

INTERGOVERNMENTAL AGREEMENT FOR BRANCH LIBRARY

This Intergovernmental Agreement for Branch Library (this “Agreement”) is entered into between Cochise County Library District (the “Library”), and the San Simon Unified School District No. 18 (the “School”) as of the date last signed by both parties and approved by their respective governing board.

This Agreement is made with reference to the following facts:

1. Pursuant to A.R.S. 11-901 et seq., and 48-3801 et seq., the Library is a county free library district.
2. Pursuant to A.R.S. 11-909(A), the Library District has authority to establish branch libraries throughout the Cochise County (the “County”).
3. Pursuant to A.R.S. 15-362(C), the School’s Governing Board may enter into a contract or agreement with the authorities of a County free library or other public library possessing facilities for rendering the desired service for the procurement of other library books or the extension services of such library.
4. Pursuant to A.R.S. 15-1105(B), the School may lease School property for an educational or civic purpose.
5. It is the desire of the parties to enter into an agreement to allow the Library District to use a portion of the School’s buildings for a branch library (the “Branch Library”).
6. The use of a portion of the School's property for a Branch Library is deemed by the School Governing Board to promote the educational function of the School.
7. Pursuant to A.R.S. 11-951 et. seq., both parties are authorized to enter into this Agreement.

Therefore, the parties agree as follows:

Section 1. **License.** The School grants to the Library District the right to use a portion of its buildings for a Branch Library as described in Section 2, which shall be open to all residents of Cochise County.

Section 2. **Space Allotted.** The Library District shall have exclusive use of the Old Schoolhouse and the Teacherage located at 2393 Rock House Road, Portal, Arizona, as set forth in Exhibit A (the “Facilities”). Library District customers, staff, and volunteers will have continuous non-exclusive access to the adjacent restroom during the hours the Branch Library is open.

Section 3. **Term.** This Agreement shall commence _____, 2023. The initial term of this Agreement shall be for four years, and unless terminated by either party, shall be renewed automatically for successive one-year terms.

Section 4. **Utilities.** The School shall provide the Library District with all the necessary utilities, such as gas, electricity, and water, which are needed for the operation of the branch library and restroom.

Section 5. **Equipment, Materials and Supplies.** The Library District shall be responsible for providing necessary furniture, fixtures, and equipment (“Equipment”) for the operation of the Branch Library. The School may, but is not obligated to, provide the Library District with Equipment needed for the operation of the Branch Library, which shall remain property of the School during the term of this Agreement and thereafter. The School may remove such Equipment after giving 30 days’ notice to the Library District. The Library District shall be exclusively responsible for the purchase and maintenance of materials and supplies. All property shall be returned to the original owner upon termination of this Agreement.

Section 6. **Hours of Operation.** The Library District may open the Branch Library to the public on such days and at such times as shall be agreed upon between the Library District and the School.

Section 7. **Volunteers.** It is expressly understood that the Branch Library will be staffed by volunteers, who will be under the direction and supervision of a Branch Manager hired by the Library District. The Branch Manager will provide the School and the Library District with a list of volunteers who will work in the Branch Library. In operating the Branch Library, neither the Library District nor any employee or volunteer of the Library District shall be considered an employee of the School. However, both the Library District and any employee or volunteer of the Library District will at all times conform to any and all laws and School rules and regulations pertaining to the use and occupancy of the School premises. The School shall have the right to require the removal from School premises of any employee or volunteer whose conduct shall be unsatisfactory to the School. Neither party shall be liable for the negligent or tortious acts of the other's volunteers.

Section 8. **Branch Manager.** The Library District will hire a qualified person to perform the functions of Branch Manager. Among other duties, the Branch Manager shall arrange for the Branch Library to be open at all regularly scheduled hours; recruit, train, and supervise volunteers; and act as liaison with the School. The Library District shall invite the School Superintendent or his/her delegate to participate in the interview process when a new Branch Manager is to be hired.

Section 9. **Consideration.** There shall be no exchange of monetary consideration between the Library District and the School in carrying out the provisions of this Agreement. Rather, in consideration for the obligations undertaken by this Agreement, the Library District shall provide, through the Branch Library, books and other materials for the students and faculty of the School and for other residents of the Branch Library community and Cochise County together with other library services, including reference, interlibrary loan, and access to online resources. The Library District will also provide in-service training for volunteer staff and assistance with Branch Library projects.

Section 10. **Financing.** Except as otherwise specifically noted in this Agreement, each party shall be responsible for any financing required to perform its obligations pursuant to this Agreement, and there shall be no exchange of funds between the parties.

