

Don Adams

From: Derek Roland <droland@maconnc.org> on behalf of Derek Roland
Sent: Thursday, November 30, 2023 9:53 AM
To: 'Don Adams'; k_king@swaincountync.org
Cc: tkeezer@maconnc.org; 'Eric Ridenour'
Subject: Macon County Revisions
Attachments: FRL Agreement with revisions approved by Paul and Danny.docx

Kevin and Don,

Please find attached Macon County's proposed revisions to the FRL Agreement pursuant to section VII A. We would now respectfully request for each county to review the proposed changes and let us know your position on the same. Once the counties are in agreement with the proposed revisions, we will forward the agreement to Fontana Regional Library for their review.

Thanks,

[Derek C. Roland](#)
[Macon County Manager](#)
5 W. Main St.
Franklin, NC 28734
(828)-349-2022

FONTANA REGIONAL LIBRARY INTER-LOCAL AGREEMENT

This INTER-LOCAL REGIONAL AGREEMENT (the "Agreement") is entered into by and among the following North Carolina counties: JACKSON COUNTY, MACON COUNTY, and SWAIN COUNTY regarding the Fontana Regional Library, Inc. ("Fontana Regional Library");

WHEREAS, the mission of the Fontana Regional Library is to provide the public of Jackson, Macon, and Swain counties with excellent service and convenient access to resources for their educational, informational and recreational needs; and

WHEREAS, the Boards of County Commissioners of Jackson, Macon, and Swain Counties recognize that collaboration provides the most effective and efficient means to provide public library service to the residents of said counties by unifying the administration of the participating libraries, providing professional library specialists, cooperating in the selection of books and other materials, and crossing county lines for the benefit of all; and

WHEREAS, this collaboration provides opportunities for service and resource allocations otherwise beyond the financial and service capacities of the individual county governments and libraries; and

WHEREAS, this Regional Agreement is up for the mandatory ten year review pursuant to Article X, B. of the Regional Agreement last adopted by the parties hereto in January, 2013.

NOW, THEREFORE, pursuant to resolutions duly adopted by their governing boards, the Boards of the County Commissioners of Jackson, Macon, and Swain Counties hereby renew their commitment for the organization of and participation in the Fontana Regional Library upon the terms set forth herein, effective the date last signed by a party as set forth below, hereby amending, restating and replacing the existing Regional Agreement by and among the parties with respect to the Fontana Regional Library.

I. Governments Involved

The participating local government units of the Fontana Regional Library are as follows:

- A. Jackson County
- B. Macon County
- C. Swain County.

II. Purpose Statement

This Agreement is to promote and perpetuate excellent library services to the residents of the areas included within the jurisdictions of the aforementioned governing bodies through their collaborative and collective efforts under the legal authority of N.C.G.S. §153A-270 and N.C.G.S. Chapter 160A, Article 20, Part 1. To this end, the Fontana Regional Library shall operate the county libraries and branches of the participating local government units **in a socially and politically neutral manner.**

III. Structure of the Fontana Regional Library Board of Trustees

The Fontana Regional Library Board of Trustees shall be the governing body of the Fontana Regional Library.

A. Membership

1. There shall be nine members of the Fontana Regional Library Board of Trustees, **all of whom shall be full-time, year-round residents of the county from which they are appointed.**
2. Each county shall have equal representation on the Fontana Regional Library Board of Trustees composed of three members from each county.
3. Members shall serve no more than two consecutive terms and no single term shall be longer than **six-four** years.
4. Members shall be appointed in staggered terms to promote consistency as well as to accommodate change.
5. The Members from each county shall be appointed **from the membership of each respective local county library advisory board by the local library advisory board of each respective county, according to bylaws and policies approved by the respective local library advisory board for that county.** by the County Commissioners. County Commissioners may select from recommendations made by the County Library Board or the community at large.
6. Vacancies on the Fontana Regional Library Board of Trustees shall be filled **by the appropriate local library advisory board for the remaining term of the member creating the vacancy.** by appointment from the County Commissioners for said seat for the remaining term of the member that created the vacancy.
7. Any time that a majority of the Commissioners determine that a Library Trustee from their County has failed to abide by the library's by-laws and policies, they may be removed by the Commissioners from that County.

