Attachment 2

FOR COUNTY USE O

COPY

County of San Bernardino

F A S

CONTRACT TRANSMITTAL

X New / Change / Cancel	Vendor Code	SC	Dept. A	Contract Number
County Department: Real Estate Services Department		Dept.	Orgn.	Contractor's License No.
County Department Contract Representative: David H. Slaughter		Telephone: 387-7813		Total Contract Amount

Contract Type: [x] Revenue [ ] Encumbered [ ] Unencumbered [ ] Other:

If not encumbered or revenue contract type, provide reason:

Commodity Code	Contract Start Date	Contract End Date	Original Amount	Amendment Amount

Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
AAA	RNT	RNT Q	200	2905	N	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount

Project Name	Estimated Payment Total by Fiscal Year					
	FY	Amount	I/D	FY	Amount	I/D
HESPERIA - LIBRARY						
9650 7th Avenue						
Contract type 2(d)						

CONTRACTOR City of Hesperia

Federal ID No. or Social Security No. ____

Contractor's Representative ____

Address 9700 7th Avenue, Hesperia, CA 92345 Phone (760) 947-1025

Nature of Contract:

This Lease for the Hesperia Branch Library is for a period of twenty (20) years with two (2) five-year options to extend with Leased premises consisting of approximately 20,102+/-gross square feet. This Contract Rent is $1.00 per year. CITY shall provide all maintenance to include grounds, exterior and interior maintenance and repairs, parking lot maintenance and interior and exterior lighting. CITY shall also be responsible for paying on-going operational electrical expenses not to exceed sixty thousand dollars ($60,000) so long as COUNTY provides the required level of service hours as identified in the Board of Supervisors Resolution approving this Lease. Should COUNTY reduce service hours below the agreed upon amount COUNTY will become immediately responsible for paying said electrical expense. COUNTY to pay all other utilities including natural gas, water, sewer, trash, cable television, fire alarm and extinguisher service, and intrusion alarm monitoring subject to the terms of this Lease. COUNTY to provide for janitorial services. COUNTY to provide its own telephone service.

Approved as to Legal Form (sign in blue ink)	Reviewed as to Contract Compliance	Presented to BOS for Signature
► SEE SIGNATURE PAGE	►	► David H Slaughter
County Counsel		Department Head
Date	Date	Date 9/15/06

9/15/06

Auditor/Controller-Recorder Use Only

☐ Contract Database	☐ FAS
Input Date	Keyed By

LEASE AGREEMENT

CITY: CITY OF HESPERIA
9700 7th Avenue
Hesperia, CA 92345

COUNTY: COUNTY OF SAN BERNARDINO
Internal Services Group
Real Estate Services Department
825 East Third Street
San Bernardino, CA 92415-0832

PREMISES: Hesperia Branch Library
9650 7th Avenue, Hesperia, CA 92345

TERM OF LEASE: Twenty (20) years with Two (2) five-year options

COMMENCEMENT DATE OF LEASE: October 1, 2006

RENT: $1.00 per year

COUNTY CONTRACT NUMBER:

TABLE OF CONTENTS

PARAGRAPH	CAPTION	PAGE
1	PARTIES	
2	PREMISES LEASED	
3	TERM	
4	RENT	
5	OPTION TO EXTEND TERM	
6	RETURN OF PREMISES	
7	HOLDING OVER	
8	TAXES	
9	USE	
10	HEALTH, SAFETY & FIRE CODE REQUIREMENTS	
11	COUNTY RESPONSIBILITIES	
12	CITY RESPONSIBILITIES	
13	ALTERATIONS	
14	FIXTURES	
15	UTILITIES	
16	HOLD HARMLESS	
17	INSURANCE	
18	DESTRUCTION OF PREMISES	
19	CITY'S DEFAULT	
20	COUNTY'S REMEDIES ON CITY'S DEFAULT	
21	COUNTY'S DEFAULT	
22	CITY'S REMEDIES ON COUNTY'S DEFAULT	
23	CITY'S ACCESS TO PREMISES	
24	NOTICES	
25	INCORPORATION OF PRIOR AGREEMENT	
26	WAIVERS	
27	AMENDMENTS	
28	SUCCESSORS	
29	SEVERABILITY	
30	TIME OF ESSENCE	
31	QUIET ENJOYMENT	
32	PROVISIONS ARE COVENANTS & CONDITIONS	
33	CONSENT	
34	EXHIBITS	
35	LAW	
36	VENUE	
37	ATTORNEYS' FEES AND COSTS	
38	JURY TRIAL WAIVER	
39	RIGHT TO TERMINATE LEASE	
40	CAPTIONS, TABLE OF CONTENTS & COVER PAGE	
41	SURVIVAL	
42	FORMER COUNTY OFFICIALS	
43	BROKER'S COMMISSIONS	
44	HAZARDOUS SUBSTANCES	

Table of Contents
Page -2-

45	PUBLIC RECORDS DISCLOSURE
46	CONDITION OF PREMISES
47	INTERPRETATIONS
48	AUTHORIZED SIGNATORS

LEASE AGREEMENT

1. **PARTIES:** This lease ("Lease") is made between the City of Hesperia ("CITY"), as landlord, and the County of San Bernardino ("COUNTY"), as tenant, who agree as follows:

2. **PREMISES LEASED:** CITY leases to COUNTY and COUNTY leases from CITY 20,102+/- square feet of building, real property, and other improvements located at 9650 7th Avenue, Hesperia, California, 92345, Assessor's Parcel No. 407-271-01 ("Premises"). (See Exhibit "A", Premises.)