Section 11. **Condition of Premises.** The Library District shall keep the School's premises in good and slightly condition, insofar as it may be affected by the Branch Library's operations hereunder. The Library District shall be responsible for routine repairs and maintenance of the Facilities, which shall include repairs, replacements, corrections, and maintenance items to include minor electrical and plumbing repairs, repair and replacement of light fixtures, landscaping and grading, maintenance and repair of the septic system, interior and exterior painting, repair of the roof and flooring, and repair of heating and cooling systems. The Library District will not undertake any major renovations, remodeling, additions, or other capital improvements to the Facilities without prior written agreement from the School.

Section 12. **Indemnification.** The Library District shall indemnify and hold the School, its governing board members, employees and agents harmless from any and all claims for damages of any kind whatsoever including costs and attorney's fees, arising or in any manner occasioned by the negligence or intentional torts of the Library District, its board members, employees and agents, in connection with the Library District's duties under this Agreement, or the Library District's use and occupancy of the School premises. The Library District shall indemnify the School for any acts of a Library District volunteer that cause the School to be liable for damages in connection with injuries occurring on School property.

The School shall indemnify and hold the Library District, its board members, employees and agents harmless from any and all claims for damages of any kind whatsoever, arising or in any manner occasioned by the negligence or intentional torts of the School, its board members, employees and agents, in connection with the School's duties under the Agreement.

The mutual indemnification provisions of this Section shall not apply with respect to the personal or real property of the parties; that is, the Library District and the School hereby waive any and all right to recovery from each other for loss to personal or real property belonging to the parties, or loss of use thereof, howsoever occurring, except that any Branch Library user shall be responsible for the care and return of any item borrowed from the Branch Library, the Library District and the School agree to notify their respective insuring companies of this mutual waiver provision.

Section 13. **Insurance.** The Library District agrees to maintain during the life of this Agreement, general liability insurance reasonably necessary to insure against liability incidental to the duties of the Library District under this agreement, or the Library District's use and occupancy of the School's premises.

It is permissible for the Library District to be a self-insurer as to any required insurance. If the Library District elects to self-insure, any and all losses shall be paid by the Library District to the extent of the Library District's liability for loss, damage or otherwise.

The Library District shall provide the School with proof of liability insurance for its use of School property.

The School shall maintain and provide the Library District with proof of sufficient liability insurance to cover its activities and obligations pursuant to this Agreement.

Section 14. **Assignment.** This Agreement is not assignable, and any attempt to assign any of the rights, duties or obligations of this Agreement is void.

Section 15. **Prior Agreements.** This Agreement shall supersede any prior agreements between the parties with respect to the joint operation of a library.

Section 16. **Termination.** This Agreement may be terminated by either party for any reason by giving 90 days written notice thereof to the other.

Section 17. **Ownership of Property.** Each party shall remain sole owner of any property it owns at the outset of this Agreement or of any property it acquires during the duration of the Agreement; no joint purchase of property is contemplated hereunder.

Section 18. **Choice of Law.** This Agreement shall be construed under the laws of the State of Arizona and shall incorporate by reference all laws governing the mandatory contract provisions of Arizona state agencies required by statute or executive order.

Section 19. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties except for applicable state or federal law governing the relationship between the parties. Any subsequent amendment or addenda to this Agreement. must be in writing and signed by both parties.

Section 20. **Legal Review.** Pursuant to A.R.S. 11-952(D), an attorney for the School and the Library District must review this Agreement.

Section 21. Student Privacy. To the extent the parties interact with student records as a result of this Agreement, all written student records shall be kept confidential in accordance with the Family Rights and Privacy Act (FERPA) and regulations adopted pursuant to that Act, the Reauthorization of the Individuals with Disabilities Education Act (“IDEA”) and regulations adopted thereunder, the Health Insurance Portability and Accountability Act (HIPAA) and regulations adopted thereunder, and applicable school board policies as to the disclosure of personally identifiable information from students’ education records.

Section 22. Non-Discrimination. Pursuant to Executive Order 2009-09, the parties shall comply with all applicable Arizona and Federal employment laws, rules, and regulations which requires that all persons shall have equal access to employment and educational opportunities regardless of race, color, religion, disability, sex (including sexual orientation or gender identity), age, national origin, veteran’s status, genetic code or political affiliation during the term of this Agreement.

Section 23. Cancellation for Conflict of Interest. This Agreement may be canceled pursuant to A.R.S. 38-511, the applicable provisions of which are incorporated herein by reference.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

SAN SIMON UNIFIED SCHOOL
DISTRICT NO. 18

COCHISE COUNTY LIBRARY DISTRICT

 _____

By: Kari Wade
Its: Superintendent
Dated: March 8, 2023

By:
Its:
Dated:

The foregoing Agreement has been reviewed pursuant to A.R.S. 11-952 by the undersigned counsel of the respective parties, who have determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to each of the parties.

For the School

For the Library District

 _____

By: Kari Wade
Dated: March 8, 2023

By:
Dated:

Exhibit A

Facility Description

The Facilities shall consist of the Old School House and the Teacherage located at 2393 Rock House Road, Portal, Arizona, as set forth below.