B. Open meetings, Public Records and Public Comment.

1. All Library Board meetings shall be conducted in accordance with the North Carolina Open Meetings laws set forth in Chapt. 143, Art. 33C, §§143-318.9 through 318.18, and subject to the Public Records laws of Chapt. 132 of the North Carolina General Statutes. All meetings shall be videotaped, archived on the library's website, and accessible by the public at all times.
2. There shall be a public comment period before each library board meeting with no less than 3 minutes allowed per speaker. The comment period will be limited to 45

minutes. The library board may allow for additional time for public comments in the board's discretion. The public shall be permitted to ask questions for clarification directly through the Chair, who shall attempt to answer to the best of his or her ability.

C. Powers and Duties

1. Governance-Bylaws.

The Fontana Regional Library Board of Trustees ~~is hereby delegated the power to~~ shall adopt by-Laws and rules for its own governance as may be necessary and in conformity with the law and this agreement. ~~Prior to adoption or amendment to the by-laws, the Board shall first adopt a resolution of intent to consider such adoption. The resolution of intent shall state the proposed by-law amendments. At the same time that a resolution of intent is adopted, the Board shall also call a public hearing on the proposed charter amendments, the date of the hearing to be not more than 45 days after adoption of the resolution of intent. A notice of the hearing shall be published at least once not less than 10 days prior to the date fixed for the public hearing, and shall contain a summary of the proposed amendments. Following the public hearing, but not earlier than the next regular meeting of the council and not later than 60 days from the date of the hearing, the council may adopt an ordinance amending the charter to implement the amendments proposed in the resolution of intent.~~

2. Policies

The Fontana Regional Library Board of Trustees is hereby delegated the power to adopt policies for the administration and operation of the Fontana Regional Library. ~~The above procedures necessary to amend or adopt a by-law shall likewise be followed to adopt a policy.~~

3. Director

The Fontana Regional Library Board of Trustees is hereby delegated the power to select, appoint, remove, determine salary and other terms of employment of a Regional Director and to delegate to the Regional Director executive powers.

a) These actions shall require a majority vote of the Fontana Regional Library Board of Trustees at which a quorum is present.

b) The Fontana Regional Library Director shall:

(1) Have a valid North Carolina Public Librarian Certificate.

(2) Be the chief executive director and administrative officer of the Fontana Regional Library.

(3) Function in accordance with the approved policies of the Fontana Regional Library and administer the Fontana Regional Library consistent with the policies adopted by the Board of Trustees.

~~(4) Job description of the Director shall be placed on FRL's website for transparency.~~

4. Budget

The Fontana Regional Library Board of Trustees is hereby delegated the power to and shall adopt an annual budget which shall:

- a) Be administered under the same provisions as units of local government (N.C.G.s. §159), with all state funds administered by the Fontana Regional Library and expended throughout the region as described in 07 NCAC 021.0202.
- b) Be a composite of the separate budgets of each county library, with an agreed upon amount paid by each county for the materials, salaries and operating expenses that are shared within the region which shall be sent to the Finance Officer in monthly installments.
- c) Include a specified amount of funding for each library's operating costs with gifts, special memorials, endowment and trust income, and appropriations for capital outlay earmarked for the designated purpose.
- d) Proposed budgets shall be posted on FRL's website for 30 days prior to approval vote, and final approved budget posted until replace by future budget.

5. Finance Officer

The Fontana Regional Library Board of Trustees is hereby delegated the power to appoint a regional Finance Officer as defined in N.C.G.S. §159-24. The Finance Officer shall:

- a) Be responsible for keeping the accounts of the Fontana Regional Library in accordance with generally accepted principals of governmental accounting and for disbursing all funds in strict compliance with N.C.G.S §159, the Local Government Budget and Fiscal Control Act, and 07 NCAC 021.0202.
- b) Ensure expenditure of funds consistent with the budget adopted, by the Fontana Regional Library Board of Trustees.
- c) Report directly to the Regional Director and the Fontana Regional Library Board of Trustees.
- d) A Fontana budget report for each County Library Board shall be sent to the Chair of each County Library Board upon final approval for review.

6. Compliance

The Fontana Regional Library Board of Trustees is hereby delegated the power to assure compliance with all applicable state and federal law and eligibility requirements for the receipt of state and federal funds.

7. Facilities

The County Library Board of Trustees is hereby delegated the power to make recommendations to the counties concerning the construction and improvement of the physical facilities of the libraries within the Fontana Regional Library region; however, construction and facility maintenance shall be the responsibility of the local counties unless the Fontana Regional Library Board of Trustees negotiates and approves a collaborative effort.

8. Reports

The Fontana Regional Library Board of Trustees is hereby delegated the power to report to the participating local governmental units. The Fontana Regional Library Board of Trustees shall make regular reports, or delegate to the Regional Director the authority to make the reports, related to services and operations to each county.

