

**TOWN OF CONCORD
SELECT BOARD
AGENDA
July 13, 2020
4:00PM
VIDEO CONFERENCE CALL**

Join Zoom Meeting

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One tap mobile

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1.	Call to Order
2.	Consent Agenda -Town Accountant Warrants
3.	Town Manager Update
4.	Chairs Remarks
5.	Agreement between the Town and the Library Corporation
6.	Select Board Positions of Warrant Articles
7.	Committee Nominations
8.	Committee Appointments: Nathaniel Welch of 141 Stow Street to the Bruce Freeman Rail Trail Advisory Committee for a term to begin August 1, 2020, set to expire April 30, 2023.
9.	Committee Liaison Reports
10.	Miscellaneous Correspondence
11.	Public Comments
12.	Adjourn

RE: Agreement between the Town and the Library Corporation

The relationship between the Town and the Library Corporation is defined in the current agreement between the Library Corporation and the Town dated June 22, 2009 (“Current Town Corporation Agreement”) that is attached for reference.

Because the relationship between the Corporation and the Town has evolved over the past ten years it seems appropriate that the current agreement be updated.

A revised draft agreement (“Agreement”) defining the relationship between the Town of Concord (“Town”) and the Concord Free Public Library Corporation (“Library Corporation”) has been prepared for public comment and this draft is attached to this memorandum. (“Revised Town Corporation Agreement”).

Library Background Information

The Library Corporation was created by Chapter 99 of the Acts of 1873 which provided that “Ebenezer R. Hoar, Grindall Reynolds, George M. Brooks, George Keyes and Henry F. Smith, and their successors, are made a corporation by the name of the Concord Free Public Library” for the statutory purpose of forming and maintaining a public library in Concord. The Town transferred the Town library to the Corporation on October 1, 1873 pursuant to the vote of the Town taken on March 31, 1873...“for the use and benefit of the citizens of the town.”

The Library Corporation today operates as a Massachusetts 501 (c) (3) charitable corporation. It annually files reports of its operations with the Commonwealth’s Office of the Attorney General that includes its IRS form 990 tax return. It also shares its audited financial report and annual budget with the Town.

The founding documents provided that, “so long as the [Library] corporation allowed the inhabitants of the town of Concord free use of the library under reasonable regulations” the Town is authorized to provide funds for maintenance of the Library and to pay the salary of a librarian and of necessary assistants.”

Following this long standing statutory authorization, funding for library staff and certain library expenses are incorporated into the Town’s annual operating budget prepared by the Town Manager, reviewed by the Finance Committee, and approved by Town Meeting.

However, all capital expenses (e.g., building improvements, renovations, expansions and repairs) grounds maintenance, insurance, administration and other expenses related to the Main Library, the Fowler Library and the Library Special Collections are borne by the Library Corporation relieving the Town of this financial burden.

Major capital projects undertaken and funded substantially by the Library Corporation have included the comprehensive renovation and expansion of the Main Library spaces completed in 2005 and the 2012 renovation and expansion of the Fowler Branch that added a children's room, renovated basement area to provide stacks for circulating fiction books, a community conference room, additional patron seating areas and a climate controlled area for use by Special Collections.

The Library Corporation is currently moving forward with an expansion of the Main Library and has mounted a capital campaign to fund this project.

The Library Corporation is funded through the generosity of the people of Concord, including the Friends of the Concord Free Public Library. This generosity has facilitated the ability to provide Concord with a world-class library whose doors are open to the citizens of Concord and the wider global community interested in Concord's unique history, culture and heritage.

Revised Town Corporation Agreement

The Revised Town Corporation Agreement builds on the Current Town Corporation Agreement. Its intent is to expand and better define the relationship between the Town and the Library Corporation. Recognizing that there are many editorial, formatting and wording changes that are not addressed herein there follows a description of the more important changes between the Agreements. Please note that the Current Town Agreement's sections are not numbered. *The Revised Town Corporation Agreement's Section numbers tends to follow the same subject matter in the same order but adds new matter such as in Sections 7 and 11.*

Introduction

This part of the Agreement provides more historical information relating to the Library formation and updates footnote 1.

