the original building, or to estimate the additional funding, based on the Cost Share Percentage, that each will need to contribute to fully complete the reconstruction, repair or replacement. The Parties shall submit their plan to the Executive Committee for approval. On approval of the Executive Committee, each Party agrees to pursue approvals, including funding if applicable, for the plan. Reconstruction, repair, or replacement may not begin until each Party has completed their processes for approving the plan and the plan each has approved is agreeable to both Parties. The College understands, however, that the City is under no obligation to fund more than the City’s Contribution, as detailed in the Interlocal Agreement.

7.2.5 Other Insurance Provisions.

7.2.5.1 Prior to the execution of this Agreement, and then annually upon the anniversary date(s) of the insurance policy’s renewal date(s) for as long as this Agreement remains in effect, each Party shall furnish the other Party with either a Letter of Self-Insurance (SIGNED by the Risk Manager) and/or Certificate of Insurance(s) (using appropriate ACORD certificate, SIGNED by the Issuer, and with applicable endorsements when required) evidencing all of the coverage set forth above.

7.2.5.2 Both Parties shall provide thirty (30) days written notice of any cancellation, non-renewal, termination, material change or reduction in coverage.

7.2.5.3 Each Party shall be responsible for their own self-insured retention or deductibles associated with any purchased program.

The stipulated limits of coverage above shall not be construed as a limitation of any potential liability, and failure to request evidence of this insurance

shall not be construed as a waiver of the City's or College's obligation to provide the insurance coverage specified.

7.3 Liability Claims

The College, through its risk management program, shall handle all property and liability claims caused by, arising out of, or related to the operation, maintenance or use of the Library. The College shall tender all liability claims for which the City may be responsible under Paragraph 7.1 and 7.2 to the City in a timely manner or in no less than 5 business days when the College has knowledge of such claims.

7.4 Indemnification and Insurance Required of Contractors, Subcontractors, Representatives and/or Agents

Each Party shall require any independent contractors, subcontractors, representatives, or agents it hires to undertake the activities specified in Paragraphs 5.2 and 5.4 to the following:

7.4.1 To defend, indemnify, save, and hold harmless, and defend the City and the College from any and all claims, suits, judgments, and liability for death, personal injury, bodily injury, or property damage arising directly or indirectly including legal fees and costs, or other legal expenses; and

7.4.2 To maintain the insurance coverage and minimum amounts identified in section 7.2.1 and the insurance provisions in section 7.2.5. All independent contractors, subcontractors, representatives, and agents shall include both the City and the College as "Additional Insured" on all liability policies and, prior to execution of work, will furnish to both Parties a Certificate of Insurance(s) using appropriate ACORD certificate, SIGNED by the Issuer, and with applicable ENDORSEMENTS naming the City and College as an "Additional Insured."

ARTICLE 8
STANDARD TERMS AND CONDITIONS

8.1 Successors, Assignment

This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns. No party may assign any right or obligation under this Agreement without the consent of the other party, which consent shall not be unreasonably withheld.

8.2 Integration

This Agreement sets forth the entire agreement between the parties to the agreement with regard to the subject matter hereof and supersedes all prior written or oral agreements, covenants, arrangements, communications, representations or understanding by any party that are not fully expressed in this agreement. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligation under this agreement be waived, except by written instrument signed by the party to be charged or its agent, duly authorized in writing, or as otherwise expressly permitted in this agreement. This is a

fully integrated agreement.

8.3 Voluntary Agreement

The Parties represent that they have carefully read this Agreement, have consulted with their own legal counsel, know and understand the contents of this Agreement, and that each Party signs this Agreement freely, voluntarily, and with a complete and full understanding of its terms. Both parties have cooperated in the drafting and preparation of this Agreement. If there is any construction to be made of this document, the same shall not be construed against either Party.

8.4 Public Agency Authority

Each governmental entity signing this Agreement represents and warrants that the Agreement is executed in compliance with a resolution of the governing entity of said Party, duly adopted by governing entity. Any individual signing this agreement on behalf of the public entity represents and warrants that he/she has full authority to do so.

8.5 Notices

Notices hereunder shall be in writing and shall be given by hand, by first class mail, or by certified mail, return receipt requested, to the following address, provided that any party may change its address for such notices upon written notice to the other party.

TO THE CITY:

City of Clearwater Library
ATTN: Library Director
P.O. Box 4748
Clearwater, Florida 33758-4748

TO THE COLLEGE:

St. Petersburg College
ATTN: General Counsel's Office
P.O. Box 13489
St. Petersburg, Florida 33733

WITH COPY TO:

City Attorney's Office
ATTN: Library Designee
P.O. Box 4748
Clearwater, Florida 33758-4748

8.6 Applicable Law, Jurisdiction, and Venue

The validity, effect, intendment and construction of this Agreement shall be governed by the laws of the State of Florida. Venue for any action brought in state court shall be in Pinellas County. Venue for any action brought in federal court shall be in the Middle District of Florida, Tampa Division, unless a division is created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division. Each party waives any defense, whether asserted by motion or pleading, that the aforementioned courts are an improper or inconvenient venue. Moreover, the Parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.