9. Audit

- a) The Fontana Regional Library Board of Trustees shall obtain an annual independent audit of the Fontana Regional Library accounts consistent with generally accepted accounting principles.
- b) The Fontana Regional Library Board of Trustees is hereby delegated the power to provide a copy of the Fontana Regional Library's annual audit to the State Library of North Carolina.
- c) The Audit shall be posted on FRL's website within 30 days of completion and shall remain posted for at least 180 days.

IV. Financial Structure

- A. All monies from both state and local governmental units will be paid into the Fontana Regional Library as a public authority which will comply with the provisions of the N.C.G.S §159, the Local Government Budget and Fiscal Control Act.
- B. Each county will provide facilities necessary for the Fontana Regional Library to carry out its mission. Provision of these facilities will include utilities, building and grounds maintenance, improvements or rent for those facilities.
- C. Each county will pay the Fontana Regional Library an adequate amount of money necessary for the Fontana Regional Library to carry out its primary mission of being a caretaker of resources. These funds will allow the Fontana Regional Library to pay for library materials and for operating expenses for libraries within that county. Funds from each county will also be used to contribute to joint operations.
- D. All state funds will be used for salaries and benefits of employees serving the whole Fontana Regional Library region, for library materials, for telecommunications or telephone services, and any other region-wide service.
- E. The Finance Officer will account for all expenditures by source of funds.

V. Terms of Property Ownership

A major benefit of regional cooperation is that scarce resources may be shared among the various county residents without wasteful duplication; however, certain ownership restrictions shall apply:

- A. All real property, buildings, grounds and other facilities of each library shall be acquired and owned by their respective county, and occupied by each library in accordance with a facility lease between Fontana Regional Library and each county.
- B. All other property, including library materials, technology, furnishings, fixtures and equipment, vehicles, or other resources, purchased with state, regional, or county funds shall be owned by Fontana Regional Library excepting what is provided for in Section V.C.
- C. The Hudson Library facility and all library materials, furnishings, and fixtures acquired by Hudson Library, Inc. shall be owned by Hudson Library, Inc, a private non-profit corporation.
- D. As included under N.C.G.S. Chapter 160A, Article 20, Part 1, Joint Exercise of Power, real property if purchased by the Fontana Regional Library is owned jointly as tenants in common by the participating counties.

E. See also Section VIII hereof regarding the distribution of property in the event of withdrawal of a participating local governmental unit and Section IX hereof regarding the dissolution of the Fontana Regional Library.

VI. Insurance Coverage and Indemnification

A. Insurance Coverage

1. Each county shall maintain insurance coverage for the real property, buildings, grounds and other facilities for each of their individual libraries, including general liability insurance, except as indicated in Section VI. A. 3. below.
2. The Fontana Regional Library shall maintain insurance coverage for all other property, including library materials, technology, furnishings, fixtures and equipment, vehicles, or other resources, except as indicated in Section VI. A. 3. below.
3. Hudson Library, Inc. has stipulated liability and property insurance coverage as set forth in the governing Lease Agreement between Hudson Library, Inc. and Macon County. Said Lease Agreement and any Amendments thereto or subsequent Lease Agreements between Hudson Library, Inc. and Macon County shall continue to require said liability and property insurance coverage and is herein incorporated by reference.

B. Indemnification

The Fontana Regional Library By-Laws contain indemnification provisions regarding board members, officers, employees and volunteers, which provisions may be amended from time to time.

VII. Provisions for Amendment

A. This Agreement may be amended providing that all parties **three of the participating counties** accept and agree to those amendments.

B. Recommendations for amendments shall be forwarded to each of the counties in writing with a thirty-day period for consideration given. **The proposed amendment will be forwarded to the County Library Boards, and shall be posted for 30 days on FRL's website.** At the next regular meeting of the county boards after this thirty-day period, the amendments shall be voted on by those boards.

C. Disagreements related to this Agreement shall be resolved first by committee **representatives of two commissioners** from each county **and the Fontana Regional Library Board of Trustees**, and then by their legal counsels, **and if still not resolved, the Fontana Regional Library Board of Trustees.**

VIII. Provisions for Withdrawal

A. A participating local governmental unit proposing to withdraw from the Fontana Regional Library shall give written notice on or before July 1 to the Fontana Regional Library Board of Trustees, the other counties' Boards of Commissioners, and the State Library of North Carolina. The withdrawal shall be effective the following June 30th.