Section 1 Library Mission

This Section updates the Library's Mission and the Library Corporation's relation thereto.

Section 2 Library Policies

This Section more clearly defines the policy areas for which each entity is responsible and maintains the principle that policies of the Town and the Library are not to be inconsistent with one another.

Section 3 Town and Corporation Responsibility

This Section more clearly defines the areas (such as hours of Library operation, setting fines; budgeting, fund raising) for which each entity is responsible.

Section 4 Administration

This Section defines the Library Director's administrative responsibilities and requires the Library Director to attend the Corporation's monthly meetings and report on Library operations. This allows both the Library Director and the Library Corporation to be current with the activities and plans of the other so as to (a) coordinate the same and (b) inform the Town Manager and Library Committee as to matters with which the Library Corporation is dealing that may affect Library operations.

Section 5 Ownership of Property

This Section defines which entity owns what property that comprises the "Library".

Section 6 Director, Curator, Special Collections, Vault Space

This Section has been substantially revised and more explicitly defines among other matters, the role of the Town Manager, the Library Corporation, the Curator, responsibilities re Special Collections, use of the Library vault space, the Library Corporation's relation to Library staff and responsibilities re the performance evaluation of the Library Director and Curator.

Section 7 Library Maintenance

In recent times the Library Corporation has found that the Town has certain capabilities that can help with the maintenance of Library facilities at a reimbursed cost lower than outside vendors. This Section is a "place holder" to allow the Town and the Corporation to explore synergies for more efficient and lower cost ways of maintaining the Library physical plant.

Section 8 Budgeting

This Section now requires that the Library Corporation, in addition to providing the Town with a copy of its annual budget and audited financials, to also provide the Town with a five-year capital plan.

Section 9 Library Revenue Sources

This Section identifies revenue sources for Town and Library Corporation funds and now provides a mechanism to address ambiguities in bequests and gifts for “for Library purposes”.

Section 10 Library Expenses and Renovations

This Section determines which entity has responsibility for operating and capital expenses. Importantly, the Revised Town Corporation Agreement carries over the requirement that no renovations or expansion of library facilities that may increase Library staffing or materially impact the Town’s operating costs shall be undertaken by the Corporation without consultation with the Town and now specifically lists the Library Committee in addition to the Library Director and the Town Manager. It also requires that deliberations be mindful “of community goals as set forth in the Town Long Range Plan”. In this connection the Library Corporation, as required by the Current Town Corporation Agreement, before purchasing 151 Main Street consulted with the Town Manager and Library Director and Town staff before moving forward. This Section increases the minimum required annual Library Contribution for books and materials from \$50,000 to \$ 75,000 although the Library Corporation has in recent years provided \$125,000 annually to the Library for this purpose.

Section 11 Communications

This is a new Section and was placed into the Revised Town Corporation Agreement to recognize the need for communication among the major Town parties involved with the Library. It includes a provision (subsection 11 (d)) that provides for regular communication between the Library Corporation President and the Town Manager to discuss library operations and whether the Revised Town Corporation Agreement is working as intended.

Section 12 General Provisions

This Section is essentially unchanged

AGREEMENT

The Town of Concord is a Massachusetts municipal corporation chartered in 1635 with its principal place of business at the Town House, 22 Monument Square, Concord, Massachusetts 01742 (the “Town”).

The Concord Free Public Library Corporation is a Massachusetts charitable corporation created by Chapter 99 of the Acts of 1873 which provided that “Ebenezer R. Hoar, Grindall Reynolds, George M. Brooks, George Keyes and Henry F. Smith, and their successors, are made a corporation by the name of the Concord Free Public Library for the statutory purpose of forming and maintaining a public library in Concord. The Town transferred the Town library to the Corporation on October 1, 1873 pursuant to the vote of the Town taken on March 31, 1873...for the use and benefit of the citizens of the town.” The Act also authorized the Town to fund the expense of maintaining and staffing the Library. The Corporation has a principal place of business at 129 Main Street, Concord, Massachusetts 01742 and also owns the property at 151 Main Street, Concord and provides the Fowler Branch Library in West Concord.

