

5th AMENDED AND RESTATED CONTRACT

THIS 5th AMENDED AND RESTATED CONTRACT, made and entered into this 26 day of SEPT 2013 and to become effective as the 1st-day of July, 2013, by and between the CITY OF WILLIAMSBURG (Williamsburg); the COUNTY OF YORK (York) the COUNTY OF JAMES CITY (James City) (collectively Localities and individually Locality); and the WILLIAMSBURG REGIONAL LIBRARY (Library).

WHEREAS, all parties are desirous of extending the full services of the Library created on May 26, 1977, in accordance with Title 42.1, Chapter 2 of the Code of Virginia of 1950, as amended, to as many of the citizens of Williamsburg, James City and upper York as possible; and,

WHEREAS, the Contract was amended on February 16, 1993, January 14, 1999, June 14, 2001, and July 1, 2006; and

WHEREAS, York desires to become a party to this Contract in order to provide Library services to the citizens of upper York County, to set forth a funding mechanism for the Library and to have a role in the governance of the Library: and

WHEREAS, the parties wish to amend the Contract as set forth below.

NOW, THEREFORE WITNESSETH: That the parties hereto mutually agree as follows:

1. Effective July 1, 2013, the Library shall be operated by a Board of Trustees, (Board), consisting of eleven (11) members (Trustees). Six (6) of the Trustees shall be appointed by James City, four (4) of the Trustees shall be appointed by Williamsburg, and one (1) of the Trustees shall be appointed by York. At least one (1) Trustee from Williamsburg and James City shall be a government representative from senior management of such Locality. The Board shall operate the Library. The terms of office and duties of the Trustees shall be in conformity with the by-laws of the Board and the provisions hereafter set out. Trustees shall continue to serve four (4)-year staggered terms with the Trustee from York appointed for a term commencing July 1, 2013. Trustees shall not serve for more than two (2) consecutive four (4)-year terms, however, after one (1) year off the Board any person may again serve as a Trustee. Should any Locality terminate its participation in the Library or fail to renew this Contract, the term of all Trustees appointed by such Locality shall terminate regardless of whether any time remains on such term.
2. At its January meeting the Board shall adopt a proposed budget for the Fiscal Year beginning July 1 of that year. Immediately thereafter the proposed budget shall be sent to the Chief Administrative Officer for each of the Localities. If any Locality requests, the Library shall present its budget to the governing body of such requesting Locality. In the absence of mutual agreement of the Localities, the Library operating

budget approved for any fiscal year shall not be less than the total operating budget approved for the preceding fiscal year.

3. Library buildings shall be open to the public for periods of time not less than 1:00 p.m. to 5:00 p.m. on Sunday, and 10:00 a.m. to 9:00 p.m. each Monday through Thursday, 10:00 a.m. to 6:00 p.m. on Friday, 10:00 a.m. to 5:00 p.m. on Saturday, except for holidays. These hours may be adjusted by mutual agreement of the parties. Holiday closures shall be determined by the Board.
4. The administrative center for the Library is currently located in the Williamsburg Regional Library building in the City of Williamsburg, which building is owned by the City of Williamsburg. As of the date of the City's signing of this 5th Amended and Restated Agreement the City and the Williamsburg Regional Library (the "Library") are prepared to enter into a separate conditional agreement (the "Stryker Agreement") which contemplates that the City will raze the City's Stryker Building and construct a replacement building that will include certain office and meeting facilities to be occupied by the Library. A copy of the Stryker Agreement is attached hereto and incorporated herein for reference. Should such building be constructed, the Library shall be solely responsible to pay any costs incurred for its moving into and equipping the spaces that it will occupy and use. Said costs shall be separately accounted for and shall not be borne by the Localities without their unanimous mutual consent.
5. Within the confines of the approved budget, the Board shall establish the level of Library card privileges (Card Privileges) to which Locality residents are entitled. Residents of Williamsburg and James City shall be entitled to one hundred percent (100%) of such Card Privileges and residents of York shall be entitled to eighty percent (80%) of such Card Privileges.
6. The Localities shall fund the Library under existing agreement for Fiscal Year 2014. Commencing Fiscal Year 2015, July 1, 2014, and continuing thereafter Localities shall fund the Library as provided below. The Localities shall define all costs of the Library that are not recovered from all other sources as "Local Funds." Subject to appropriations, the Localities agree to contribute Local Funds toward the mutual costs of operating the Library on the basis of circulation by residents of the Localities as follows: 1) The contribution by York shall be eighty percent (80%) of the circulation attributable to York residents multiplied by the amount of Local Funds; and 2) The contribution by Williamsburg and James City shall be the percentage of circulation attributable to its respective residents divided by (the combined circulation of Williamsburg and James City) multiplied by (the amount of Local Funds minus the contribution by York). An example of this funding formula is provided below:

