City of Boulder  
2018 Library Commission  

**Meeting date:** Wednesday, Nov. 14, 2018  
**Location:** Main Library, 1001 Arapahoe Ave., Canyon Meeting Room  

**Meeting start time:** 6 p.m. (Note: There is no access to the building after 8 p.m.)

1. Approval of agenda  
2. Public comment  
3. Presentation of financial analysis - Kady Doelling, Budget Officer and Consultants Robyn Moore and Matthew Dempsey, George K. Baum & Company  
   a. Library Commission Q & A on presentation  
4. Adjournment

2018 Library Commissioners  
Joni Teter, Chair  
Tim O’Shea  
Juana Gomez  
Joel Koenig  
Jane Sykes Wilson
DATE: November 9, 2018
TO: Library Commission
FROM: David Farnan, Library and Arts Director
       Jennifer Phares, Deputy Library Director

SUBJECT: Financial Analysis memo and presentation for the Nov. 27, 2018 City Council Study Session

BACKGROUND

At the July 24, 2018 City Council meeting, council directed staff to hire a consultant to perform a balanced and impartial analysis of all funding needs and options for funding each service level outlined in the 2018 Boulder Public Library Master Plan. A staff project team was formed and the consulting firm George K. Baum & Company (GKB) was hired to conduct the analysis. Associates Robyn Moore and Matthew Dempsey of GKB worked with the team to identify the library’s total operating and capital needs, and cost allocation based on current costs, and to project future needs. A financial model was created to project tax revenues necessary for each master plan funding level and determine several options for stable funding for a municipal library and a library district. The results of the financial analysis will be presented to the Library Commission at its special meeting on Nov. 14, 2018. The draft memo that will be provided in the City Council Study Session packet is also included in this meeting packet.

Council also requested information on governance, process, structure, and asset allocation related to the formation of a library district. The project team engaged Kim Seter, Esq. from the law firm Seter Vander Wall, P.C. to provide information about library district formation in Colorado. The Library Commission received Seter’s initial report and a memo with responses to the staff’s and commission’s questions about the report. These documents along with a report comparing district formation by ordinance or by petition, and case studies on the Poudre River Public Library District, the Berthod Public Library District and Jefferson County Public Library are attachments 1-3 to the study session packet memo.

NEXT STEPS

The financial analysis presentation along with summary information about library district formation will be presented to City Council on Nov. 27, 2018. The Boulder County Commission has been invited by council to the study session.

QUESTION FOR THE LIBRARY COMMISSION

Does the Library Commission have questions about the study session memo or the financial analysis presentation?
STUDY SESSION MEMORANDUM

To: Mayor and Members of Council

From: Jane S. Brautigam, City Manager
Tanya Ange, Deputy City Manager
David Farnan, Library and Arts Director
Kady Doelling, Executive Budget Officer
David Gehr, Chief Deputy City Attorney
Janet Michels, Senior Assistant City Attorney
Jennifer Phares, Deputy Library Director
Kara Skinner, Assistant Director of Finance
Hannah Combs, Senior Budget Analyst
Bob Eichem, Chief Financial Advisor

Date: November 27, 2018

Subject: Boulder Public Library Master Plan Follow Up, Regarding Financing Options for Long Term Sustainable Library Funding

EXECUTIVE SUMMARY

At the July 24, 2018 city council study session, staff presented an overview of the draft Boulder Public Library Master Plan including a summary of community input and master plan goals. The Library Commission’s conclusions and recommendations about the master plan and library funding were also presented. Council provided direction that staff should move forward with hiring a consultant to perform a balanced and impartial analysis of all funding needs and options for funding each service level outlined in the 2018 Boulder Public Library Master Plan. An in-depth financial analysis of all options was conducted by the George K. Baum & Company (GKB). GKB was selected via a competitive process in accordance to the city’s procurement policy. This memo includes a description of the financial analysis and key outcomes.

