

## **MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** (the “MOU”) is made and entered into this day 15<sup>th</sup> day of February 2018 by and between the Williamsburg Regional Library (“the Library”) and the **FRIENDS OF WILLIAMSBURG REGIONAL LIBRARY FOUNDATION** (“the Foundation”), The Library and the Foundation are entering into this Memorandum of Understanding to describe the manner in which the parties will collaborate and provide assistance to one another for the benefit of the Williamsburg Regional Library (the “Library”).

### **RECITALS**

- A. The Library is an independent regional agency established under the Virginia Code § 42.1-37, as amended, as a joint venture by James City County, the City of Williamsburg, and York County. The Library is governed by a board, whose members are appointed by the three jurisdictions according to the contract among them. The Library’s mission is “to inform, enrich, and strengthen our community. The City of Williamsburg, James City County, and York County value our work and fund the Library as a basic service for their residents.”
- B. The Foundation was formed: (1) to create public interest in and greater use of the Library; (2) to develop, administer, and allocate funds to provide the extra margin of excellence for the Library by enhancing existing public support for the Library; and (3) to sponsor cultural and related programs tied to the mission of the Foundation.
- C. The Foundation operates as a tax-exempt non-profit corporation under Section 501(c)(3) of the United States Internal Revenue Code and the Nonstock Corporation Act of the Commonwealth of Virginia, Virginia Code § 13.1-801, *et seq.*
- D. The Library has provided and, subject to adequate staffing and funding, will continue to provide assistance to the Foundation to facilitate the Foundation’s operation, endowment growth, and the fulfillment of its stated mission.

### **TERMS**

**NOW, THEREFORE**, the Library and the Foundation agree as follows, to the extent practical and feasible:

1. Library Responsibilities. The Library agrees to provide the following assistance to the Foundation:

- A. Assistance in Administrative Services and Maintenance of Financial Records. The Library will manage the Foundation's cash management, accounting, and financial reporting. The Foundation retains the right to determine the banking and investment institutions used in support of its activities. The Library, subject to alteration by mutual consent, will provide professional services as follows:
- i. Daily accounting for revenues and donations;
  - ii. Monthly accounting of grants and other expenditures;
  - iii. Monthly billing and revenue bank transfers between accounts;
  - iv. Monthly treasurer reports and bank reconciliations;
  - v. Annual insurance review and payment processing;
  - vi. Annual audit preparation and review of audited financial statements and IRS Form 990;
  - vii. Support of annual book sale activities, including cashiering proceeds summary, membership entry, etc.;
  - viii. Provision of purchasing and payment processing for supplies and grant related expenditures; and
  - ix. Mail services, such as postage metering, printing, and folding.
- B. Support in Fundraising, Research, and Recordkeeping. The Library, subject to alteration by mutual consent, will provide a development officer to support fundraising activities as follows:
- i. Host and maintain Foundation membership database, online giving portal, and webpage;
  - ii. Host and maintain Foundation donor database (gift entry, thank you notes, donor recognition, annual appeal, all gift reporting, and donor stewardship);
  - iii. Update Foundation organization profile in appropriate locations;
  - iv. Assist in the organization of volunteer and Foundation special events;
  - v. Assist the officers of the Foundation in preparing agenda, revising minutes, communicating with the Foundation board, consulting with officers, advising on governing documents, and attending committee and Foundation board meetings as assigned;
  - vi. Assist as point of contact for Foundation business; and
  - vii. Research grant and donor opportunities and assist in grant preparation.
- C. Publicity and Marketing
- i. The Library will provide staff to collaborate on and assist with marketing and publicity for Foundation events and fundraising efforts.
  - ii. The Library will provide space on the Library website ([www.wrl.org](http://www.wrl.org)) for content provided by the Foundation or link to the Foundation's website from the Library's homepage.

