

READING FILE

THIS **4th AMENDED AND RESTATED** CONTRACT, made and entered into this ~~14th~~ **1ST** day of ~~January, 1999~~ **July, 2006**, by and between the CITY OF WILLIAMSBURG, (CITY); the COUNTY OF JAMES CITY, (COUNTY); and the WILLIAMSBURG REGIONAL LIBRARY ~~SYSTEM~~, (LIBRARY).

WHEREAS, all parties are desirous of extending the full services of, ~~T~~ the ~~Williamsburg Regional Library~~ **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 both the ~~City~~ **CITY** and the ~~County~~ **COUNTY** as possible; and,

WHEREAS, the Contract was amended by the parties on February 16, 1993, January 14, 1999 and June 14, 2001; 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, 2006, T~~the LIBRARY shall be operated by a Board of Trustees, ~~(TRUSTEES) (BOARD)~~, consisting of ~~seven (7)~~ **nine (9)** members ~~(TRUSTEES)~~. ~~The CITY shall appoint three (3) Trustees, effective July 1, 1999, and the COUNTY shall appoint four (4) Trustees in conformity with Section 42.1-35 of the State Code. The Trustees shall operate the LIBRARY. The terms of office and duties of the Trustees shall be in conformity with the law and the provisions hereafter set out. Five (5) of the TRUSTEES shall be appointed by the COUNTY and four (4) of the TRUSTEES shall be appointed by the CITY. One TRUSTEE from the COUNTY and the CITY shall serve as a government representative from senior management. The TRUSTEES 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. In order to achieve staggered terms of the TRUSTEES, the one (1) additional TRUSTEE appointed by the COUNTY in July 2006, shall serve a four-year (4) term. The additional TRUSTEE appointed by the CITY in July 2006 shall be appointed to a one-year (1) term. Such TRUSTEE shall be eligible to serve two (2) consecutive additional four-year (4) terms. TRUSTEES shall not serve for more than two (2) consecutive four-year (4) terms.~~
2. ~~Prior to January 15 of each year, the LIBRARY shall provide a budget request for the following fiscal year to the City Manager and the County Administrator. The budget request shall include estimates of all revenues, from whatever source, and all expected expenditures for the following fiscal year. At its January Board 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 CITY Manager and COUNTY Administrator. If either the CITY or the COUNTY requests, the LIBRARY shall make presentation of the present its budget to the requesting locality. In the absence of mutual agreement of the CITY and the COUNTY, 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. The library building situated in the City of Williamsburg shall be the administrative center for the ~~regional library system~~ LIBRARY. ~~The library building situated in the City, and all branch libraries, shall be open to the public for periods of time not less than from 1:00 p.m. to 5:00 p.m. on Sundays, and from 10:00 a.m. to 9:00 p.m. each day Monday through Thursday, 10 a.m. to 6 p.m., on Friday, 10 a.m. to 5 p. m., on Saturday, except for holidays. A list of holiday closures shall be prepared by the LIBRARY, in consultation with the City Manager and County Administrator. 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 Sundays, 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 to this Contract. Holiday closures shall be determined by the BOARD.~~

4. ~~For the fiscal year beginning July 1, 1999, t~~The CITY and the COUNTY shall define all costs of the LIBRARY that are not recovered from all other sources as "~~Local f~~Funds." ~~For the 2000 fiscal year and thereafter Subject to appropriations,~~ the CITY and the COUNTY agree to contribute ~~l~~Local ~~f~~Funds toward the mutual costs of operating the ~~library~~ LIBRARY on the basis of circulation by residency. This calculation shall be based on the last fiscal year, for a twelve-month period. In no case, however, shall either the CITY or the COUNTY local funds drop below the level of funding approved by the City Council and/or the Board of Supervisors for the previous fiscal year. ~~In Fiscal Year 2000, the first \$60,880 of local costs shall be paid by the CITY to correct for an error in funding allocations for Fiscal Year 1999. Thereafter, the contributions of both the CITY and the COUNTY will be on the basis of circulation by residency.~~ William and & Mary students shall be classified by their place of residence. 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, ~~L~~iability ~~I~~nsurance and ~~W~~orkers' ~~C~~ompensation, utilities, maintenance of physical plant, ~~and~~ furnishings ~~and acquisition costs~~ furnishings, equipment and ~~books~~ library materials. ~~Equipment requirements in excess of \$50,000 and facility renovation and/or improvement projects, defined as capital costs by the CITY and the COUNTY, shall be submitted to each locality as part of its respective Capital Improvement Program (CIP). Capital costs include the following: 1) land acquisition or lease; 2) inclusion in the public facilities plan; 3) acquisition or improvement of property exceeding \$50,000; 4) major additions or rehabilitation to public buildings exceeding \$50,000; 5) major studies such as engineering, feasibility, etc., related to public facilities; and 6) equipment requirements exceeding \$50,000, either individually or in one aggregate purchase. Capital Budget submissions will be considered as a proposal submitted to the locality in which the facility is located if the project involves the building envelope, 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 both the CITY and the COUNTY for consideration.~~
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 LIBRARY TRUSTEES in the best interest of the LIBRARY.
Nonrecurring savings are encouraged to be used for nonrecurring expenses such as ~~books library materials and other material for the collection~~ or capital outlay.

5. Capital items will be defined by both the CITY and the COUNTY 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 both the CITY and the COUNTY for consideration.