3. **TERM:** The Lease's initial term ("Initial Term") shall commence on October 1, 2006, ("Commencement Date") and end at Midnight on September 30, 2026 ("Ending Date").

a. Early Access. CITY shall consider allowing the COUNTY early access ("Early Access") to the Premises at any time prior to the Commencement Date for the purpose of the COUNTY or its representatives installing communications equipment, modular furniture, alarms and such other items that the COUNTY may reasonably desire and to inspect the status of the construction of the improvements for the Premises. COUNTY shall provide CITY with fifteen (15) days notice of its intent to secure Early Access and shall indicate the date, area of Premises, and nature of activities to be performed and provide assurances to CITY that such early access will not unreasonably interfere with CITY's construction of the improvements. If COUNTY totally or partially occupies the Premises under this Early Access provision prior to the Commencement Date, the obligation to pay rent shall be abated for the period of the Early Access. All other terms of this Lease shall, however, be in effect during such period. Any such Early Access shall not affect the Commencement Date or the Ending Date.

b. Reopener. At the end of the second year of the lease, the parties will meet and confer for the purpose of evaluating whether an increase in available CITY, local Library or other revenues would support augmenting library services.

4. **RENT:** COUNTY shall pay to CITY annual rental payments of One and 00/100 Dollars ($1.00) in advance. COUNTY may pay such payments for the entire Initial Term in one lump sum of Twenty Dollars ($20.00).

5. **OPTION TO EXTEND TERM:** CITY gives COUNTY the option to extend the term of the Lease on the same provisions and conditions for two (2) successive five-year periods ("extended terms") following expiration of the Initial Term subject to the following conditions:

a. COUNTY shall give CITY notice of its intention to exercise the option at least 180 days prior to the expiration of the Initial Term and 180 days prior to the expiration of the first extended term in the event COUNTY had exercised its option for the first extended term; and,

b. CITY and COUNTY will meet and confer to review the terms of the Lease prior to the exercise of the option for the first extended term. The requirement to meet and confer requires only that the parties meet to discuss the terms of the Lease and there shall be no obligation to actually agree to modify any of the terms thereto.

6. **RETURN OF PREMISES:** The COUNTY agrees that it will, upon any termination of this Lease, return the Premises in as good condition and repair as the Premises now are or shall hereafter be put; reasonable wear and tear excepted.

7. **HOLDING OVER:** There shall be no holding over of the Lease whatsoever.

8. **TAXES:** CITY shall pay all real property taxes, and general and special assessments levied and assessed against the Premises. COUNTY shall not undertake, sponsor, or support the creation of any general or special assessment(s) that would result in any general or special taxes being levied against the Premises. In the event any additional general or special assessments, or real property taxes levied against the Premises after execution of this Lease, COUNTY will be responsible for payment of all such additional taxes or assessments.

9. **USE:** COUNTY shall occupy and use all portions of the Premises during the term hereof for the purposes of a COUNTY library.

10. **HEALTH, SAFETY AND FIRE CODE REQUIREMENTS:** As a condition precedent to the existence of this Lease, CITY, at its sole expense will ensure that all portions of the Premises meet the applicable requirements of the Health, Safety, Fire and Building Codes for public and governmental buildings, including any requirements for a notice of completion, certificate of occupancy and the Americans with Disabilities Act ("ADA"). Additionally, to the best of CITY's knowledge, CITY's improvements on or in the Premises which have been constructed or installed by CITY or with CITY's consent or at CITY's direction shall comply with all applicable covenants or restrictions of record and applicable building codes, regulations and ordinances in effect on the Commencement Date. CITY also warrants to COUNTY that CITY has no actual knowledge of any claim having been made by any governmental agency that a violation or violations of applicable building codes, regulations, or ordinances exist with regard to the Premises as of the Commencement Date.

11. **COUNTY RESPONSIBILITIES.**

a. Facility. COUNTY shall be responsible for and in control of all portions of the Premises, including meeting rooms, including main reading and collection areas, offices, work areas, public restrooms and computer. Notwithstanding the generality of the preceding sentence, COUNTY shall schedule the use of meeting rooms with CITY; COUNTY uses shall comply with COUNTY meeting room policies, including insurance requirements, as well as with CITY policies. CITY may sponsor use of the community room and computer lab outside of regular public access hours, by providing on-site CITY staff and with prior notice to COUNTY. COUNTY shall provide all custodial services, at its sole expense, including cleanup of meeting rooms following COUNTY-sponsored events.

b. Operations. COUNTY shall be responsible for all library operations and operation of the computer lab, including staffing, materials deliveries and public programming. COUNTY shall provide staffing, service levels, and hours of operation equivalent to other similar-sized communities.

c. Furnishings. COUNTY shall provide specialized moveable furniture including but not limited to paperback, CD, Video and DVD racks, and interior signage. Furnishings shall be new and of equal quality to that existing in Premises as of the Commencement Date.

d. Equipment and Supplies. COUNTY shall provide equipment and supplies equivalent to that provided to other COUNTY Library branches, including fax, photocopiers, book drop, office equipment, etc. COUNTY shall provide public access computers, including a computer lab with not less than twenty (20) personal computers. COUNTY shall be solely responsible for maintenance of its electronic equipment. COUNTY shall provide its own telephone and fax lines. COUNTY shall be responsible for purchase and maintenance of all staff computers. COUNTY shall provide network connectivity for library staff computers and for public access and lab computers, and shall maintain COUNTY-installed data cabling. COUNTY shall maintain intrusion alarm system.

e. Library Materials. COUNTY shall provide and maintain a materials collection proportionate to that provided in other Library branches. COUNTY shall be responsible for materials selection and materials acquired shall meet COUNTY selection criteria. COUNTY shall make available all online databases and information resources available at all other COUNTY libraries.

f. Authority. The COUNTY Librarian shall make the final decision on matters pertaining to Library operations.

g. Security. COUNTY shall provide interior security for the Premises including monitoring of the intrusion alarm system(s).