2. Foundation Responsibilities. The Foundation will provide the following assistance to the Library:
  - A. Charges to the Foundation. The Foundation will be responsible for direct operating expenses relating to all its activities, including but not limited to the costs of postage (metered by the Library), large copy jobs, and consumable office supplies. The Foundation will pay a discounted annual fee to the Library of at least \$4,000.00 per year for financial and administrative services, some of which are enumerated above (see 1.A and 1.B). The fee amount will be reviewed annually and the parties will mutually determine whether additional fees should be paid in excess of the minimum base amount of \$4,000.00 per year.
  - B. Foundation Board of Directors. In compliance with its bylaws, the Foundation will recruit and maintain sufficient board members to conduct its activities, to chair and fill its committee structure, and to fulfill the organization's mission to provide funds for the Library to achieve an extra margin of excellence.
  - C. Ongoing Activities. The Foundation will conduct, supervise, and support all book sale operations and volunteer activities sponsored by the Foundation. The Foundation will continue, to the best of its ability, to maintain the current levels of annual financial support to the Library funded by earned income from investments, book sales, and fundraising activities to be awarded to the Library through the grant process.
  - D. Advocacy and Support. The Foundation will support the goals and objectives of the Library's mission and strategic plan, as well as the vision, priorities, and policies set forth by the Board of Trustees of the Williamsburg Regional Library. Foundation members will be informed advocates for public libraries.
  - E. Compliance with Legal and Regulatory Requirements. The Foundation will engage in an annual financial audit utilizing the audit firm that provides service to the Library to avoid duplication of audit services. The Foundation will maintain insurance coverage including Directors and Officers liability. The Foundation board of directors will prepare necessary government reports at its own expense, including IRS Form 990, and comply with the Foundation's articles of organization/incorporation, bylaws, and applicable federal and state laws and regulations, including those of the State Corporation Commission.
3. Process for Collaboration. The Library and the Foundation will work to develop and maintain an ongoing collaborative relationship, and together actively seek out opportunities to support and build awareness of the Library and the Foundation in the community.

- A. The Library and the Foundation will engage in an ongoing dialogue to facilitate communication and collaboration on strategic priorities, funding needs, fundraising, and financial reporting.
- B. The Foundation will continue to have representation in the Library's strategic planning process.
- C. The chair of the Library board of trustees and the library director will serve as non-voting ex-officio members of the Foundation board of directors and may attend meetings and provide updates. The library director will serve as the liaison to the executive committee and may assign a library liaison to serve on each of the Foundation's committees, including governance, finance, membership, marketing, book sales, and major donor.
- D. The library director will provide periodic presentations and information sessions to the Foundation board or general membership.
- E. The president of the Foundation board will serve as a non-voting ex-officio member of the library board of trustees and may attend meetings, and provide updates.
- F. The library director and the Foundation will reach mutual agreement about the sustainability of programs or projects before the Foundation begins fundraising for specific programs or projects.
  - i. The Foundation recognizes that, given the Library's ongoing unpredictable budget environment, the Library cannot make commitments for future funding; however, the library director will make every effort to ensure that a Foundation-funded program or project will continue as planned, assess all projects and services annually, and provide feedback to the Foundation regarding ongoing funding requests.
  - ii. It is understood that, should a project or program funded by the Foundation fails to achieve the results established by mutual consent with the Library at the time of funding, the Foundation reserves the right, after consultation with the library director, to remove the funding for the program or project.
  - iii. Additionally, if a program or project funded by the Foundation fails to achieve the results established by mutual consent with the Board, the library director reserves the right to cancel the program or project, after consultation with the Foundation.

4. Fundraising.

- A. The Library recognizes the Foundation as its sole, private fundraising organization to provide funding to the Library to supplement governmental support. The Foundation funds enhance, but do not supplant, public funding.
- B. The Foundation will be the legal recipient for all charitable donations, bequests, and significant in-kind gifts to the Library. The Foundation's unrestricted assets raised for the Library are held for the benefit of the Library, and shall be used by the Foundation at the discretion of the Foundation board to support the mission of the Library through support of library collections, programs, facilities, services, technology, staff development, and advocacy. Unrestricted assets will also be used to provide support for the Foundation's fundraising activities and development on behalf of the Library.
- C. The Foundation's restricted gifts raised for the Library are held for the benefit of the Library, and shall be disbursed at the discretion of the Foundation board, consistent with the donor's wishes. Restricted gifts, with conditions that obligate the Library, will not be accepted by the Foundation without the library director's consent. The Library and the Foundation maintain the right to refuse funds if the funds are designated for purposes that are inconsistent with the Library's and the Foundation's mission and priorities.
- D. The Library will notify and deposit with the Foundation any donations made directly to the Library so that the Foundation can ensure the donation is recorded in its database and the proper acknowledgement is sent to the donor.
- E. The Library will not commit the Foundation to fundraising activities or financial commitment without the express consent of the Foundation board of directors.
- F. Funding requests will be presented by the library director to the Foundation. The Foundation will process the requests, following the Foundation's procedures.
- G. All naming opportunities associated with gifts to the Foundation must be approved in advance by the library director.