Assumptions: Local Funds = \$100

Circulation by Localities: York = 15%
Williamsburg = 20%
James City = 65%

York's Contribution: $80\% \times 15\% \times \$100 = \$12.00$
Williamsburg's Contribution: $20\% / (65\% + 20\%) \times (\$100 - \$12) = \20.71
James City's Contribution: $65\% / (65\% + 20\%) \times (\$100 - \$12) = \67.29

Total Contribution: $\$12.00 + \$20.71 + \$67.29 = \100 of Local Funds

This calculation shall be based on the last fiscal year, for a twelve (12)-month period. In no case, however, shall the total Local contribution drop below the level of funding approved by the Localities for the previous fiscal year. The Library shall not increase its annual budget by more than five percent (5%) a year without the prior approval of the funding localities. William & Mary students shall be classified by their place of local residence.

7. The Library shall prepare annually a budget which shall include all projected costs of Library operation, including, but not limited to, salaries, employee benefits, employer's contributions to Social Security, liability insurance and workers' compensation, utilities, maintenance of physical plant, furnishings, equipment and Library materials. The Library shall report annually on the total unspent funds at fiscal year end and may retain such funds, from whatever source, and use them for any purpose deemed appropriate by the Board in the best interest of the Library. Nonrecurring savings are encouraged to be used for nonrecurring expenses such as Library materials or capital outlay.
8. Capital items will be defined by the Localities as non-recurring items exceeding \$50,000 and shall be submitted to each locality as a part of its respective Capital Improvement Program (CIP). Capital items include the following: 1) land acquisition or lease purchase agreements; 2) renovation to existing facilities; 3) major additions, or rehabilitation of public buildings; 4) major studies such as engineering, feasibility, etc., related to public facilities; and 5) equipment requirements. Capital Budget submissions will be considered as a proposal submitted to the Locality in which the facility is located if the project involves the existing building envelopes or newly constructed buildings pursuant to paragraph 6, a major structural component or a building system such as an HVAC system. Otherwise, the project will be considered for funding under the same formula as the operating budget. The budget(s) shall be submitted to the Localities for their consideration.
9. Any additional locations, land acquisition capital expansion and renovation of the Library's buildings shall be approved, funded and constructed at the sole expense of the Locality wherein the building is situated. It is understood and agreed that any facilities made available to the Library subsequent to the execution of this Contract shall become a part of the Library and the terms and conditions set forth herein shall apply in total to those facilities. The Locality in which the improvement is located shall be responsible for maintenance of all walkways, parking lots, landscaping and any other site improvements. The Locality will also be directly responsible for maintenance involving the outer shell of the Library building, except that performed

by the Library as noted below. The outer shell is defined to include: roof and roof drainage systems, exterior brickwork, woodwork, metal, stone or their coverings, outside windows and doors, and any portico or other appendage to the building. Unless defined as a capital project per paragraph 5, the Library shall be responsible for repair, component replacement and maintenance of HVAC equipment, including that located outside the building envelope, and for performance of routine and preventive maintenance on the exterior. These items include cleaning of roof drains, replacing light bulbs, lubricating and adjusting doors and door opening systems, security devices, door mats, and other routine and preventive maintenance measures which the parties to this Contract agree in writing to add to this list. During the term of this Contract and any extensions thereof, the Library's occupancy of the existing building and parking areas in any Locality as well as any additions thereto shall be rent free. The Library shall, however, pay all costs of water, sewer, electricity, telephone and other utilities. The Localities shall carry hazard insurance with extended coverage on all Library buildings located in their respective Locality as it deems appropriate. The Library shall also be responsible for maintaining contents coverage on Library materials, fixtures, and equipment in such amount as shall be adequate to cover said items.

10. The Library shall at its expense maintain in force at all times one or more broad form general public liability insurance policies issued by an insurer or insurers qualified to do business in Virginia, having a combined single limit coverage of at least \$5,000,000 for all occurrences, including, but not limited to, employment discrimination claims. Such policy shall name the Localities as additional insureds and shall require thirty (30)- day notice to both additional insureds prior to modification or cancellation. In consultation with the Localities, the Board may set the amount of any deductible (not to exceed \$25,000) and may include legal defense costs in the coverage amount. The first source of payment for the cost of any deductible shall be the Library's operating budget. As to claims in excess of available insurance coverage or not covered by insurance, whether asserted against some or all of the parties, the Localities shall contribute toward the defense of such claims and toward defense thereof on the same basis as provided in paragraph 4 hereinabove, with the date of such determination being as of the beginning of the fiscal year in which the payment is to be made.
11. Each Locality shall transfer, monthly, to the Library one-twelfth (1 1/12th) of its annual appropriation for the operation of the Library. Williamsburg shall account for all Library receipts and disbursements except for salary and benefit costs, and shall provide the Library with a detailed monthly report. Salary and benefit costs will be handled as per Sections 10 and 11 below. In addition to accounting for Library Funds, Williamsburg shall procure professional auditing services, which will be billed directly to the Library each year. In consideration for fiscal agent services, Williamsburg may bill the Library an amount not to exceed one and half percent (1.5%) of the most recently adopted annual operating budget excluding salary and fringe benefit costs. The Library may contract with any Locality, or another provider for support services other than those described above. Excess Library funds will be invested according to the policies of the Board.