B. Should that participating local governmental unit decide within this time period to rescind the proposal, that participating local governmental unit shall remain a part of the Fontana Regional Library under the same conditions and requirements as the agreement under which they became a member.

C. Should that participating local governmental unit fully withdraw, assets located in the local library facility will remain the assets of the withdrawing library. ~~Notwithstanding the aforementioned, in the event there are assets located in the local library facility that were purchased by Fontana Regional Library regional support services, those assets will remain the assets of Fontana Regional Library and the withdrawing unit may keep all assets/materials within their respective library(ies).~~ Those items that are not kept in the local libraries of the withdrawing unit, such as vehicles and finances held by Fontana Regional Library shall remain the property of Fontana Regional Library.

IX. Provisions for Dissolution

A. The Fontana Regional Library may be dissolved if two of the three participating local governmental unit parties withdraw in accordance with the procedures stated above.

B. As included under N.C.G.S. Chapter 160A, Article 20, Part 1, Joint Exercise of Power, property if proved to be purchased by the Fontana Regional Library may be owned jointly as tenants in common by the participating counties; therefore, if the Fontana Regional Library is dissolved, the counties of Jackson, Macon, and Swain shall divide the joint assets equally among themselves.

C. The distribution of properties and resources if jointly owned shall be accomplished by a committee composed of representatives from each county, and the current Fontana Regional Director.

D. After all outstanding debts are resolved, any remaining funds from the member counties shall be returned to them and the distribution of any remaining State or Federal funds shall be determined by the State Library. Any land and building property if owned by the Fontana Regional Library shall be sold and the proceeds distributed to the counties, or the property may be kept or distributed to the counties on an equitable basis as agreed upon by the committee of representatives. Other property such as the bookmobile, outreach van, computers and other technology, books, and any other assets may be sold at auction and the proceeds divided among the counties, or property may be distributed in some other equitable manner as agreed upon by the committee of representatives.

X. Term, Provisions for Periodic Review and Automatic Renewal

A. This Agreement may be reviewed at any time by any county or the Fontana Regional Library Board, and ~~if modifications are deemed reasonable and necessary~~, amendments may be made according to the procedures stated in Section VII.

B. This Agreement shall have an initial term of ten years from the date of this Agreement and thereafter shall automatically renew for successive periods of ten years each, unless otherwise terminated as set forth herein. This Agreement shall be reviewed ten years from the date of this Agreement, and every ten years thereafter, by the Fontana Regional Library Board of Trustees and the Boards of the County Commissioners of Jackson, Macon, and Swain Counties. If modifications are deemed reasonable and necessary, amendments may be made according to the procedures stated in Section VII. If modifications are not deemed to be reasonable and necessary, this Agreement shall automatically renew and remain in full force and effect.

XI. Provisions for Termination of this Agreement

A. This Agreement may be terminated ~~in accordance with Section IX above. if reasonable cause is presented in writing by any member of the Fontana Regional Library to the~~

~~other members of the Fontana Regional Library, the Fontana Regional Library Board of Trustees and the State Library of North Carolina.~~

~~B. The effective dates for termination shall be the same as a withdrawal from the Fontana Regional Library as described in Section VIII~~

~~C. If this Agreement terminates, the Fontana Regional Library shall be dissolved and if any joint assets distributed as described in Section IX.~~

XII. Miscellaneous

A. This Agreement constitutes the entire agreement between the parties relating to the subject matter and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter.

B. If any provision of this Agreement is held by a court of law to be illegal, invalid or unenforceable (i) that provision shall be deemed amended to achieve as nearly as possible the same economic effect as the original provision, and (ii) the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.

C. This Agreement shall be effective upon acceptance by all the parties hereto as indicated by the date of the last party to sign this Agreement as set forth below.

D. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same agreement.

E. All By-Laws, and Policies & Guidelines of Fontana Regional Library shall be revised to reflect the changes in this Agreement. If there is an ambiguity between this Agreement and the Fontana Regional Library By-Laws, this Agreement shall control.

IN WITNESS WHEREOF, this Agreement has been executed by the principal official of the governing board of each party hereto, pursuant to authority of each respective board.

Attest:

JACKSON COUNTY

Clerk to the Board

by _____
Board of Commissioners, Chair

Date: _____

MACON COUNTY

Clerk to the Board

by _____
Board of Commissioners, Chair

Date: _____

SWAIN COUNTY

Clerk to the Board

by _____
Board of Commissioners, Chair

Date: _____

FONTANA REGIONAL LIBRARY, INC

Secretary to the Board

by _____
Board of Trustees, Chair

Date: _____