

## AGREEMENT

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF HARRIS     §

This Agreement is made and entered into by and between **Harris County** ("County"), a body corporate and politic under the laws of the State of Texas, by and through the Harris County Public Library ("HCPL"), and **Friends of the Stratford Branch Library**, a Texas non-profit organization, hereinafter called "Friends."

### RECITALS:

Friends desires to assist County in providing library services for the general public;

Friends and County have agreed to use a certain portion of Stratford Branch Library, hereinafter called "Library," for the purposes of this Agreement, with such portion being referred to herein as the "Concession Area" and being defined hereinbelow;

The County and Friends desire that Friends use the Concession Area for the display and sale of books, other media, and miscellaneous items, and for other purposes as may be appropriate, in the opinion of County, for fundraising and promotion of literacy;

The sole beneficiaries of the Friends' activities and use of the Concession Area are the County and the community served by the library; and

County is willing to allow Friends to use the Concession Area for the purpose set forth above.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and benefits to the parties hereto, it is agreed as follows:

### TERMS:

#### 1)     **USE OF CONCESSION AREA**

- A)     In consideration of the covenants herein contained on Friends' part to be performed, the County authorizes Friends to use, for the purposes stated in "Recitals" above, during the hours that the hereinabove named Library is open to the public, a portion of the above named Library that has been designated by the Harris County Library Director ("Director"), said portion being herein referred to as the "Concession Area," for a term of five (5) years, beginning on the first day of the calendar month immediately following the calendar month in which this agreement is executed, unless this agreement is prior terminated by one of the parties in accordance with the provisions hereof. At the County's option, this

Agreement may be renewed on the same terms and conditions for an additional five (5) year period ("Renewal Term").

- B) Concession Area will be used only for the purposes stated in "Recitals" above. Friends will post the prices of the items it sells in a conspicuous location within the Concession Area. Nothing herein will be construed to authorize Friends to sell books, or any other item owned by the County.
- C) Friends will deposit all funds it receives from sales into Friends' established bank accounts and will use the funds it receives from the sales only in the furtherance of and for the benefit of the Library.
- D) Friends will keep the Concession Area in a neat, clean and respectable condition at all times during the term of this agreement.
- E) County will establish the times when the Concession Area may be used by Friends and County may post signs stating said hours at or near the Library entrance. Friends will not erect or place any signs in or near the Concession Area without the prior written consent of the Director or Branch Manager.
- F) Friends will not permit in the Concession Area any disorderly conduct or practice in violation of any federal, state or municipal laws, rules, regulations or ordinances or of a sort likely to bring discredit upon Harris County or its governing body. Friends will treat the public with courtesy and respect.
- G) Friends is not obligated to pay utility bills arising from the furnishing of water, sewer, gas and electrical service in connection with the Concession Area, provided that Friends will exercise the same degree of care and economy as would be prudently exercised by a person paying for such utilities.

## **2) OBLIGATIONS OF FRIENDS**

- A) Friends warrants and represents that Friends is, and will remain for the duration of the term of this Agreement, an eligible tax-exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code operating in good standing. Friends will notify Library is their 501(c)(3) status changes.
- B) Friends agree to publicly support the Library and its policies.
- C) Friends agree that any and all monies received by it from sales in the Concession Area or online will be spent exclusively for: 1) library programs, services, and other library-defined needs 2) operational expenses of Friends, 3) other expenditures as agreed to herein or by mutual written agreement of County and Friends.



- D) County agrees that the Friends may use of the name of the Stratford Branch Library in connection with its charitable fund-raising activities. If issues arise concerning use of the name of the Library, the Director shall meet with Friends to resolve issues. County has the right to revoke permission of the use of the name of the Library.
- E) In performing the obligations required of it under the terms of this agreement, Friends will comply with all applicable federal, state, county and city laws, ordinances, rules and regulations.

### 3) **COMPENSATION**

- A) As consideration for the use of the Concession Area, Friends will pay to County, at the office of the County Treasurer, Harris County, Texas, without demand, semi-annual payments based on two percent (2%) of the gross receipts and two percent (2%) of the net online sales. The term "gross receipts," as used herein, includes all money received by Friends, and the market value of all property and services received by Friends upon all sales of personal property of every kind and nature at the Library or through online sales, if applicable. However, "gross receipts" does not include membership fees and bona fide gifts and donations, but includes gifts and donations that are solicited and/or received by Friends based upon any representation (expressed or implied) or pretext that the donor or some third party is, or will be, entitled to any item of personal property or other benefit. The term "net online sales," as used herein, includes all money received by Friends through online sales, less actual cost of online sales, including, to the extent the following items are used exclusively for the operation of online sales conducted in connection with this Agreement, off-site storage facility rental, internet service, product packaging, address label printing and product shipping costs ("Online Sales Deduction"); provided, however, that such Online Sales Deduction will in no event exceed fifty percent (50%) of Friends total sales during the same period. Friends will operate and manage the said sales. Friends understands and agrees that sales may be subject to the Texas Sales and Use Tax and Friends is responsible for properly administering sales.
- B) Friends will compute the amount of the above indicated payments semi-annually and will pay said amounts to the County, without demand, on or before the 30<sup>th</sup> day of each July and January while this agreement is in effect, for the six-month period, or part thereof, immediately preceding the month in which the above indicated payments are payable. If this agreement is terminated or expires at any time other than at the end of a six-month period, the payment for that portion of the six-month period will be due and payable within thirty (30) calendar days after such termination or expiration. All late payments bear interest at the maximum legal rate of interest. The County will use the funds received from Friends pursuant to the terms of this agreement for the maintenance and operation of the Library.