The Library Committee appointed by the Select Board in accordance with Section 2 of the Town Charter functions in accordance with its charge¹ as the same may be amended from time to time.

This Agreement sets out the relationship between the Corporation and the Town relating to the Library.

¹ Currently the Library Committee consists of seven members appointed by the Select Board for staggered three-year terms to work with the Library Director to achieve specific goals in support of the Library.

SECTION 1. LIBRARY MISSION

The Library is a joint resource of the Town and the Corporation herein (the "Library"). The mission of the Library is to serve the Concord Community as a primary source of information and ideas for educational, intellectual, business and recreational pursuits. The Library's mission is to inspire lifelong learning and to actively promote personal enrichment by connecting community members to information, ideas, culture, unique historical resources, and each other in a tradition of innovation and excellence. The Corporation is responsible for providing the buildings, grounds and facilities to support and assist the Library's mission and its Strategic Plan as well as the oversight, maintenance, preservation, protection, improvement and expansion of the buildings, grounds, and Special Collections (as hereinafter defined in Section 6 (3)), and other property of the Library owned by the Corporation.

To accomplish the Library's mission, the Library shall:

1. Provide, in an accessible, efficient and attractive manner, a collection of informational and recreational materials which responds to the needs of the Concord community;
2. Maintain referral capabilities through a knowledge of available interlibrary and interagency resources including internet and on-line databases;
3. Employ persons professionally skilled in supplying information and ideas through books and other media and through special programs and exhibits; and
4. Make the Concord community aware of the services the Library provides.

SECTION 2. LIBRARY POLICIES

To carry out the mission of the Library the Town, (acting through the Town Manager, in coordination with the Library Committee) and the Corporation may, from time to time, make decisions and establish procedures affecting each entity's respective area of responsibility.

Decisions and procedures of the Town are those affecting the operation and staffing of the Library and the expenditure of Town resources for Library purposes. Decisions and procedures

of the Corporation are those affecting (a) the use and availability of buildings, grounds, furnishings, Special Collections and other materials or items owned by or under the care, custody and control of the Corporation and (b) the expenditure of Corporation funds for Library purposes.

The Corporation and the Town may each enact policies relating to each entity's area of responsibility but policies of the Corporation that may affect operation and staffing of the Library and Town policies that may affect those areas of responsibility of the Corporation shall not be inconsistent with one another. Inconsistencies, if any, shall be resolved in a spirit of mutual cooperation and collaboration between the Town and the Corporation.

SECTION 3. TOWN AND CORPORATION RESPONSIBILITY

The Town may make decisions and establish procedures relating to its areas of responsibility including the following:

1. Hours of Library operation;
2. Availability of Library services;
3. Setting fines and fees;
4. Acquisition and disposition of Town owned materials; and
5. Setting periods and limitations on circulating materials.

The Corporation may make decisions and establish procedures relating to its areas of responsibility including the following:

1. Budgeting Corporation funds for the maintenance, improvement, insurance, and security of the grounds, buildings, physical plant, equipment, furnishings, Special Collections, and other tangible personal property belonging to or on loan to or controlled by the Corporation;
2. Regulating the use and availability of its buildings, grounds, and Special Collections for events, programs, meetings, and exhibitions;
3. Investment and distribution practices governing the Corporation's endowment, gifts

4. Fund raising in support of Corporation purposes, including annual appeals, capital campaigns, fund-raising events, grants from foundations or government authorities, bequests and planned giving, and such other fundraising tools and support services as the Corporation in its discretion may employ;
5. Awarding scholarships including those required by restricted gifts; and
6. Use of all vault space in Library buildings subject to Section 6.2 (iv) and (v) hereof.

SECTION 4. ADMINISTRATION

The Library Director has primary responsibility for the operations of the Library. The Library Director shall attend the Corporation's monthly meetings and report on Library operations and staff activities. The Library Director shall also support the functions of the Corporation and the policies and procedures related to its areas of responsibility and shall also be responsible for implementing the policies and procedures of the Town and those of the Corporation developed pursuant hereto.

