

MEMORANDUM OF UNDERSTANDING

THIS AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING (the Agreement) is made and entered into this ___ day of _____, 2017 by and between the BOARD OF DIRECTORS OF THE AUGUSTA COUNTY LIBRARY (“the Library”) and the AUGUSTA COUNTY LIBRARY FOUNDATION BOARD OF DIRECTORS (“the Foundation”), a Virginia non-profit corporation exempt from taxation pursuant to Internal Revenue Code section 501(c)(3), both parties of Fishersville, Virginia.

Recitals

A. The Foundation was formed in 2008 to “establish an endowment that would be used for the benefit of the collections and programs of the Augusta County Library, and to engage in other activities that assist the Augusta County Library in fulfilling its mission of serving the residents of Augusta County.”

B. Consistent with its stated mission, the Foundation provides financial support through its operations for the benefit of the Library.

C. The Library has provided and will, subject to adequate funding approved by the board of county commissioners, continue to provide assistance to the Foundation to facilitate its operation and the fulfillment of its stated mission.

Agreements

NOW, THEREFORE, the Library and the Foundation agree as follows, subject to the continued approval of sufficient funding for these purposes by the board of county commissioners:

I. OPERATIONS

1.0 Office space. The Library will furnish space at the Fishersville Library sufficient to operate the Foundation. The Foundation will comply with Library policies in its usage of such space.

2.0 Computer usage; office equipment; Foundation website. The Library will furnish the Foundation a computer, basic IT services, telephones and reasonable usage of office equipment, such as copiers and fax. The Library will also maintain the Foundation website, with the understanding that the Foundation will be responsible for submitting changes and updates to the Library’s website team in a timely fashion.

3.0 Assistance in financial reporting and maintenance of fundraising records. The Library will assist in the Foundation’s cash management, accounting and financial reporting. The Library will own and provide software to manage Foundation fundraising records and will assist with data processing of those records.

4.0 Marketing and volunteer activities. The Library marketing staff and volunteer coordinator will assist the Foundation with marketing and volunteer support, as needed.

5.0 Personnel.

6.0 Charges to Foundation. In recognition of the support provided to the Library by the Foundation, the Library will not charge the Foundation rent for the space it provides pursuant to section 1.0 or for the services described in sections 2.0 through 5.0 of this Agreement. The Foundation will be responsible for operating expenses relating to fundraising activities, including the costs of postage, large copy jobs, and consumable office supplies used in those activities, including pens, presentation folders, notebooks, card stock, and printing costs.

II. FOUNDATION RESPONSIBILITIES

7.0 Foundation Board of Directors. In compliance with its bylaws, the Foundation will recruit sufficient Board members to conduct its activities and to fulfill the organization's mission.

8.0 Compliance with legal and regulatory requirements. The Foundation will engage in an annual audit and prepare necessary government reports at its own expense, including Form 990 and an Annual Report. The Board will comply with the Foundation's articles of organization, bylaws, and applicable federal and state laws and regulations. The Executive Director will consult with the County Librarian on all matters pertaining to such compliance.

III. FUNDRAISING AND GRANTMAKING

9.0 Restricted, unrestricted and endowment gifts made to the Foundation; gifts made to the Library. All restricted and unrestricted gifts made by donors to the Foundation and all gifts made to the Foundation's endowment by donors will be retained and managed by the Foundation. The following provisions shall apply to gifts made to the Library:

9.0.1 Library's statutory obligations with respect to gifts made to the Library. Pursuant to K.S.A. 12-1225(h) and 12-1225b(a), the Board of Directors of the Library has the following powers and duties with respect to gifts made to the library:

(h) to receive and accept any gift or donation to the library and administer the same in accordance with provisions thereof. If no provisions are specified, the board shall have the power to hold, invest or reinvest the gift and any dividends, interest, rent or income derived from the gift in the manner the board deems will best serve the interests of the library;

9.0.2 Restricted gifts made to the Library. In those instances in which a donor has made a gift or donation to the Library subject to restrictions or specified conditions, the Library shall administer the same in accordance with such restrictions or conditions. It may

implement such restrictions or conditions by placing the gift with the Foundation in accordance with section 10.0 of this Memorandum of Understanding.

9.0.3 Unrestricted gifts made to the Library. In those instances in which a donor has made an unrestricted gift to the Library, meaning a gift on which the donor has imposed no conditions or restrictions as to use, the provisions of this subsection 9.0.3 shall apply. The Board of Directors of the Library has determined that it will best serve the interests of the Library for unrestricted gifts in an amount exceeding \$500 to be held, invested and reinvested by the Foundation, subject to appropriate safeguards and agreements to be put into place by the County Librarian and the Foundation's Executive Director, or, in the absence of an Executive Director, the Foundation's President . The Library agrees to notify the Foundation, through its Executive Director, or, in the absence of an Executive Director, the Foundation's President, when it has received and accepted an unrestricted gift in an amount exceeding \$500. The parties agree that the County Librarian and the Foundation's Executive Director, or, in the absence of an Executive Director, the Foundation's President, are authorized to implement safeguards and agreements with respect to the placement of such gifts with the Foundation. Without limiting such safeguards and agreements that might be implemented, the parties acknowledge that the same might address concerns related to receipt and refunding agreements imposed by trustees, unforeseen tax liability, and auditing requirements.

10.0 Restricted gifts. All gifts restricted for a specific library service will be initially authorized by the County Librarian, subject to Library Board of Directors approval when required under Library policies, and then accepted by the Foundation. The Foundation agrees to administer such gifts in accordance with the restrictions imposed by the donor or donors.

11.0 Management of funds for benefit of Library. The Foundation Board of Directors and Executive Director will manage the proceeds of the Foundation, ensuring that all funds not needed for operating expenses and budgeted appropriations are used to further the mission of the Foundation in support of the Library. The parties agree that the Foundation will continue to contract with the Community Foundation of the Central Blue Ridge for investment and reporting services relating to all such funds.

12.0 Grant requests. Any grant request for unrestricted Foundation funds by the Library shall be presented in writing by the County Librarian to the Foundation. The Foundation will process the request following the Foundation's procedure for grant requests, with the Foundation Board of Directors having full authority to accept or deny the grant request.

13.0 Annual disbursement to the Library. The Foundation has raised, and shall continue to raise, funds for the endowment to supplement the Library's collection needs. The Foundation Board will on an annual basis approve a disbursement from the endowment fund to the Library for collection development equal to at least 5% of the corpus of the endowment, except in those years in which the Foundation Board specifically finds that the endowment assets have sufficiently declined in value to render such a disbursement imprudent.

14.0 Gifts from Friends of the Augusta County Library. When the Foundation receives gifts and donations from the Friends of the Augusta County Library, it shall separately account

for such funds, and disburse the same in accordance with the instructions of the Friends for the Library's benefit.

IV. MISCELLANEOUS PROVISIONS

15.0 Annual review and amendment of Agreement. The Library and Foundation agree that this Agreement will be reviewed on annual basis. This Agreement may be amended by a writing signed by the parties.

16.0 Termination of Agreement. This Agreement may be terminated by either party on thirty days prior written notice, in which event the parties will negotiate a new Memorandum of Understanding consistent with the missions of the Library and the Foundation.

17.0 Governing law. This Agreement shall be governed by Virginia law.

In witness whereof, the parties have hereunto set their hands:

BOARD OF DIRECTORS OF THE
AUGUSTA COUNTY LIBRARY

BOARD OF DIRECTORS OF THE
AUGUSTA COUNTY LIBRARY
FOUNDATION

By: _____
Name, Chair

By: _____
Name, President