12. **CITY RESPONSIBILITIES**.

a. Maintenance.

1. Except as specifically provided in **subparagraph 12c**, below, CITY at its cost shall perform such inspections, maintenance and repairs as are necessary to ensure that all portions of the Premises, including but not limited to the following, are at all times in good repair and safe condition, but only to the extent that such facilities, equipment, and improvements were included in the approved construction plans for the Premises:

(a) The structural parts of the building and other improvements that are a part of the Premises, which structural parts include the foundations, bearing and exterior walls (including glass and doors), subflooring, and roof; and,

(b) The electrical, plumbing, and sewage systems, including, without limitation, those portions of the systems owned or controlled by CITY lying outside the Premises; and,

(c) Window frames, gutters, and downspouts on the building and other improvements that are a part of the Premises; and,

(d) Heating, ventilation and air conditioning (HVAC) systems servicing the Premises (additionally, air-conditioning and heating filters are to be changed quarterly); and,

(e) The grounds, including all parking areas and outside lighting, grass, trees, shrubbery and other flora; and,

(f) The fire suppression equipment attached to the facility; and,

b. Without in any way affecting CITY's duty to inspect, maintain and repair the Premises and regardless of whether any specific notice of need for maintenance or repair is provided to CITY by the COUNTY, the COUNTY may request specific maintenance or repairs specified in **Paragraph 12.a**. Any such request may be made orally, by telephone or otherwise. CITY at its own discretion, upon notification of COUNTY, will determine if requested maintenance and repairs are necessary for the discharge of Library operations. Should CITY determine that the maintenance and repairs resulted from intentional or negligent act or omission on the part of the COUNTY, CITY may bill COUNTY for cost of said repairs and maintenance under the same provisions discussed later in this subparagraph. Additionally, the COUNTY agrees to be responsible for interior vandalism. If, (a) COUNTY gives notice to CITY of a condition requiring maintenance or repairs, and CITY does not commence the performance of its maintenance or repair obligations within thirty (30) days of receiving such notice, or does not diligently prosecute its obligations to completion thereafter, or (b) in the case of an emergency, whether or not COUNTY has given notice to CITY, CITY does not immediately perform its obligations, COUNTY can perform the obligations and have the right to be reimbursed for the sum COUNTY actually and reasonably expends (including charges for COUNTY employees and equipment) in the performance of CITY's obligations. The sum expended by COUNTY shall be due from CITY to COUNTY within thirty (30) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate the COUNTY is permitted by law to charge from the date the sum was paid by COUNTY until COUNTY is reimbursed by CITY. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this Lease. COUNTY shall forward to CITY receipts and/or documentation supporting the amount.

c. COUNTY at its cost, shall service the fire extinguishers, provide janitorial services, and keep the interior of the Premises in a clean and orderly condition, reasonable wear and tear excluded.

d. In the event CITY determines a need for major maintenance or capital improvements to the Premises, COUNTY's contribution, if any, is to be negotiated on a case-by-case basis.

e. <u>Equipment and Facilities</u>. CITY shall provide the Library facility, including reading and collection areas, offices, work areas, delivery area, public restrooms, meeting rooms and computer lab only to the extent that such facilities, equipment, and improvements were included in the building plans previously approved by CITY, Office of Library Construction and COUNTY. CITY shall provide exterior signage for the Library facility, and permit COUNTY to place exterior banners with prior approval. CITY shall schedule use of meeting rooms, including library uses, and shall provide onsite CITY staff for meeting room use scheduled after library public hours. CITY shall be responsible for set-up and cleanup of meeting rooms, following CITY-sponsored events.

f. Security. CITY shall provide exterior Premises security as it deems necessary.

g. Authority. CITY Manager or designee shall have the final decision on all matters relating to CITY operations at the facility.

h. Utilities. CITY shall be responsible for paying the operational electrical utility expenses of the Premises in exchange for the COUNTY providing six (6) additional library service hours, including Sunday operations as identified in the Resolution adopted by the San Bernardino County Board of Supervisors on the same date of its approval of this Lease. The CITY's financial obligation shall at no time exceed sixty thousand dollars ($60,000) annually. Should COUNTY reduce the library service hours below the sixty (60) per week threshold the COUNTY shall immediately be responsible for paying the on-going electrical expenses of the Premises.

13. **ALTERATIONS:** COUNTY shall not make any structural or exterior improvements or alterations to the Premises without CITY's consent. Any such alterations shall remain on and be surrendered with the Premises on expiration or termination of the Lease.

14. **FIXTURES:** COUNTY shall have the right during the term(s) of this Lease to install shelving and fixtures, and make interior, non-structural improvements or alterations in the Premises but only after receiving CITY's consent. Fixtures shall be new and of equal quality to that existing in Premises as of the Commencement Date. Such shelving, fixtures, improvements, and alterations shall be remain the property of the COUNTY and may be removed by the COUNTY during the term(s) of this Lease or within a reasonable time thereafter, provided that the COUNTY restores the Premises to the condition as it existed at the commencement of this Lease, reasonable wear and tear excluded, or the COUNTY in its sole discretion may elect to surrender all or any part of such shelving, fixture, improvements and alterations to the CITY, in which case COUNTY shall only have the duty to restore the Premises not affected by the surrendered or aforementioned items. Any such election to surrender must be in writing, and must be accepted by CITY in writing to be effective. CITY, at its sole discretion, may offer to purchase any fixtures not surrendered by COUNTY. The purchase price shall be negotiated amongst the parties. CITY reserves the right to bill COUNTY for the expense of disposing of fixtures abandoned by COUNTY, not previously accepted by CITY. The sum expended by CITY shall be due from COUNTY to CITY within thirty (30) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate the CITY is permitted by law to charge from the date the sum was paid by CITY until CITY is reimbursed by COUNTY.

