

**QUEENS PUBLIC LIBRARY  
FINANCE AND INVESTMENT COMMITTEE  
THURSDAY, MARCH 23, 2023**

Central Library  
Queens Public Library, 89-11 Merrick Boulevard, Jamaica, NY 11432

**AGENDA**

**6:00 PM FINANCE AND INVESTMENT COMMITTEE REGULAR MEETING**

**I. CALL TO ORDER**

**II. AGENDA**

**Report(s)**

1. Discussion with Proskauer (ID # 2858)

**III. ADJOURNMENT**

1. Motion to Adjourn (ID # 2859)

## Queens Library Board/Committee Item

*BOARD/COMMITTEE:* Finance and Investment Committee

*DATE OF MEETING:* March 23, 2023

*ITEM ID #:* 2858

*AGENDA:* Discussion with Proskauer

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*Verbal report to be provided at meeting.*

**Attachments:**

QPL - QLF Operating Agreement (QLF Approved 3 14 2023) (PDF)

**AGREEMENT  
BETWEEN  
THE QUEENS BOROUGH PUBLIC LIBRARY  
AND THE QUEENS LIBRARY FOUNDATION, INC.**

THIS MASTER AGREEMENT (“Agreement”) is by and between THE QUEENS BOROUGH PUBLIC LIBRARY (“Library”) and THE QUEENS LIBRARY FOUNDATION, INC. (“Foundation”), separate not-for-profit corporations organized under the laws of the State of New York (collectively, “Parties”).

Whereas, the Library was incorporated in 1907 and is among the most highly admired and heavily utilized library systems in the United States; and

Whereas, the Foundation was incorporated in 1988 with its sole purpose being to “aid, assist, enhance, benefit, promote, support and encourage the Queens Public Library” and is a successful non-profit organization that raises private funds and provides all government grant-related services to the Library; and

Whereas, the relationship between the Library and the Foundation has been consistently mutually productive and successful but has not previously been documented in a formal manner, and the Parties have determined that the best practice is to document the relationship formally;

Now therefore, the Parties hereby agree as follows:

**ARTICLE I  
PURPOSE, TERM, AND TERMINATION**

**Section 1.1 Purpose.** The purpose of this Agreement is to state the current relationship between the Parties and establish a method for sharing costs between the Parties. This Agreement is not intended to be legally binding on either Party, and neither Party may bring a cause of action against the other with respect to this Agreement for breach or otherwise.

**Section 1.2 Effective Date.** This Agreement will be effective upon the date when the following conditions are satisfied: (a) the Library’s Board of Trustees has authorized its execution by resolution; (b) the Foundation’s Board of Directors has authorized its execution by resolution; and (c) this Agreement has been executed by authorized representatives of the Library and the Foundation.

**Section 1.3 Term and Termination.** The term of this Agreement (“Term”) shall be for a period of five (5) years, commencing on the Effective Date and expiring one day before the day marking the fifth anniversary of the Effective Date (“Termination Date”), and shall be automatically extended for additional consecutive periods of five (5) years, unless either Party, for any reason, notifies the other of its intent to terminate this Agreement by thirty (30) days’ written notice.

## ARTICLE II MANAGEMENT AND RESPONSIBILITIES

### Section 2.1 Basic Relationship

- (a) **Separate entities.** The Library and Foundation are separate, independent New York not-for-profit corporations recognized by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. The Library is governed by a Board of Trustees appointed by the Mayor of the City of New York and the Queens Borough President, while the Foundation is governed by an elected Board of Directors.
- (b) **Library responsibilities.** The Library's Board of Trustees is responsible for setting the priorities and direction of the Library, including its programs, services, collections, and activities.
- (c) **Foundation responsibilities.** The Foundation serves as the fundraising entity for the Library, with its sole purpose being the support of the Library through raising funds. The Foundation solicits and accepts private donations from individuals, foundations, and corporations to support the programs, services, collections, and capital needs of the Library; and provides grant writing, reporting, and grants management for city, state, and federal funds awarded to the Library. The Library does not maintain its own fundraising staff, and the Library is the sole beneficiary of any fundraising by the Foundation. The Library, in turn, provides administrative personnel and infrastructure to support the operations of the Foundation.
- (d) **Governance.** Pursuant to the Foundation's current By-Laws:
  - (1) The President and CEO of the Library, the Chairperson of the Library's Board of Trustees, and the Chairperson of the Board of Trustees' Finance & Investment Committee shall be voting members of the Foundation's Board of Directors, with all of the rights and responsibilities of members of the Board of Directors.
  - (2) The Library's Board of Trustees must approve the following actions concerning the Foundation: (i) election of new directors to the Foundation's Board of Directors; (ii) appointment of an Executive Director of the Foundation by its Board of Directors; (iii) the Foundation's annual operating budget, as submitted to it by the Foundation's Board of Directors; and (iv) donor gift agreements for naming opportunities for facilities or endowed programs approved by the Board of Directors.