Council also requested information on governance, process, structure, and asset allocation related to the formation of a library district. A legal analysis was conducted to determine the governance issues required under Colorado law for creating and operating a library district. Library districts have their own section of Colorado law - Colorado Library Law, C.R.S. § 24- 90-101, et seq. The law firm of Seter and Vander Wall, P.C. provided valuable input regarding the process required to form and operate an independent library district in Colorado. They also provided information on governance and how library assets may be handled. This memo also includes an overview of governance issues following the financial analysis section.
QUESTIONS FOR COUNCIL’S CONSIDERATION

1. Does council have questions about the financial analysis and scenarios?
2. Which of the increased levels of funding outlined in the master plan does council support (Maintain service levels, Meet community demand, Service expansion/vision)?
3. Does council want staff to conduct public polling to determine the community’s interest in increasing library funding and support?
4. If council prefers the library remain a municipal library:
   - Do council members wish to pursue a specific financing option(s)?
   - Should staff move forward with preparing a proposed 2019 ballot question to increase City of Boulder sales tax and/or property tax to generate revenue to fund a municipal library?
5. If council prefers the library district as an option:
   - Does council desire to schedule a meeting with Boulder County Commissioners to further discuss creation of a district and Intergovernmental Agreement?
   - Should the boundaries of the library district include the Boulder Valley Comprehensive Plan (BVCP) only, or the expanded boundary that includes the City of Boulder, the BVCP area and Niwot/portions west of the city?
   - Should staff draft proposed 2019 ballot question language for the purpose creating a library district?

BACKGROUND
The library master plan outlines three proposed service levels: maintain service levels, meet community demand, and service expansion/vision. A priority issue identified in the master plan is the need to develop stable ongoing revenues to fund programs and services. As with most master plans, in-depth financial analysis is not the focus. Since the master plan highlighted funding needs, staff recommended, and council agreed to hire an independent outside consultant to complete this in-depth financial study. This analysis also supplements and expands on the city’s initial financial analysis conducted for the April 12, 2018 information packet item.

FINANCIAL ANALYSIS
The first step in the financial analysis was to map the long-term operating costs at the three master plan service levels. The analysis includes two different financial components: the library budget, which includes operating and capital direct costs, and the indirect costs associated with supporting library operations (referred to as cost allocation).
Once long-term operating costs were established, the analysis identified options for funding. These options included eight scenarios and two governance categories: one in which the library remains a municipal library, and one in which the library is a district. The final step of the analysis was to quantify impacts of and issues related to implementing each scenario.

**Long-Term Costs**

GKB worked with city staff to identify total operating, capital, and cost allocation based on current costs, and projections of future needs. The financial model developed by GKB then layers master plan costs onto these base costs to show total anticipated costs. The resulting costs are higher than those identified in the master plan due to complete accounting for ongoing staff position costs and addressing the facilities maintenance backlog. The model also assumed cost inflation that reflects assumptions used in the city’s fund financials. See table 1 below for five-year projections of the library’s total budget needs by service level.

![Table 1. Total Budget Needs by Service Level 2020-2024](chart)

One of the challenges of comparing costs of a municipal library and a library district is when a municipal library is included as a part of the city’s general fund budget. In this scenario, the library does not pay cost allocation charges (e.g., overhead costs such as finance, HR, IT, communications, building repair and renovation costs, etc.). To insure a fair comparison in the financial analysis, cost allocation charges were included in the comparison data used to analyze the full cost of a municipal library compared to the full cost of a library district.
The library’s 2019 approved budget funds the library at the Maintain Service Level of the master plan and indirect costs (cost allocation) associated with library operations are funded by the general fund. The total cost to fund the library in 2020 and beyond increases annually due to additional ongoing operating and capital expenses identified in the master plan. See Table 2 below for unfunded operating, capital, and facilities costs projected for 2020 by master plan service level.

### Table 2. 2020 Additional Budget Needs by Service Level

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Maintain Service Levels</th>
<th>Incremental Increase to Meet Community Demand</th>
<th>Meet Community Demand</th>
<th>Incremental Increase for Service Expansion</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Ongoing Operating Budget Needs</td>
<td>$243,582</td>
<td>$1,468,477</td>
<td>$1,712,059</td>
<td>$125,000</td>
<td>$1,837,059</td>
</tr>
<tr>
<td>New Capital Outlay Identified in Master Plan</td>
<td>$173,417</td>
<td>$1,321,030</td>
<td>$1,494,447</td>
<td>$102,010</td>
<td>$1,596,457</td>
</tr>
<tr>
<td>Facilities Backlog and Soft Costs</td>
<td>$1,043,717</td>
<td>-</td>
<td>$1,043,717</td>
<td>-</td>
<td>$1,043,717</td>
</tr>
<tr>
<td>Total Unfunded in 2020</td>
<td>$1,460,716</td>
<td>$2,789,507</td>
<td>$4,250,223</td>
<td>$227,010</td>
<td>$4,477,233</td>
</tr>
</tbody>
</table>

Note: Does not include cost allocation which is $3.38 million in 2019; that amount is assumed to be covered by the General Fund.

