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**MEMORANDUM**

TO: Poudre River Public Library District Board of Trustees

FROM: Seter, Vander Wall & Mielke, P.C.

DATE: March 8, 2024

RE: Legal Status Report

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This is our legal status report for the March 18, 2024 meeting of the Board of Trustees.

**SE Community Center Library**

**Task:** In April 2015 the voters of Fort Collins approved Ordinance No. 013, 2015, extending for ten years a quarter-cent sales tax to be dedicated to the “Community Capital Improvement Program” capital projects and related operation and maintenance. The Ordinance includes a requirement that the City construct a Community Center in southeast Fort Collins focused on innovation, technology, art, recreation and the creative process, including a “large outdoor leisure pool with water slides, sprays and jets, decks, a lazy river and open swimming area,” as well as meeting spaces dedicated to innovation and creativity.

The Poudre School District currently has approx. 10 acres of land available that may be a suitable site for the construction of a new Community Center that includes the facility requirements contained in the 2015 ballot language in addition to an expanded library branch, and the construction of an indoor aquatics facility that would serve the Fort Collins community and allow the School District access to indoor lanes for its swim programs.

**Status:** The Library, School District and the City have fostered a partnership to design, construct, and operate the proposed Community Center. The Parties have developed an initial intergovernmental agreement (“IGA”). The Library has a small role in the initial IGA, essentially agreeing to participate in the future project negotiations. This was on request of legal counsel, so that the finer details of the operations relationship could be established once further specifics are available and the project is more certain. Legal counsel has reviewed the IGA and participated in meetings

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with the City and the school district representatives. The IGA has also been reviewed by the District executive director and finance director. The primary points of the IGA are as follows:

1. **Conveyance of Land-** The initial IGA is conditioned on the execution of a Purchase and Sale Agreement (“PSA”) whereby the School District sells the land for the Community Center to the City.
  - a. The PSA is to be executed by April 2024, with closing slated for November 2024;
  - b. The PSA will include further details, but the IGA indicates that the school district will contribute 15% for construction of the aquatics portion of the facility, in exchange for the City’s promise to build the aquatics facility and coordination/accommodation of school district swim programs.
2. **Funding/ Construction of the Community Center-**The Library and the City will jointly design and construct the library portion of the Community Center.
  - a. The Library will have input on the common areas in the Community Center, as further described in a subsequent operating IGA;
  - b. Contracting for the project will be done by the City through its purchasing processes;
  - c. The aquatics portion will be solely owned and maintained by the City, with the school district contributing 15% for construction of the aquatics facility and a yearly maintenance obligation of \$150,000 and \$45,000 for equipment replacement;
  - d. A separate IGA governing the operations of the aquatics facility will be negotiated between the School District and the City.
3. **Community Center and Library Branch-** The IGA does not bind the Library to participate in the project. However, if the Library participates, it will share in the design and construction costs to equip and operate at least a 30,000 square foot library with meeting rooms and innovation/programming space.
  - a. The Library and City will negotiate a separate operations IGA governing the library space to include the following.
    - i. The form of the library’s interest in the real property;
    - ii. Designation of the parties’ project managers;
    - iii. Whether the library portion will be a stand-alone structure or part of a larger facility;
    - iv. Cost sharing for land acquisition, design, and construction costs;
    - v. Ongoing maintenance and operations of the real property facilities.

The Board has approved the initial South East Community Center IGA and it is fully executed by all parties. Counsel is currently drafting the operations IGA to begin discussion.

**Action:** None at this time.

### **Second Amendment to IGA with the City and County**

**Task:** Consider Second Amendment to formation IGA with the City of Fort Collins and Larimer County. The Second Amendment amends the Trustee selection process to provide that the Library District will recommend Trustee candidates to the City and the County. The City and County will then consider the recommended candidates and determine whether to appoint. This procedure considerably streamlines the Trustee appointment process.

**Status:** **On hold until 2024.** Counsel was informed by the City that the City staff will make a commitment to bring this discussion to City Council in late Summer/Fall to consider a change in the process for 2024.

**Action:** None at this time.

### **Surplus Property Resolution**

**Task:** Consider Surplus Property Resolution. C.R.S. § 24-90-109(1)(i) provides that the board of trustees has the power and authority to “sell, assign, transfer or convey any property of the library, whether real or personal, which may not be needed in the foreseeable future for any purpose authorized by law, upon such terms and conditions as it may approve.... The board, prior to conveyance of such property, shall make a finding that the property may not be needed within the foreseeable future for library purposes, but no such finding shall be necessary if the property is sold or conveyed to a state agency or political subdivision of the state.”

**Status:** Counsel recommends that the Board consider a surplus property resolution in the first quarter of each year to make the finding that the surplus property is not “needed within the foreseeable future.” A draft surplus property resolution is attached to the status report.

**Action:** Consider the surplus property resolution- if the Board wishes to approve the resolution the following motion may be made:

*“I move to approve the 2024 surplus property resolution”*

**POUDRE RIVER PUBLIC LIBRARY DISTRICT  
BOARD OF TRUSTEES  
A RESOLUTION  
REGARDING SURPLUS PROPERTY**

**WHEREAS**, the Poudre River Public Library District (“**the District**”) was organized as a library district pursuant to Section 24-90-101, *et. seq.*, C.R.S; and,

**WHEREAS**, the District has embarked upon a program of library improvements; and,

**WHEREAS**, the library improvements have rendered certain personal property of the District obsolete or unnecessary; and,

**WHEREAS**, the library materials collection is continually updated and books, cd’s, and dvd’s are weeded from the collection and other property, including computers and electronic items and furniture, are updated; and,

**WHEREAS**, some of these items may have value at an auction or sale; and,

**WHEREAS**, the District’s Board of Trustees is authorized to sell, assign, transfer or convey any property of the library that “may not be needed within the foreseeable future for library purposes” pursuant to §24-90-109(1)(i), C.R.S.

**NOW THEREFORE**, The Board of Trustees of the District finds and resolves that:

1. The Board of Trustees hereby finds that the surplus property is not needed within the foreseeable future for library purposes.

2. The surplus property may be sold at auction or by direct sale to the extent the Executive Director deems them to have any value or may be assigned, transferred or conveyed to others for a sale or auction that may benefit the District, or, to the extent their value is deemed negligible, may be donated, transferred or disposed of in any other manner deemed appropriate.

**ADOPTED THIS \_\_\_\_ DAY OF MARCH 2024.**

**POUDRE RIVER PUBLIC LIBRARY DISTRICT**

By: \_\_\_\_\_  
President

ATTEST:

By: \_\_\_\_\_  
Secretary