### Section 2.2 Operating Funds; Invested Funds

- (a) **Operating Funds.**
  - (1) **Defined.** In the course of its fundraising activities on behalf of the Library, the Foundation receives private funds intended for expenditure, and not for investment ("Operating Funds"). These Operating Funds include, but are not limited to, restricted and unrestricted donations, and grants for Library programming, collections, and services.
  - (2) **Distribution of Operating Funds to Library.** The Foundation will make Operating Funds available to the Library on an ongoing basis throughout the year. The Foundation will work with the Library to determine Library needs; raise funds for these needs; and provide for the active engagement of relevant Library staff at appropriate stages in the grant making, distribution, and reporting process.
- (b) **Invested Funds.** The Library and Foundation each possess funds not intended for expenditure on Library operations, and instead are invested ("Invested Funds").

- (1) **Foundation.** The Foundation receives and maintains private funds donated to create permanent endowments, which are invested to provide perpetual support for programs, as per donor intent. The Foundation's Board of Directors is responsible for the management of the Foundation's Invested Funds, which it conducts in accordance with the Foundation's Investment Policy and Endowment Policy.
- (2) **Library.** The Library separately maintains Invested Funds. The Library's Board of Trustees is responsible for management of the Library's Invested Funds, which it conducts in accordance with the Library's Investment Policy.
- (c) **Donor Intent.** Consistent with the Gift Acceptance Policy adopted by both Parties, the Library and Foundation will honor clear donor direction, including, but not limited to, how any gift is to be used and the rate at which it is to be expended, which shall be set forth in the donor's gift agreement.

### ARTICLE III SHARED EXPENSES

#### Section 3.1 Administrative Personnel and Infrastructure

- (a) All Foundation staff are formally employed by the Library, not the Foundation, and the Library shall pay the salaries and benefits of Foundation staff.
- (b) Certain Library staff contribute administrative services to the Foundation in support of the Foundation's operations, which may include, but are not limited to, services from the following departments of the Library: Finance, Marketing & Communications, Government and Community Affairs, Information Technology, Legal, and Procurement.
- (c) The Library provides the Foundation with certain infrastructure and other administrative support (*i.e.*, non-personnel) to assist the Foundation's operations, which may include, but are not limited to, the following categories: office space, computer and internet services, and insurance.

**Section 3.2 Calculation of Shared Expenses.** The Parties shall develop and each shall approve a methodology for allocating expenses between the Parties, and shall reevaluate and approve the methodology on an annual basis. The Parties shall use the methodology to allocate expenses between the Parties.

### ARTICLE IV FINANCIAL ACCOUNTS AND REPORTING

**Section 4.1 Bank Accounts.** The Library and Foundation shall maintain separate bank accounts.

**Section 4.2 Responsibility for Financial Accounting.** Financial accounting and reporting for both the Library and the Foundation shall be conducted by the Library's Finance Department.

**Section 4.3 Separate IRS Filings.** The Library and Foundation each file a separate Form 990 with the Internal Revenue Service, listing the other as related organizations. The Library’s Board of Trustees shall be responsible for accepting and ensuring the filing of the Library’s Form 990, while the Foundation’s Board of Directors shall be responsible for accepting and ensuring the filing of the Foundation’s Form 990.

**Section 4.4 Annual audit.** The Library and Foundation each conduct an annual audit of their respective consolidated financial statements using the same independent auditor. The Library’s Board of Trustees shall be responsible for accepting and ensuring the filing of the Library’s financial statements and independent auditor’s report, while the Foundation’s Board of Directors shall be responsible for accepting and ensuring the filing of the Foundation’s financial statements and independent auditor’s report.

**ARTICLE V  
MISCELLANEOUS PROVISIONS**

**Section 5.1 Information sharing.** The Parties agree to share with each other information reasonably needed to effectuate the provisions of this Agreement.

**Section 5.2 Amendments.** This Agreement may not be amended, changed, modified or altered except by an instrument in writing duly executed by the Library and the Foundation upon authorization by their respective boards.

**Section 5.3 Binding Effect; No Assignment.** This Agreement shall inure to the benefit of and shall be binding upon the Parties and their successors. This Agreement may not be assigned without the written consent of the Parties.

**Section 5.4 Limitation on Third Party Rights.** Nothing in this Agreement, express or implied, is intended or shall be construed to give to any person other than the Parties any legal or equitable right, remedy, or claim under or in respect of this Agreement or any covenant, condition or provision herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the Parties.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Chair, Board of Trustees  
Queens Borough Public Library

\_\_\_\_\_  
President, Board of Directors  
Queens Library Foundation, Inc.

Attachment: QPL - QLF Operating Agreement (QLF Approved 3 14 2023) (2858 : Discussion with Proskauer)

## Queens Library Board/Committee Item

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*AGENDA:* Motion to Adjourn

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**Recommended Motion for Consideration:**

*I move that the meeting be adjourned.*