The duties of the Library Director, as delegated by the Town Manager, may include but are not limited to the following:

1. Overall supervision of Town Library staff;
2. Administering Town finance policies relating to Town Library employees;
3. Administering the use of Town funds as budgeted for the Library;
4. Administering the use of Corporation funds as budgeted for Library supplies, materials, equipment and services;
5. Support of the Corporation's activities and responsibilities;
6. Selection and removal of Town owned books and materials;
7. Allocation of space within the Library buildings for Library purposes in coordination with the Corporation;
8. Emergency closing of Library buildings in coordination with the office of the Town Manager;

9. Facilitating communications, as appropriate, between and among Library staff, Town Staff, the Corporation, Library Committee, the Friends of the Library, and Library volunteers and regularly informing the Town Manager and the Corporation as to Library matters;
10. Scheduling special events and programs in coordination with the Corporation and the Friends of the Library;
11. Coordinating the use of the Library rooms by community groups in accordance with Library room use policies as posted on the Library website and the development of community outreach and awareness programs;
12. Establishing new, or terminating existing, services, or programs in coordination with the Corporation;
13. Establishing and administering procedures in coordination with the Town Manager and the Corporation providing for the safety and security of Library employees and patrons; and
14. Coordinating with the Corporation as to the content of the Library web site and inclusion therein of matters related to the Corporation's responsibilities.

SECTION 5. OWNERSHIP OF PROPERTY

Title to property used by the Library is and shall be owned as follows:

Owned by the Corporation

Land and landscaping; buildings; furniture, shelving, fixtures; books, art, musical instruments; computers, printers, software and other materials or equipment or systems purchased with funds of the Corporation or given thereto; Special Collections; materials owned, given to or purchased by the Corporation; and Endowment and other funds given to or held by the Corporation.

Owned by the Town

All books, periodicals, electronic media, shelving, equipment, furniture, electronic and data processing equipment, software and other materials or equipment or systems purchased with Town funds.

SECTION 6. DIRECTOR, CURATOR, SPECIAL COLLECTIONS, VAULT SPACE

(1) The Library Director is a Town employee appointed by the Town Manager and serves under the direction of the Town Manager. The Town Manager shall appoint and evaluate the Library Director in a manner consistent with Town Personnel policies and procedures. In appointing or terminating a Library Director the Town Manager shall seek the opinion of the Corporation before taking such action. In evaluating the performance of the Library Director, the Town Manager shall annually seek or receive (orally or in writing) the opinion of the Corporation. The Corporation shall appoint a representative to provide input on the Library Director's performance.

(2) The Curator is a Town employee appointed by the Town Manager and serves under the direction of the Library Director in coordination with the Corporation and has the following responsibilities:

(i) To serve along with the Library Director on the Corporation's Special Collections Committee which meets monthly at the discretion of the Corporation for various purposes including developing policies in respect of Special Collections, planning exhibitions, events, and programs; advising on acquisitions, acceptance of gifts and collaboration with other entities including libraries and museums; and advising on budgeting for Special Collections and related activities;

(ii) To manage use of the Main Library Art Gallery, and the Community Meeting room in the Fowler Branch Library and such other space as may be

designated from time to time for Special Collections exhibitions (“Exhibition Space”). The Curator will be a member of any committee created to manage the Exhibition Space and shall give priority to Special Collections exhibits in said Exhibition Space:

(iii) To manage Special Collections in accordance with the Corporation’s goal of making it fully available to the public and as a research resource to scholars subject to reasonable regulations consistent with practices of similar institutions;

(iv) To exercise care, custody and control, in concert with the Town Archivist, of Town records deposited by the Town Clerk in the vault of the Main Library building provided that such Town records will be non-current documents of historic value (“Historic Town Records”) and shall not occupy more than 50% of the vault in the Main Library building which will also house Special Collections in vault space not occupied by Historic Town Records; and

(v) To develop security procedures for access to all materials, including Historic Town Records and Special Collections, in all vault space in the Corporation’s Library buildings including such additional vault space that in future may be constructed by the Corporation.