12. The Library Director is an employee of the Library and serves at the pleasure of the Board. The Library Director is subject to the recruitment, selection, discipline and termination procedures set forth by the Board. The Library Director will be covered by the applicable benefits outlined in the Benefits Chapter of James City's Personnel Policies and Procedures Manual with the exception of holiday and leave sections. The Library Director's paycheck will be issued by James City. The Library Director shall administer James City's personnel policies with regard to all other Library staff members. As the Chief Administrative Officer of the Library, the Library Director shall be accountable to the Board for the administration of James City's personnel policies. Where a James City department director has authority to make decisions under James City's personnel policies, the Library Director shall have the same authority. Where the James City County Administrator must make decisions under James City's personnel policies, he shall consult with the Library Director on those decisions, and the decisions may be communicated under the Library Director's signature.
13. For all purposes other than personnel policies, Library staff is governed by the strategic plan and operating policies of the Library as set by the Library Director and the Board. For purposes of personnel policies only, Library staff is governed by James City's Personnel Policies and Procedures Manual. The foregoing notwithstanding, the Library Director may establish programs, such as recognition and volunteer programs, exclusively for Library staff. Personnel policies include, but are not limited to, all rules and regulations pertaining to employee recruitment, selection, and discipline, including grievance procedure and terminations. James City shall issue paychecks and maintain employment records for Library staff members. In consideration for these services James City will bill the Library an amount not to exceed one and half percent (1.5%) of the total salary and benefit costs in the most recently adopted annual budget. The monthly transfer of funds by James City under Section 7 of this Contract shall be reduced by the actual payments by James City of salaries and benefits for the Library Director and Library staff members.
14. The term of this Contract shall be from July 1, 2013 to June 30, 2018 and shall continue thereafter until discontinued by appropriate action of any of the Localities. In the event one of the Localities desires to discontinue this Contract, the party desiring to terminate shall give two (2) years' notice in writing to the other party of such intent to terminate the Contract. Such notice when given during any fiscal year shall be deemed given at the end of the current fiscal year so that termination shall become effective at the end of the second fiscal year thereafter. This Contract may be modified, changed, or terminated by the mutual consent of the Localities and the Board without aforesaid notice. At the time of termination of this Contract each jurisdiction shall be entitled to receive a refund of all its funds not then expended, and in addition shall be entitled to a pro rata distribution of the personal property purchased after July 1, 2013, based on its percentage of contribution thereto. Personal property purchased by the Library prior to July 1, 2013 shall be distributed on a pro rata basis between Williamsburg and James City based on their percentage

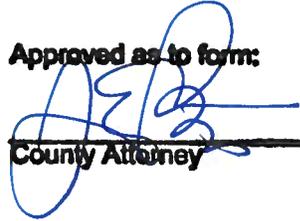
contribution to the Library in fiscal year 2013. It is expressly understood, however, that the present building and any future buildings shall remain the sole property of such Locality in which the building is located.

CITY OF WILLIAMSBURG, VIRGINIA

Date: 6/28/13



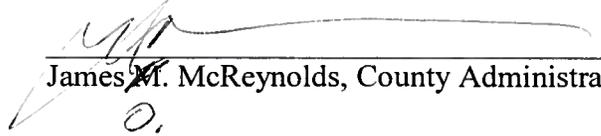
Jackson C. Tuttle, II
City Manager

Approved as to form:


County Attorney

COUNTY OF YORK, VIRGINIA

Date: 9/20/13



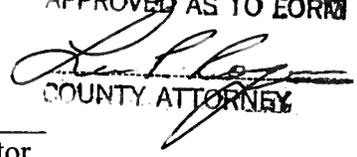
James M. McReynolds, County Administrator

COUNTY OF JAMES CITY, VIRGINIA

Date: 9/26/2013



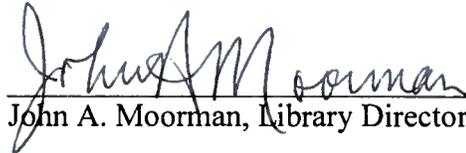
Robert C. Middaugh, County Administrator

APPROVED AS TO FORM


COUNTY ATTORNEY

WILLIAMSBURG REGIONAL LIBRARY

Date: 9/25/2013



John A. Moorman, Library Director