5. Library Grant-seeking and Fundraising Authority. Noting the Foundation's role as the Library's sole, private fundraising organization, the Board of Trustees of the Williamsburg Regional Library retains full legal authority as the governing body of the Library to pursue, on occasion, its own fundraising opportunities, fundraising partnerships, grants, and gifts that benefit the Library's mission, priorities, and goals, in addition to those priorities and gifts that are met by Foundation funding. However, in pursuing such funding, the library director

will consult with the Foundation, initially and periodically, in order to ensure a unified approach.

6. Library Financial Practices. Any funds the Library accepts from the Foundation will be tracked separately from public funds. The Foundation recognizes that per the contract for library services, the Library is bound by the City of Williamsburg (Library's fiscal agent) financial and budget policies and procedures. The City of Williamsburg's financial budget policies and procedures are based on government budgeting best practices set forth by the accepted accounting standards (GAAP), General Accounting Standards Board, the Government Financial Officers Association, and Virginia budget law.
7. Foundation Financial Practices. The Library recognizes the Foundation is bound by the laws of the Commonwealth of Virginia and federal laws governing tax-exempt organizations, Foundation board policies, and by its representations to its donors.
8. Foundation Fund Management. The Foundation will manage the proceeds of the Foundation according to its bylaws, gift acceptance policy, and spending and investment policies, in order to ensure that all funds not needed for expenses and funding requests are used to support the Library. The parties agree that the Foundation will continue to contract with an investment services provider for investment and reporting services relating to all such funds. The Foundation will develop an investment policy statement governing its diversified asset allocations, spending rate and other prudent policies.
9. Disbursements to the Library. The Foundation has raised, and shall continue to raise, funds for providing an extra margin of excellence for the Library.
  - A. Endowment (including Perpetual Book Funds). The Foundation board will establish an annual or semi-annual disbursement to the Library for library collections, programs, facilities, services, technology, staff development, and advocacy, equal to a percentage of the Foundation's assets as determined by the Foundation with input from the library director consistent with the Foundation's investment policy statement and, in the case of Perpetual Book Funds and permanently restricted funds, the donors' wishes.
  - B. Earned Revenue. Unrestricted income will be used first to pay the Foundation's expenses and then gifted to the Library according to the Foundation's policies and procedures.
  - C. Special Project Campaigns. The Foundation, through the proceeds of supplemental fundraising campaigns, may provide support to the library for special projects.

10. Confidentiality. The Library, a public entity, is subject to public records and public meetings laws, among other federal, state, and local laws. The Foundation, as a private entity, is not bound by such legal and regulatory requirements are committed to donor confidentiality and the privacy of Foundation business. Accordingly, in undertaking their mutual obligations as stated herein, both entities will protect that confidentiality to the fullest extent allowed by law. The Foundation will implement procedures to safeguard the confidentiality of its operations and the privacy of its donors.
11. Miscellaneous Provisions.
  - A. Annual Review and Amendment of Agreement. The Library and Foundation agree that the MOU shall begin February 2018 and shall continue thereafter for successive three (3) year periods. This MOU may be amended in writing by mutual consent of both parties.
  - B. Termination of Agreement. This MOU may be terminated by either party with twelve months prior written notice, in which event the parties will negotiate a new Memorandum of Understanding consistent with the Library's mission and the Foundation's mission.
  - C. Dissolution Clause. The Foundation assures that funds designated to the Library will be available to the Library should the Foundation dissolve or change its mission. The Foundation's organizing documents shall continue to include provisions mandating that in the event of its dissolution or winding up of its affairs, the Foundation's board of directors, after paying or making provision to pay all of the debts or obligations of the Foundation, shall ensure all assets are transferred to the Library.
  - D. Governing Law. The MOU shall be governed by the laws of the Commonwealth of Virginia.

*[signatures on following page]*



**IN WITNESS WHEREOF**, the parties have hereunto set their hands:

**BOARD OF TRUSTEES OF THE WILLIAMSBURG REGIONAL LIBRARY**

By: Natale Miller Moore 2/14/18  
Name: Natale Miller Moore Date  
Title: Chair of Board of Trustees

**FRIENDS OF WILLIAMSBURG REGIONAL LIBRARY FOUNDATION**

By: W. Samuel Sadler 2/2/18  
Name: W. Samuel Sadler Date  
Title: President of Board of Directors