The Curator shall not be responsible to the Corporation for damage or loss to Special Collections when taking the same standard of care as the Curator uses in managing other materials of the Library or Town records. The Corporation shall remain fully responsible for damage or loss to Special Collections in the event that the Corporation does not follow the Curator’s recommended security procedures or the Curator’s recommendations relating to public access to Special Collections.

(3) For the purposes of this Agreement the term “Special Collections” shall mean all those works of art, sculpture, musical instruments, manuscripts, letters, books, documents, photographs, broadsides, ephemera, or other materials (including without limitation those works described in written appraisals prepared for the

Corporation from time to time by Skinner Appraisal Services or in any other qualified appraisal commissioned by the Corporation) and objects such as weather vanes and surveying equipment, at any time owned, given to, purchased by or on loan to or under the care, custody and control of the Corporation.

(4) In appointing or terminating the Curator the Library Director shall seek the opinion of the Corporation President before recommending such action to the Town Manager. In evaluating the performance of the Curator the Library Director shall annually seek or receive (orally or in writing) the opinion of the Corporation or its appointed representative for such purpose.

All Town Library employees are appointed by the Town Manager and are supervised and evaluated by the Library Director except as specifically set forth herein. Library staff shall support the work of the Corporation. In this connection, the Corporation recognizes and agrees that Trustees shall not give orders or instruction to the Town Library staff except as permitted by the Library Director or the Town Manager and that all Town Library employees are subject to Town Administrative Policies and State Ethics requirements and are subject to the terms of a Collective Bargaining Agreement with the Town.

SECTION 7. LIBRARY MAINTENANCE

The Corporation and Town agree that there is mutual benefit in developing a Memorandum of Understanding (MOU) specifically for the maintenance of the Library's buildings and structures. This MOU will define capital improvements, which will remain the responsibility of the Corporation; identify any contracts for maintenance services between the Corporation and vendors; and set forth conditions for the Town to provide maintenance services for the Library's buildings and structures. Such conditions may include, but are not limited to, reporting responsibilities as well as the level of financial contribution to the Town from the Corporation to offset the Town's costs related to said maintenance labor and materials costs. This MOU shall be executed on or before December 31, 2020.

SECTION 8. BUDGETING

The Director shall initiate the Library portion of the annual Town budget, which shall provide for the staffing and operating expenses of the Library as herein set forth.

The Corporation shall annually prepare a budget, which shall provide for the expenses of the Library that are its responsibility as herein set forth and shall annually provide a copy of its budget and five year capital plan on or before December 31 and its audited financial statement to the Town Manager as soon as practicable.

SECTION 9. LIBRARY REVENUE SOURCES

Library expenses to be paid for by the Town shall be funded in accordance with the Town Manager's Budget as approved by Town Meeting. Library expenses to be paid for by the Corporation shall be funded out of gifts and bequests made to the Corporation, investment income, annual giving or capital contributions as determined by the Corporation. Gifts including bequests made to the Concord Free Public Library or to the Concord Free Public Library Corporation shall be deemed to be gifts to the Corporation. Gifts to the Town of Concord for the benefit of the Library shall be deemed gifts to the Town. Any ambiguity shall be resolved in a spirit of mutual cooperation and collaboration between the Town and the Corporation. Income accruing from fines and fees shall belong to the Town so long as fines and fees are assessed. Income from copy machines or other equipment or services paid for by the Corporation shall belong to the Corporation. Gifts made to the Corporation shall be treated as items of income or increase in capital in accordance with applicable accounting principles, and used as determined by the Corporation subject to applicable gifting conditions and applicable statutory requirements. Such gifts and other income of the Corporation in no way shall relieve the Town's obligation to fund the operation and staffing of the Library.