15. **UTILITIES:** CITY shall furnish to the Premises and COUNTY shall pay all service charges and related taxes for electrical (subject to Sub-Paragraph 12h, Utilities, above) natural gas, water, sewer, trash, cable television, fire alarm service and all other utilities for the Premises and the building housing the Premises. COUNTY shall furnish and pay for its vending machines, its own telephone service including pay telephones, fire extinguisher service, and intrusion alarm monitoring costs.

16. **HOLD HARMLESS:**

a. The CITY agrees to indemnify and hold harmless the COUNTY and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of CITY's obligations under this Lease. The CITY's indemnification obligation shall survive the COUNTY's tenancy. The insurance provisions in **Paragraph 17, INSURANCE**, shall not be interpreted in a manner that limits the indemnification obligation.

b. The COUNTY agrees to indemnify and hold harmless the CITY and its officers, employees, agents and volunteers from any and all risks, claims, actions, losses, damages, and/or liability arising out of the COUNTY's obligations under this Lease. The COUNTY's indemnification obligation shall survive the COUNTY's tenancy. The insurance provisions in **Paragraph 17, INSURANCE**, shall not be interpreted in a manner that limits the indemnification obligation.

c. **General Indemnity**. Except as to the sole negligence, active negligence or willful misconduct of CITY, COUNTY expressly agrees to and shall indemnify, defend, release, and hold the CITY, its officers, officials, agents, servants, employees, volunteers, attorneys and contractors harmless from and against, any claim, liability, loss, damage, entry, cost, or expense (including, but not limited to, attorneys' fees, expert fees, and court costs) which arises out of or is in any way connected with COUNTY's performance under this Lease and/or COUNTY's possession and use of the Premises. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of the employees, volunteers, agents, servants, or subcontractors of COUNTY. The CITY shall not be responsible for any acts, errors or omissions of any person or entity except the CITY and their respective officers, agents, servants, employees, volunteers, or contractors. The Parties expressly agree that the obligations of COUNTY under this Section shall survive the expiration or early termination of the Lease.

d. Furthermore, if the COUNTY or CITY attempts to seek recovery from the other for Workers' Compensation benefits paid to an employee and/or volunteers, the COUNTY and CITY agree that any alleged negligence of the employee and/or volunteers shall not be construed against the employer of that employee and/or volunteers.

17. **INSURANCE:**

a. COUNTY is a public entity and is self-insured.

b. Without in any way affecting the indemnity herein provided and in addition thereto, the COUNTY shall bear all costs to secure and maintain throughout the Lease the following types of insurance with limits as shown against claims for injuries to persons or damages to property. COUNTY shall also impose same insurance requirements listed below on any vendors, suppliers, contractors, etc., that provide goods or services to the Premises. COUNTY may meet its insurance requirements through a State approved self-insurance program:

(1) Workers' Compensation: A program of Workers' Compensation as required by the State of California or a State-approved Self-Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with One Million and 00/100 Dollars ($1,000,000.00) limits, covering all persons providing services on behalf of the COUNTY and all risks to such persons under this agreement.

(2) Comprehensive Office Commercial General and Automobile Liability Insurance: The Automotive Liability coverage to include contractual coverage and automobile liability coverage for owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than One Million and 00/100 Dollars ($1,000,000.00). The Office Commercial General Liability coverage shall have a limit of no less than One Million and 00/100 Dollars ($1,000,000.00) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Premises or the general aggregate shall be twice the required occurrence limit.

The Office Commercial General Liability Policy is to contain, or be endorsed to contain, the following provisions:

(a) The CITY, is officers, officials, employees and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of that part of the Premises leased to COUNTY.

(b) The COUNTY'S insurance coverage shall be primary insurance as respects to the CITY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees or volunteers shall be excess of the COUNTY'S insurance and shall not contribute with it.

(c) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days prior notice has been provided to the CITY.

(3) Fire Insurance: Standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements to the extent of at least ninety percent (90%) of the full replacement value of the Premises.

(4) Property Insurance against all risks of loss to any tenant improvements and betterments including all contents with a minimum limit of full replacement cost with no coinsurance penalty provision.

c. Additional Named Insured: All policies, except for Workers' Compensation, shall contain additional endorsements naming the CITY and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of this agreement.

d. Waiver of Subrogation Rights: COUNTY shall require the carriers of the above required coverages to waive all rights of subrogation against the CITY, its officers, employees, agents, volunteers, contractors and subcontractors arising from this Lease.

COUNTY shall also require that carriers of the above required coverages for any vendors, suppliers, contractors, etc., providing goods and services to the Premises waive all rights of subrogation against the CITY, its officers, employees, agents, volunteers, contractors and subcontractors arising from this Lease.

e. Policies Primary and Non-Contributory: All policies required above to be carried by the COUNTY are to be primary and non-contributory as respects to the CITY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, or volunteers shall be in excess of the COUNTY's insurance and shall not contribute with it.

f. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of the CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the CITY, its officers, officials, employees and volunteers; or the COUNTY shall provide a financial guarantee satisfactory to the CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

g. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to CITY.

h. Proof of Coverage: COUNTY shall immediately furnish original certificates of insurance to CITY, evidencing the insurance coverage and amendatory endorsements effecting coverage required by this clause to occupying the Premises and the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days notice to the CITY, and COUNTY shall maintain such insurance from the time of occupancy and commencement of performance of services hereunder until the completion of such occupancy. Within sixty (60) days of the commencement of this agreement, the COUNTY shall furnish certified copies of the policies and all endorsements. The endorsements should be on forms provided by the CITY or on other than the CITY's forms, provided those endorsements or policies conform to the requirements.

