
MEMORANDUM

TO: Poudre River Public Library District

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

DATE: August 8, 2024

RE: Legal Status Report

This is our legal status report for the August 12, 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 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 reviewed the IGA and participated in meetings with

{00747337}

the City and the school district representatives. The IGA was also 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 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.

Counsel also revised the draft Owner representative agreement and project management services agreement between the City and Wember, Inc. to include the Library as an additional party to the agreement.

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: The draft second amendment that was circulated last year has been reviewed by all parties, including District leadership and legal counsel. Consideration of approval of the second amendment will be on the County and City agendas in mid-August. See attached Second Amendment to Intergovernmental Agreement.

Action: Consider approval of the Second Amendment to Formation IGA.

Suggested motion:

I move to approve and authorize execution of the Second Amendment to Intergovernmental Agreement.

Legislative Update: SB24-216 (Formerly SB24-049)

Task: Monitor SB24-216- “Standards for Decisions Regarding Library Resources”- A bill to challenge censorship and institute requirements for the materials challenge process.

Status: SB24-049 was killed in committee, and SB24-216 was introduced at the end of the legislative session. This bill had a better chance of success because it applied solely to public libraries and removed all requirements regarding school libraries. One large improvement from the former bill was that the legislature took the bill out of the section of the library law listing the powers of the Board of Trustees and created a new section for the law. The bill was passed by the Legislature and was recently signed by the Governor.

The bill requires:

1. The Board of Trustees to establish written policies for the “acquisition, retention, display, and use of library resources and for the use of a public library facility;”
2. If the Board of Trustees considers materials challenges, the Board is required to establish a reconsideration policy and make the policy available on the District website;
3. The District’s determination of the challenge must be “made available to the public;”
4. A challenger must reside within the boundaries of the District;
5. The District may not reconsider the same library resource more than once every two years (although the District may extend this period in its reconsideration policy);
6. Challenged materials are not to be removed until the completion of the reconsideration process;
7. The District shall make its facilities/materials available on an equitable basis (this is already a first amendment principle but helpful to be codified);
8. It is the responsibility of the public library to challenge censorship;
9. A written request for reconsideration does not qualify as a library user record under the privacy law and is subject to disclosure under CORA.

Action: None at this time.

Further Legislative Updates:

HB24-1302: “Tax Rate Information to Real Property Owners.” For 2025 mill levy certifications, taxing authorities are now required to submit, with their annual certification of levies, the following information: the rate of each levy; any adjustments from the prior year’s levies; whether the levy is fixed or floating; applicable statutory or constitutional limits on annual levy or revenue increases, and whether the entity is exempt from or has waived these limits; the annual rate of growth of the levy; and the mechanism for determining the annual rate of growth of the levy.

SB24-233: “Property Tax.”

- Beginning with property tax year 2025, local governments (with certain exceptions) are subject to a 5.5% property tax revenue growth limitation.
- For 2024 property tax year, multi-family residential property assessed valuation is reduced from 6.8% to 6.7%, and all other residential property is reduced from 7.06% to 6.7% of actual value in 2024 (a continuation of 2023 valuation), less a \$55,000 carveout.
- For 2025 property tax year, residential real property assessed valuation is 7.15% of the actual value of the property, *except for* school district levies.
- For 2026 property tax year and beyond, residential property assessed valuation is 6.95% of the actual value, minus the lesser of 10% of the actual value of the property, or \$70,000 as adjusted for inflation, *except for* school district levies.
- Local governments (*except school districts*) shall be reimbursed by the state an amount equal to any decrease in assessed value between the 2022 and 2024 property tax years multiplied by the local governments’ mill levy rate from the 2022 property tax year.
- Beginning in 2025 property tax year, a person may defer the payment of real property taxes on a person’s senior homestead property, with the 4% tax-growth cap removed.
- The act shall not take effect if an initiative that reduces valuations for assessment, or an initiative that requires voter approval for retaining property tax revenue that exceeds a 4% limit; is approved by Colorado voters at a general election held November 5, 2024.

SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT

THIS SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (“Amendment”) is made and entered into by and between THE Poudre River Public Library District, formerly known as the Fort Collins Regional Library District (“District”), the CITY OF FORT COLLINS, COLORADO (“City”), and LARIMER COUNTY, COLORADO (“County”) and is effective on the date last signed below.

RECITALS

1. Pursuant to § 24-90-107(3)(h), C.R.S., the District, City and County entered into an Intergovernmental Agreement dated December 18, 2007, which sets forth the rights, obligations, and responsibilities, financial and otherwise, of the City, the County and the District (the “IGA”).

2. The parties amended the IGA through a First Amendment to Intergovernmental Agreement dated June 4, 2012 (the “First Amendment”), to expand the list of services in Exhibit B to the IGA and simplify the process for changing Exhibit B in the future, as well as to provide that the District will reimburse the City for any City-approved refunds of the City Impact Fee.

3. The parties now wish to further amend the IGA to modify the process for appointing trustees to the District’s Board of Trustees.

NOW, THEREFORE, the parties hereto agree as follows:

1. That Article I of the IGA is amended by the addition of a new Section 1.7, as follows:

Section 1.7 Appointment of Trustees The City and County hereby delegate to the Board of Trustees of the District the authority to recommend new trustees for ratification by a two-thirds majority of the legislative bodies of both the City and County as provided in §24-90-108, C.R.S., as amended.

2. That Section 2.4 of the IGA is hereby amended to read as follows:

Section 2.4 Appointment of Trustees. The City, in cooperation with the County, shall be responsible for ratifying the appointment of trustees recommended by the District to the Board of Trustees pursuant to §24-90-108, C.R.S., as amended. Upon receipt of a recommendation for appointment by the Board of Trustees of the District, the City Council shall vote on the appointment at a regularly scheduled meeting, either approving the appointment or rejecting the appointment. If the appointment is approved by both the City and County, the individual shall be deemed appointed to the Board of Trustees for the District. If the appointment is rejected by either the City or County, the Board of Trustees for the District shall provide a recommendation for a new individual to fill the vacancy. If more than one

vacancy is open, the Board of Trustees for the District shall provide a recommendation for each vacancy and the City Council shall approve or reject each recommendation separately.

3. That Section 7.1 of the IGA is hereby amended to read as follows:

Section 7.1 Appointment of Trustees. The County, in cooperation with the City, shall be responsible for ratifying the appointment of trustees recommended by the District to the Board of Trustees pursuant to §24-90-108, C.R.S., as amended, and for any additional responsibilities mandated under the Colorado Library Law, as amended. Upon receipt of a recommendation for appointment by the Board of Trustees of the District, the County shall vote on the appointment at a regularly scheduled meeting, either approving the appointment or rejecting the appointment. If the appointment is approved by both the City and County, the individual shall be deemed appointed to the Board of Trustees for the District. If the appointment is rejected by either the City or County, the Board of Trustees for the District shall provide a recommendation for a new individual to fill the vacancy. If more than one vacancy is open, the Board of Trustees for the District shall provide a recommendation for each vacancy and the County shall approve or reject each recommendation separately.

4. All terms and conditions of the IGA remain in full force and effect except as modified by this Amendment and the First Amendment.

**BOARD OF COUNTY COMMISSIONERS
LARIMER COUNTY, COLORADO**

Chairman

Date

ATTEST:

Approved as to form:

Larimer County Attorney

**POUDRE RIVER PUBLIC LIBRARY DISTRICT
BOARD OF TRUSTEES**

President

Date

ATTEST:

Approved as to Form:

Secretary

Seter, Vander Wall & Mielke, P.C.

CITY OF FORT COLLINS, COLORADO

Mayor

Date

ATTEST:

Approved as to Form:

City Clerk

Assistant City Attorney