SECTION 10. LIBRARY EXPENSES AND RENOVATIONS

All operating expenses of the Library, (e.g., staff and custodial salaries, books, periodicals and electronic media purchases, utilities, office supplies and janitorial, interior cleaning and

maintenance services) shall be borne by the Town except as may be otherwise agreed by the Corporation and the Town Facilities Director as may be set forth in the MOU to be developed pursuant to the Section 7 of this Agreement. All capital expenses (e.g., building maintenance and repairs; improvements, renovation, and expansion; equipment, furniture, fixtures, and shelving purchases; and grounds maintenance) and Corporation expenses (e.g., building, contents and fine arts insurance; fundraising; funds management; administration; accounting; and other support services retained by the Corporation) shall be borne by the Corporation. The Corporation also shall make available to the Library annually at least \$75,000 for the purchase of books and media.

No renovations or expansion of library facilities that may increase Library staffing or materially impact the Town's operating costs shall be undertaken by the Corporation without consultation among the Library Committee, the Library Director, and the Town Manager in a spirit of mutual cooperation and collaboration and mindful of community goals as set forth in the Town Long Range Plan. The Town may, subject to applicable law and the approval of the Corporation, provide funds for any proposed Library renovation or expansion.

SECTION 11. COMMUNICATIONS

- (a) The Library shall develop a Strategic Plan for the Library that shall be initiated by the Library Director and the Library Committee and shall seek input from the Corporation, the Friends of the Library and include public participation.
- (b) The Library Director shall propose programs for professional development as well as events for annual recognition of Town Library staff employees and volunteers. Recognition events shall include participation of the Corporation, the Library Committee, and the Friends of the Library. The Corporation may contribute, as appropriate, to the cost of such programs and events.

- (c) From time to time during each year the Library Director shall provide opportunities for Library staff department heads to attend regularly scheduled Board meetings of the Corporation's Trustees to acquaint the Trustees with their current Library activities.
- (d) The President of the Corporation and the Town Manager shall meet at least twice annually to discuss the status of library operations and the efficacy of this Agreement.

SECTION 12. GENERAL PROVISIONS

This document contains the entire agreement of the parties in respect of the subject matter hereof and supersedes in its entirety the agreement between the parties executed on June 22, 2009.

This Agreement may be amended or terminated only by mutual written agreement of the parties specifically referencing this document and executed by an authorized representative thereof.

Each part hereby warrants and represents to the other that the individual who is signing this agreement has been duly authorized to execute this document and to agree to the matters set forth herein.

IN WITNESS WHEREOF the parties hereto have executed this agreement this _____ day of _____, 2020.

TOWN OF CONCORD

By: _____

Town Manager

CONCORD FREE PUBLIC LIBRARY CORPORATION

By: _____

President

Article for the Select Board to Review for its Recommendation at our Meeting on July 13

- Article 4 Ratify Personnel Board Classification Actions
- Article 5 Classification & Compensation Plan for Regular-Status Positions
- Article 7 Accepting Provisions of Section 103(J) of M.G.L. Chapter 32, as Amended by Section 19 of Chapter 188, so as to Increase the COLA Base
- Article 8 Use of Free Cash
- Article 12 Authorize Expenditure of Revolving Funds Under M.G.L. Chapter 44, Section 53E1/2
- Article 13 Affordable Housing
Trust Bylaw
- Article 14 Funds for Affordable Housing
- Article 15 Senior Means Tested Property Tax Exemption
- Article 17 Light Plant Expenditures & Payment in Lieu of Taxes
- Article 18 Solid Waste Disposal Fund Expenditures
- Article 19 Sewer System Expenditures
- Article 20 Sewer Improvement Fund Expenditures
- Article 21 Water System Expenditures
- Article 22 Authorize Expenditure from PEG Access & Cable-Related Fund
- Article 23 Beede Swim & Fitness Center Enterprise Fund Expenditures
- Article 24 Minuteman Regional Technical High School District Budget
- Article 29 Middle School Stabilization
- Article 35 Hammerhead Lot
- Article 36 Criteria for Parking Relief
- Article 38 Zoning Bylaw Amendment — Fairs, Bazaars, Antique Shows, Suppers and Dances
- Article 39 Zoning Bylaw Amendment — Prohibited Uses
- Article 44 Community Preservation Committee Appropriations
- Article 50 Additional Liquor Licenses
- Article 52 Debt Rescission