i. Insurance Review: The above insurance requirements are subject to periodic review by the CITY. The CITY's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the CITY. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the CITY, inflation, or any other item reasonably related to the CITY's risk. Any such reduction or waiver for the entire term of the agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this agreement. COUNTY agrees to execute any such amendment within thirty (30) days of receipt.

j. Failure to Have Insurance: In the event CITY receives a notice of cancellation concerning any of the required policies, or should COUNTY fail to have in effect the required coverage at any time during this Lease, CITY may give notice to COUNTY to immediately suspend all COUNTY activities on the Premises and/or notice to reinstate or acquire the affected coverage. Should COUNTY fail to reinstate or acquire the affected coverage within ten (10) days of CITY's notice to reinstate or acquire such coverage, CITY, in its sole discretion, may either; (a) terminate this Lease immediately upon notice to COUNTY, or, (b) reinstate or acquire the affected coverage, in which case COUNTY shall reimburse CITY for the sum paid to reinstate or acquire the coverage. The sum paid by CITY shall be due from COUNTY to CITY within thirty (30) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate the CITY is permitted by law to charge from the date the sum was paid by CITY until CITY is reimbursed by COUNTY. If COUNTY fails to reimburse CITY as required by this paragraph, CITY shall have the right to withhold from future rent due from COUNTY the sum CITY has paid on behalf of the COUNTY until CITY is reimbursed in full for the sum and interest on it. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this Lease or be available to the CITY. CITY shall forward to COUNTY receipts and/or documentation supporting the amount withheld.

k. CITY shall have no liability for any premiums charged for such coverage(s). The inclusion of CITY as additional named insured is not intended to and shall not make it a partner or joint venturer with COUNTY.

18. **DESTRUCTION OF PREMISES:**

a. During the term of this Lease, if any casualty renders a portion of the Premises unusable for the purpose intended, then CITY shall, at CITY's expense, restore the Premises and repair any damages caused by such casualty as soon as reasonably possible and this Lease shall continue in full force and effect. However, in the event CITY, at its sole discretion, determines it is not reasonably possible to rebuild the Premises, the CITY may make the decision to not rebuild the Premises and the Lease will terminate immediately and such termination by CITY shall not be construed as a Default by the CITY pursuant to **Paragraph 19, CITY'S DEFAULT,** of this Lease. Furthermore, COUNTY shall not be entitled to recover any damages as a result of the CITY's decision to not rebuild the Premises other than recovering any shelving, fixtures, or interior nonstructural improvements or alteration made by the COUNTY pursuant to **Paragraph 14, FIXTURES,** of this Lease.

b. In the event there is a destruction of a portion of the Premises as set out in **subparagraph a**, above, and the Lease is not terminated because of such destruction, CITY agrees to use any and all insurance proceeds received for said destruction in the restoration of the Premises. COUNTY shall likewise use any and all insurance proceeds received for destruction of its **Paragraphs 13 and 14, ALTERATIONS and/or FIXTURES**, respectively of this Lease, in the restoration of said improvements.

c. In the event CITY elects to restore the Premises as provided in this paragraph, CITY shall restore, at CITY's expense, any structural or exterior improvements or alterations to the Premises made by COUNTY pursuant to **Paragraph 13, ALTERATIONS**, of this Lease, but only if such improvements and/or alterations are vital to the provision of Library services pursuant to **Paragraph 11, COUNTY RESPONSIBILITIES**, of this Lease. CITY shall not be responsible for restoring any shelving, fixtures, or interior nonstructural improvements or alteration made by the COUNTY pursuant to **Paragraph 14, FIXTURES**, of this Lease.

d. It is the purpose and intent of this paragraph to determine who shall bear the initial responsibility for restoration of the Premises in the event of any such destruction and not to determine the party ultimately responsible for the costs of such restoration.

19. **CITY'S DEFAULT:** Except where another time limit is specifically provided, CITY shall be in default of this Lease if CITY fails or refuses to perform any material provisions of this Lease and such failure or refusal to perform is not cured within thirty (30) days following CITY's receipt of notice of default from COUNTY. If the default cannot reasonably be cured within thirty (30) days, CITY shall not be in default of this Lease if CITY commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default.

20. **COUNTY'S REMEDIES ON CITY'S DEFAULT:** COUNTY, at anytime after CITY is in default, can terminate this Lease immediately upon notice to CITY or can cure the default at CITY's cost. If COUNTY at any time, by reason of CITY's default, pays any sum or does any act that requires the payment of any sum (including charges for COUNTY's employees and equipment), the sum paid by COUNTY shall be due from CITY to COUNTY within thirty (30) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate the COUNTY is permitted by law to charge from the date the sum was paid by COUNTY until COUNTY is reimbursed by CITY. If CITY fails to reimburse COUNTY as required by this paragraph, COUNTY shall have the right to withhold from future rent due the sum COUNTY has paid until COUNTY is reimbursed in full for the sum and interest on it. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this Lease.

21. **COUNTY'S DEFAULT:** The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by COUNTY:

a. The vacating for more than thirty (30) consecutive days or abandonment of the Premises by COUNTY.

b. The failure by COUNTY to perform any material provisions of this Lease to be performed by COUNTY, including the payment of rent, where such failure shall continue for a period of thirty (30) days after notice by CITY to COUNTY; provided, however, that if the nature of COUNTY's default is such that more than thirty (30) days are reasonably required for its cure, then COUNTY shall not be deemed to be in default if COUNTY commences such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. The purpose of this notice requirement is to extend the notice requirements of the unlawful detainer statutes of California.