**4) AUDITING RIGHTS AND RECORDS**

Friends shall keep and maintain proper financial books and records of all receipts and disbursements according to generally accepted accounting methods. All financial records shall be kept at all times within Harris County. Friends' financial books and records shall be made available to the County for inspection, copying, and auditing at any time upon the request of the County.

**5) NOTICE**

- A) Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been delivered in person or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or Friends at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To Friends: Friends of the Stratford Branch Library  
509 Stratford St.  
Houston, TX 77562  
Attn: President, HCFOL Stratford Branch

To the County: Harris County  
1001 Preston, 9<sup>th</sup> Floor  
Houston, Texas 77002  
Attn.: County Judge

- B) Either Party may designate a different address by giving the other Party ten (10) days written notice.

**6) TERMINATION AND RENEWAL OPTIONS**

- A) The term of this agreement may be terminated by either party, with or without cause, by giving written notice to the other party at least thirty (30) days prior to the date of termination. Such notice shall be given in accordance with the provisions of Section 5 above. Thirty (30) days after any such notice of termination, this Agreement shall terminate as though that date was originally fixed as the date of termination. Unless this Agreement is terminated by one of the parties in the manner described above, it will continue in effect on a month-to-month basis until



terminated by either party in accordance with the foregoing provision of this Section 6(A).

- B) Upon termination or expiration of the term of this agreement, Friends will quietly yield up and surrender to the County, immediately, possession of the said Concession Area, in as good condition as it is at the commencement of the term of this agreement, and will return to County full control of the Concession Area, County-owned equipment, supplies, funds, accounts, contracts, monies, books, records and files relating to past, current and prospective donors and volunteers, contracts, maintenance, repairs, or otherwise, and all other things, items or information necessary or appropriate to the continuing management, operation and maintenance of the Library. Any property of Friends that is not removed prior to the date of termination becomes the property of the County. Upon the earlier occurrence of the termination of the term of this agreement or the dissolution of Friends, whether voluntary or involuntary, all funds and other assets held by Friends under this contract become the County's property and Friends will deliver same immediately to the County Auditor.

**7) DAMAGES**

Friends hereby acknowledges that County makes no representations or warranties regarding the Concession Area, including Fitness for a Particular Purpose, or Warranty of Title. Friends agrees it is using the Concession Area at its own risk and in its as-is where-is condition. However, should Friends discover that the Concession Area is no longer suitable for its purposes, it may, as its sole and exclusive remedy, terminate this Agreement in accordance with Section 6 above.

**8) NO ASSIGNMENT**

Friends will not assign or transfer this agreement or any right hereunder without the prior written consent of the County by and through the Commissioners Court.

**9) ENTIRE AGREEMENT AND MODIFICATIONS**

This agreement supersedes any and all prior agreements between the parties hereto and contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Modifications concerning this agreement are of no force or effect excepting a modification in writing, signed by all parties hereto.

**[Execution Page Follows]**

FRIENDS OF THE STRATFORD BRANCH  
LIBRARY

By: Cathy L. Sigout  
President, HCFOL Stratford Branch

APPROVED AS TO FORM:

CHRISTIAN D. MENEFE  
County Attorney

HARRIS COUNTY

By: Harrison Long  
Harrison Long  
Assistant County Attorney  
CAO File Number: 25GEN1004

By: \_\_\_\_\_  
Lina Hidalgo, County Judge

ORDER OF COMMISSIONERS COURT  
Authorizing execution of an Agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the \_\_\_\_ day of \_\_\_\_\_, with all members present except \_\_\_\_\_.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AN AGREEMENT WITH FRIENDS OF THE  
STRATFORD BRANCH LIBRARY**

Commissioner \_\_\_\_\_ introduced an order and made a motion that the same be adopted. Commissioner \_\_\_\_\_ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

**IT IS ORDERED** that County Judge Lina Hidalgo be, and she is hereby, authorized to execute for and on behalf of Harris County, an Agreement between Harris County and Friends of the Stratford Branch Library ("Friends") to allow the Friends to use a portion of the Stratford Branch Library as a concession area for the sale of books and other items with proceeds going to the benefit of the Stratford Branch Library. The Agreement is incorporated herein as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.