~~56.~~ Any additional locations, land acquisition capital expansion and/or renovation of the ~~regional library system~~ LIBRARY 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 ~~document~~ Contract shall become a part of the LIBRARY system 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 ~~and~~ any other site improvements. The locality will also be directly responsible for maintenance involving the outer shell of the ~~library~~ LIBRARY building, except that performed by the ~~library~~ LIBRARY as noted below. The outer shell is defined to include: roof and roof drainage systems, exterior brickwork, woodwork, metal, stone or other coverings, outside windows and doors, and any portico or other appendage to the building. Unless defined as a capital project per paragraph 4-5, 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 (~~signatory to the this eContract~~) agree in writing to add to this list. During the term of this ~~Agreement~~ Contract and any extensions thereof, the LIBRARY'S occupancy of the existing library building and parking areas in both the CITY and the COUNTY 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. ~~and shall further, at its expense maintain in force at all times a broad form general public liability insurance policy issued by an insurer qualified to do business in Virginia, having a single limit coverage of at least \$3,000,000.00 for all occurrences.~~

~~Such policy shall name the CITY and the COUNTY as additional insureds and shall require 30 days notice to both additional insureds prior to modification or cancellation.~~ The CITY and the COUNTY shall carry hazard insurance with extended coverage on all ~~library~~ LIBRARY buildings located in their respective localities as they deem appropriate. The LIBRARY shall also be responsible for maintaining contents coverage on ~~books~~ library materials, fixtures, and equipment such amount as shall be adequate to cover said items.

7. 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 CITY and the COUNTY as additional insureds and shall require 30 days notice to both additional insureds prior to modification or cancellation. There shall be no deductibles and legal defense costs may be included in the coverage amount. As to claims in excess of available insurance coverage or not covered by insurance, whether asserted against some or all of the parties, the CITY and the COUNTY 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.

~~68. The custody of all funds to which the library is entitled shall be held by the CITY.~~ Each locality shall transfer, monthly, to the CITY, one-twelfth of its annual appropriation for the operation of ~~said library system~~ the LIBRARY. The CITY 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 9 and 10 below. The CITY shall also provide financial support services Such as auditing, treasury, and insurance.~~ In addition to accounting for LIBRARY Funds, the CITY shall procure professional auditing services, which will be billed directly to the LIBRARY each year. In consideration for these services, the CITY may bill the LIBRARY ~~a reasonable~~ an amount ~~that is~~ not to exceed 1.5 percent of the most recently adopted annual operating budget excluding salary and fringe benefits costs. ~~and may further bill the LIBRARY for the cost off any annual audit performed by an independent auditor.~~ The LIBRARY may contract with the CITY, the COUNTY, or another provider for support services other than those described above. ~~Excess LIBRARY funds will be invested according to the policies of the BOARD.~~

9. 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 the COUNTY'S Personnel Policies and Procedures Manual with the exception of holiday and leave sections. The Library Director's paycheck will be issued by the COUNTY. The Library Director shall administer COUNTY 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 COUNTY personnel policies.

Where a COUNTY department manager has authority to make decisions under the COUNTY personnel policies, the Library Director shall have the same authority. Where the County Administrator must make decisions under the COUNTY personnel policies, he shall consult with the Library Director on those decisions, and the decisions may be communicated under the Library Director's signature.

~~710. All employees of the LIBRARY, with the exception of the Library Director, shall be included in the compensation plan, personnel policies, and benefit programs of the COUNTY in order to treat all locally funded personnel equitably. The compensation plan shall include salary and all considerations relevant thereto. 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 the COUNTY'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, policies, and safeguards involved with or pertaining to employee recruitment, selection, and discipline, including grievance procedure, and terminations. The COUNTY shall also issues paychecks and maintains leave records for LIBRARY employees staff members. In consideration for these services, the COUNTY may will bill the library a reasonable LIBRARY an amount that is not to exceed 1.5 percent of the total salary and fringe benefit costs in the most recently adopted annual budget. The monthly transfer of funds by the County COUNTY under Section 67 of this agreement Contract shall be reduced by the actual payments by the County COUNTY of salaries and benefits for the LIBRARY Director and Library LIBRARY employees staff members. In addition, an existing full time position with personnel experience may report to the James City County Human Resource Manager for up to 20 hours per week. The Library Director will not be bound by County personnel policies and procedures. The Director, however, shall follow County personnel policies with regards to other Library employees including their selection and termination. The Library Director will be covered by the applicable benefits outlined in the Benefits Chapter of the County's Personnel Policies and Procedures Manual, with the exception of holiday and leave sections. The Library Director will be held accountable for the execution of the duties of the office by the Library Board which may set standards and guidelines for the Director.~~

811. The term of this contract shall be from July 1, 19992006, to June 30, 2004 2011, and shall continue thereafter from year to year until discontinued by appropriate action of any either the CITY or the COUNTY. ~~The parties agree that this agreement will be reviewed every five years.~~ In the event either the CITY or the COUNTY desires to discontinue this agreement Contract, the party desiring to terminate shall give ~~too~~ two years notice in writing to the other party of such intent to terminate the agreement 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 terminated, modified or, changed, terminated by the mutual consent of the CITY and the COUNTY and the BOARD without the aforesaid

notice. At the time of termination of this eContract 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 tangible personal property purchased during the operation of the LIBRARY, based on its percentage of contribution thereto. It is expressly understood, however, that the present building or any future buildings in the CITY shall remain the sole property of the CITY and that all tangible personal property owned by the CITY on May 26, 1977, or funded exclusively by the CITY shall remain the sole property of the CITY. It is further understood that buildings situated in ~~and~~ or owned by the COUNTY and used for the purpose of operations of the ~~regional library~~ LIBRARY shall remain the property of the COUNTY ~~and that all tangible personal property funded exclusively by the County shall remain the sole property of the County.~~

~~9. This contract is in conformity with Title 42.1, Chapter 2 of the Code of Virginia of 1950, as amended, commonly cited as Virginia Code Sections 42.1-33 to 42.1-45 inclusive.~~

Amended ~~June~~ July 20046