22. CITY'S REMEDIES ON COUNTY'S DEFAULT:

a. In the event of any default by COUNTY, which is not cured by COUNTY, CITY may, at its election, terminate this Lease by giving COUNTY thirty (30) days notice of termination. The purpose of this notice requirement is to extend the notice requirement of the unlawful detainer statutes of California. On termination of the Lease for default pursuant to this paragraph, CITY shall have the right to recover from the COUNTY including, but not limited to the following amounts for any and all damages, which may be the direct or indirect result of such default:

(1) The worth, at the time of the award, of the unpaid rent that has been earned at the time of termination of this Lease; and,

(2) The worth, at the time of the award, of the amount by which the unpaid rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of rent that CITY proves could not have been reasonably avoided; and,

(3) The worth, at the time of the award, of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that CITY proves could not have been reasonably avoided; and,

(4) Any other amount necessary to compensate CITY for all detriment proximately caused by COUNTY's default which CITY proves could not have been reasonably avoided including CITY paid electrical utility expenses pursuant to **Paragraph 12h** of this Lease and forced insurance coverage provided by CITY pursuant to **Paragraph 17, INSURANCE**, of this Lease.

(5) "The worth, at the time of the award," as used in **subparagraphs a(1) and a(2)** of this paragraph, is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge. "The worth, at the time of the award," as referred to in **subparagraph a(3)** of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

23. **<u>CITY'S ACCESS TO PREMISES:</u>** CITY and its authorized representatives shall have the right to enter the Premises at all times for any of the following purposes:

a. To determine whether the Premises are in good condition; and,

b. To do any necessary maintenance and to make any restoration to the Premises that CITY has the right or obligation to perform; and,

c. To serve, post, or keep posted any notices required by law; and,

d. To post "for sale" signs at any time during the term, to post "for rent" or "for Lease" signs during the last three (3) months of the term; and,

e. To show the Premises to prospective brokers, agents, buyers, tenants, lenders or persons interested in an exchange, at any time during the term.

f. To utilize the community rooms as identified in **Paragraph 12, CITY RESPONSIBILITIES**, of this Lease.

CITY shall conduct its activities on the Premises as allowed in this paragraph in a manner that will cause the least possible inconvenience, annoyance, or disturbance to COUNTY.

24. **NOTICES:**

a. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated two (2) COUNTY working days from the time of mailing if mailed as provided in this paragraph.

CITY's address:	City of Hesperia 9700 7th Avenue Hesperia, CA 92345
COUNTY's address:	County of San Bernardino Real Estate Services Department 825 East Third Street, Room 207 San Bernardino, CA 92415-0832

b. If, at any time after the COUNTY accepts the Premises, the CITY assigns or transfers a non-controlling interest of its rights in the Premises to a third party, CITY must notify COUNTY of its action at least fifteen (15) COUNTY working days prior to completing any such action.

c. If, at any time after the COUNTY accepts the Premises, the CITY assigns or transfers a controlling interest of its rights in the Premises to a third party, CITY must notify COUNTY of its action at least fifteen (15) COUNTY working days prior to completing any such action. The new owner must provide COUNTY with evidence of completion of such action. The parties shall immediately execute an amendment to this Lease stating the change of ownership of the Premises.

(1) Within fifteen (15) COUNTY working days of completing any action which affects a change in the ownership of the Premises, the new owner must provide COUNTY evidence of obtaining insurance in compliance with **Paragraph 17, INSURANCE**.

25. **INCORPORATION OF PRIOR AGREEMENT:** This Lease contains all of the agreements of the parties hereto with respect to any matter covered or mentioned in this Lease, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

26. **WAIVERS:** No waiver by either party of any provisions of this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by either party of the same or any other provisions.

27. **AMENDMENTS:** No provision of this Lease may be amended or added to except by an agreement in writing signed by the parties hereto or their respective successor in interest, expressing by its terms an intention to modify this Lease.

28. **SUCCESSORS:** This Lease shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

29. **SEVERABILITY:** If any word, phrase, clause, sentence, paragraph, section, article, part or portion of this Lease is or shall be invalid for any reason, the same shall be deemed severable from the remainder hereof and shall in no way affect or impair the validity of this Lease or any other portion thereof.

30. **TIME OF ESSENCE:** Time is of the essence of each provision of this Lease which specifies a time within which performance is to occur. In the absence of any specific time for performance, performance may be made within a reasonable time.

31. **QUIET ENJOYMENT:** Subject to the provisions of this Lease and conditioned upon performance of all the provisions to be performed by COUNTY hereunder, CITY shall secure to COUNTY during the Lease term the quiet and peaceful possession of the Premises and all right and privilege appertaining thereto.

32. **PROVISIONS ARE COVENANTS AND CONDITIONS:** All provisions, whether covenants or conditions, on the part of either party shall be deemed to be both covenants and conditions.

33. **CONSENT:** Whenever consent or approval of either party is required that party shall not unreasonably withhold or delay such consent or approval.

34. **EXHIBITS:** All exhibits referred to are attached to this Lease and incorporated by reference.

35. **LAW:** This Lease shall be construed and interpreted in accordance with the laws of the State of California.

36. **VENUE:** The parties acknowledge and agree that this Lease was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Lease will be the San Bernardino District,

San Bernardino County. Each party hereby waives any law or rule of court which would allow them to request or demand a change of venue. If any action or claim concerning this Lease is brought by any third party, the parties hereto agree to use their best efforts to obtain a change of venue to the San Bernardino District, San Bernardino County.

37. **ATTORNEYS' FEES AND COSTS:** If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees. This paragraph shall not apply to those costs and attorneys' fees directly arising from any third party legal action against the COUNTY, including such costs and attorneys' fees payable under **Paragraph 16, HOLD HARMLESS, Paragraph 46, PUBLIC RECORDS DISCLOSURE**, and **Paragraph 45, HAZARDOUS SUBSTANCES**.