8.7 Approval of Budget into Next Fiscal Year

The Parties recognize that the continuation of this Agreement after the close of any given Fiscal year of each Party shall be subject to the approval of the budget of each Party providing an appropriation covering the item as an expenditure. Neither the City nor the College represents that future budget items will actually be adopted, that determination being that of each Party's governing bodies at the time of the adoption of each Party's annual budget.

8.8 Public Records/Student Records

The provisions of Chapter 119, Florida Statutes, the Family Educational Rights and Privacy Act, section 1002.225, and section 257.261, Florida Statutes, shall apply to this Agreement.

8.9 Nondiscrimination

The Parties agree to be bound by applicable city, state and federal laws, rules and regulations governing Equal Employment Opportunity and Nondiscrimination, as well as the College's Equal Access and Opportunity Statement, located in the Board of Trustees Rules and College Procedures (<https://www.spcollege.edu/eaeo>) and as amended during the span of this Operating Agreement and/or the Intergovernmental Agreement, is incorporated herein by reference.

8.10 Amendments

The Parties may revise this Agreement only through a written amendment signed by authorized representatives of both Parties and, if required, approved by their governing bodies.

8.11 Exhibits

Each exhibit to this Agreement is an essential part hereof and is hereby incorporated herein by reference. Any amendments or revisions to such exhibits, even if not physically attached hereto, shall be treated as if a part of this Agreement if such amendments or revisions specifically reference this Agreement and are executed by the Parties.

8.12 Waiver

No act of omission or commission of either party, including without limitation, any failure to exercise any right, remedy, or recourse, shall be deemed to be a waiver, release, or modification of the same. Such a waiver, release, or modification is to be effected only through a written modification to this Agreement.

8.13 Survival

All obligations (including indemnity obligations) or rights of any party arising during or attributable to the period prior to expiration or earlier termination of this Agreement shall survive such expiration or earlier termination.

8.14 Binding Effect and Entire Agreement

This writing together with the exhibits hereto constitutes the entire agreement between

the Parties and shall inure to the benefit of their respective successors and assigns. No change to this Agreement will be valid, unless made by supplemental written agreement executed by both Parties.

8.15 No Third Party Beneficiary

Persons not a party to this Agreement may not claim any benefit hereunder or as third party beneficiaries hereto.

8.16 Headings

The paragraph headings are inserted herein for convenience and reference only and in no way define, limit, or otherwise describe the scope or intent of any provisions hereof.

8.17 Understanding and Drafting of Agreement

The parties hereto, and each of them, further represent that they have carefully read this Agreement, have consulted with their own legal counsel, know and understand the contents of this Agreement, and that each party hereto signs this Agreement freely, voluntarily, and with a full understanding of its terms. This Agreement has been drafted and negotiated by the City and College and the same shall not be construed against either party.

8.18 Severability

Should any section or part of any section of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any other part of any section of this Agreement provided that the Parties continue to enjoy the intended benefits for which they entered into this Agreement.

[This section is intentionally left blank; signature page follows.]

OPERATIONS AGREEMENT FOR THE SHARED USE LIBRARY LOCATED
ON THE ST. PETERSBURG COLLEGE—CLEARWATER CAMPUS AT 2465
DREW STREET, CLEARWATER, FLORIDA

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date first above written.

Countersigned:

CITY OF CLEARWATER, FLORIDA

George N. Cretekos
Mayor

By: _____
William B. Horne II
City Manager

Approved as to form:

Attest:

Camilo A. Soto
Assistant City Attorney

Rosemarie Call
City Clerk

WITNESSES: (as to College)

THE BOARD OF TRUSTEES OF
ST. PETERSBURG COLLEGE

By: _____
William D. Law, Jr.,
College President and Secretary of Board of Trustees

Approved as to
Content and Form:

Suzanne L. Gardner
General Counsel

EXHIBIT A

Asphalt/Parking Lot/Reseal/Restripe	10yr. cycle
Asphalt Replacement	15 yr. cycle
Automatic Doors (500M cycles)	5 yr
Carpet	15 yrs
Painting interior	15 yrs
Painting exterior	10 yrs.
Electric Relamp (Interior)	3 yrs.
Electric Relamp (Exterior)	4 yrs.
Furniture Systems/Cubicles	15 yrs.
Furniture Public	8 yrs.
Landscape Plants/hardscape	10 yrs.
Millwork	15 yrs.