38. **RESERVED:**

39. **RIGHT TO TERMINATE LEASE:** The COUNTY and CITY shall have the right to terminate this Lease at any time whenever COUNTY or CITY, in their sole discretion, determine it would be in their best interests to terminate this Lease. Either party shall give the other notice of any termination pursuant to this paragraph at least one hundred eighty (180) days prior to the date of termination. In the event either party terminates this Lease pursuant to this paragraph, the CITY shall have the right to receive from COUNTY only the rent which will have been earned at the date of termination.

40. **CAPTIONS, TABLE OF CONTENTS AND COVER PAGE:** The paragraph captions, table of contents and the cover page of this Lease shall have no effect on its interpretations.

41. **SURVIVAL:** The obligations of the parties which, by their nature, continue beyond the term of this Lease, will survive the termination of this Lease.

42. **FORMER COUNTY OFFICIALS:**

a. CITY agrees to provide or has already provided information on former COUNTY administrative officials (as defined below) who are employed by or represent CITY. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of CITY. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Administrative Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "B", List of Former County Officials.)

b. If during the course of the administration of this Lease, the COUNTY determines that the CITY has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the COUNTY, this Lease may be immediately terminated. If this Lease is terminated according to this provision, the COUNTY is not entitled to pursue any available legal remedies

43. **BROKER'S COMMISSIONS:** CITY is solely responsible for the payment of any commissions to any broker who has negotiated or otherwise provided services in connection with this Lease.

44. **HAZARDOUS SUBSTANCES:**

a. CITY hereby represents and warrants that, to the best of CITY's actual knowledge, information and belief: (i) the Premises have not been exposed to Hazardous Substances and are presently free of all Hazardous Substances; (ii) neither the CITY nor any of the other current tenants, if any, on the property of which the Premises forms a part is in violation or subject to an existing, pending or threatened investigation by any governmental authority under any applicable federal, state or local law, regulation, ordinance or other legislation pertaining to air, water, or soil quality or the handling, transportation, storage, treatment, usage or disposal of Hazardous Substances; (iii) any handling, transportation, storage, treatment or use of toxic or Hazardous Substances to date has been in compliance with applicable laws; and (iv) no reportable use has occurred on the Premises to date, and the soil, groundwater and vapor on or under the Premises is free of Hazardous Substances as of the Commencement Date.

b. CITY shall indemnify, protect, defend and hold COUNTY, its agents and employees and the Premises, harmless from and against any and all losses and/or damages, liabilities, judgments, costs, claims, expenses, penalties, including attorneys' and consultant's fees, arising out of or involving the existence of any Hazardous Substances located in, about or under the Premises prior to the Commencement Date of this Lease. CITY's obligations under this paragraph shall not include the effects of any contamination or injury to person, property or the environment created or suffered by COUNTY, and the cost of investigation, removal, remediation, restoration and/or abatement thereof, provided that CITY proves the COUNTY created or suffered the contamination or injury to person, property or the environment. CITY's obligations under this provision shall survive the expiration or early termination of this Lease. No termination, cancellation or release agreement entered into by COUNTY and CITY shall release CITY from its obligations under this Lease with regard to Hazardous Substances unless specifically agreed to by COUNTY in writing.

c. For the purposes of this paragraph, the following definitions shall apply:

(1) "Hazardous Substance", as used in this Lease, shall mean any product, substance or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either (i) potentially injurious to the public health, safety or welfare, the environment or the Premises; (ii) regulated or monitored by any governmental authority; or (iii) a basis for potential liability of CITY or COUNTY under any applicable statute or common law theory.

(2) "Reportable use" shall mean (i) the installation or use of any above- or below-ground storage tank; (ii) the generation, possession, storage, use, transportation or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with any governmental authority and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable

Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties.

(3) The term "applicable requirements" shall be deemed to refer to all applicable laws, covenants or restrictions of record, building codes, regulations and ordinances.

45. **PUBLIC RECORDS DISCLOSURE:** All information received by the COUNTY from the CITY or any source concerning this Lease, including the Lease itself, may be treated by the COUNTY as public information subject to disclosure under the provisions of the California Public Records Act, Government Code Section 6250 et seq. (the "Public Records Act"). CITY understands that although all materials received by the COUNTY in connection with this Lease are intended for the exclusive use of the COUNTY, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any information which a CITY has reasonably requested COUNTY to hold in confidence is made to the COUNTY, the COUNTY shall notify the CITY of the request and shall thereafter disclose the requested information unless the CITY, within ten (10) days of receiving notice of the disclosure request, requests nondisclosure, provides COUNTY a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the COUNTY harmless in any/all actions brought to require disclosure. CITY waives any and all claims for damages, lost profits, or other injuries of any and all kinds in the event COUNTY fails to notify CITY of any such disclosure request and/or releases any information concerning the contract received from the CITY or any other source.

46. **CONDITION OF PREMISES:** CITY shall deliver the Premises to COUNTY clean and free of debris on the Commencement Date and warrants to COUNTY that the plumbing, electrical systems, fire sprinkler system, lighting, air conditioning and heating systems and loading doors, if any, in the Premises shall be in good operating condition on the Commencement Date.

47. **INTERPRETATIONS:** As this agreement was jointly prepared by both parties, the language in all parts of this agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

* * * * * *

* * * * * *

* * * * * *

* * * * * *

* * * * * *

48. **AUTHORIZED SIGNATORS:** Both parties to this Lease represent that the signators executing this document are fully authorized to enter into this agreement.

END OF LEASE TERMS.

COUNTY OF SAN BERNARDINO

Bill Postmus, Chairman,
Board of Supervisors

Dated: SEP 2 6 2006

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

DENA M. SMITH, Clerk of the Board of Supervisors

BOARD OF SUPERVISORS SAN BERNARDINO COUNTY, CA

By: ______________________
Deputy

Date: SEP 2 6 2006

Approved as to Legal Form:
DENNIS WAGNER, Interim County Counsel

By: ______________________
Deputy

Dated: 9-15-06

CITY: CITY OF HESPERIA

By: ______________________
Tad Honeycutt

Title: Mayor

Dated: Sept 7, 2006

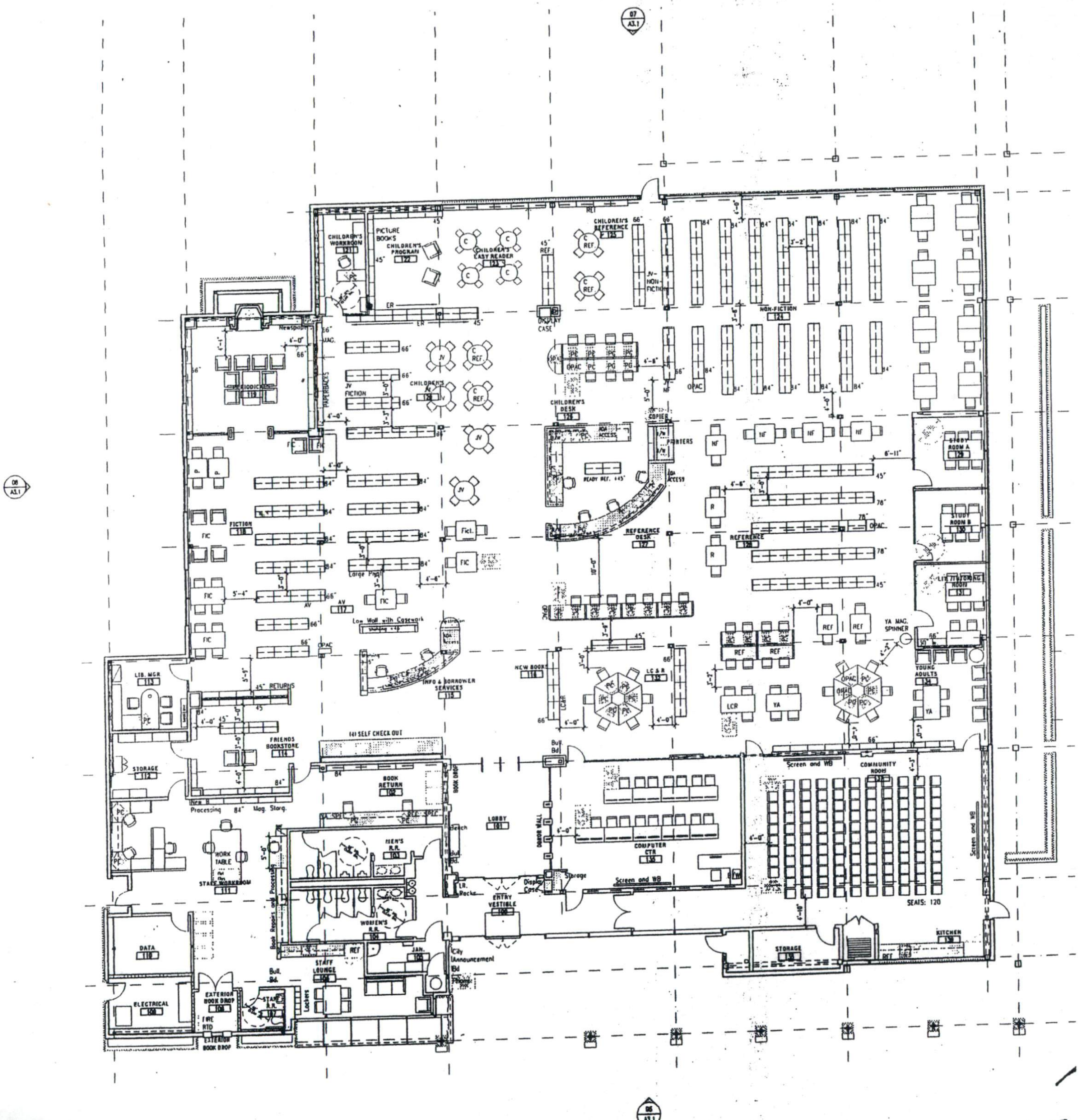
By: ______________________
(Type out name here)

Title: ______________________

Dated: ______________________

EXHIBIT A

Hesperia Branch Library



RESOLUTION NO. 2006-346

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ESTABLISHING PUBLIC SERVICE HOURS FOR THE HESPERIA BRANCH LIBRARY

On September 26, 2006, on motion of Supervisor Biane, duly seconded by Supervisor Hansberger, and carried, the following resolution is adopted:

WHEREAS, on September 26, 2006, the Board approved an agreement with the City of Hesperia to operate the County Branch Library in a facility located at 9650 Seventh Avenue, Hesperia, California; and

WHEREAS, the Hesperia Branch Library is scheduled to begin public service at the new location on October, 14, 2006.

NOW, THEREFORE, BE IT RESOLVED, that the public library service hours at the Hesperia Branch Library, effective October 14, 2006, are as follows:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
10-8 p.m.	10-8 p.m.	10-8 p.m.	10-8 p.m.	10-6 p.m.	9-5 p.m.	1–5 p.m.

PASSED AND ADOPTED by the Board of Supervisors of San Bernardino County, State of California, by the following vote:

AYES:	Supervisors: Postmus, Biane, Hansberger, Ovitt, Gonzales
NOES:	Supervisors: None
ABSENT:	Supervisors: None

* * * *

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, **DENA M. SMITH**, Clerk of the Board of the County of San Bernardino, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of September 26, 2006. Item 28, ml.

DENA M. SMITH
Clerk of the Board of Supervisors

BOARD OF SUPERVISORS COUNTY OF SAN BERNARDINO 1853 SAN BERNARDINO COUNTY, CA

By________________
Deputy