### Municipal Funding Options and Impacts

**Option #1 – No Tax Increase**

This option proposes to fund library needs through reallocation of current, non-dedicated city revenues. This would result in the reducing the budgets of other general fund city services, such as Fire, Police, Human Services, and all support services. The changes would be accomplished through the annual budget process and would not require voter approval. The actual impact on current programs is unknown until budget trade-offs are identified and accepted.

Table 3 below provides cost averages of five-year projections by master plan service level. These are the amounts of funding needed to cover the difference between the 2019 approved library budget and the average costs projected for 2020 through 2024 (referred to as the GAP).

**Option #2 – Dedicate tax rate (new or existing from General Fund)**

This option proposes to fund the library increases through a tax increase, either reallocating current city tax rates and dedicating it to the library or increasing the tax rate dedicated to the library. Depending on the amount of ongoing funds required from the general fund, reducing the city’s budgets in the general fund may be required. Voter approval is required for new taxes. For increased property tax, a voter approved change to the city charter is necessary for a mill increase greater than 1.01 mill. The current maximum property tax mill limit used for operating costs is 13 mills. The current city property tax mill rate is 11.981 mills.
Table 3 below provides the property tax mill levy increase or percentage of sales tax needed to fund the cost averages provided in option #2. These are the amounts of funding needed to cover the difference between the 2019 approved library budget and the average costs projected for 2020 through 2024 (referred to as the GAP).

### Table 3. Municipal Library: Funding the GAP (2020-2024 Summary)

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Revenue Source</th>
<th>Service Level</th>
<th>Impact/Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Maintain Service Levels</td>
<td>Meet Community Demand</td>
</tr>
<tr>
<td>#1</td>
<td>No tax increase ($ average cost 2020-2024)</td>
<td>City must reallocate $3.3 million from other services in General Fund</td>
<td>City must reallocate $5.4 million from other services in General Fund</td>
</tr>
<tr>
<td></td>
<td></td>
<td>0.806 Mills or 0.083% sales tax</td>
<td>1.336 Mills or 0.137% sales tax</td>
</tr>
<tr>
<td>#2</td>
<td>Dedicate tax rate (reallocating from existing General Fund or new)</td>
<td>0.806 Mills or 0.083% sales tax</td>
<td>1.336 Mills or 0.137% sales tax</td>
</tr>
</tbody>
</table>

Notes:
- All scenarios assume that Library Fund 0.333 mill levy is maintained.
- Municipal Library scenarios do not include cost allocation which is $3.38 million in 2019; that amount would be covered by the General Fund.
- GAP includes both operating and capital outlay expenses.

**Option #3 – Sales tax funding only**

This option increases sales tax and dedicates it to fund total library direct costs. The current city sales tax rate is 3.86%. Table 4 below shows the rates needed to fund the total direct costs of each service level (not the GAP).

**Option #4 – Property tax funding only**

This option increases property tax and dedicates it to fund total library direct costs. The Charter of the City of Boulder, Colorado, section 94 caps the total property tax mill levy at a maximum of 13 mills, and the city’s mill levy is currently 11.981 mills. The difference between the total city mill levy and the maximum allowed in the charter is 1.019 mills. If council chooses to dedicate the mill levy increase to the library, charter, section 134 would need to be amended.
Table 4 below shows the rates needed to fund the total direct costs of each master plan service level (not the GAP).

Option #5 – Sales and property tax combination

This option proposes a combination of property tax and sales tax increases to fund total library direct costs. Both tax increases would require voter approval. Whether a charter change would be required depends on the proposed property tax increase.

Table 4 below shows the tax rates needed to fund the total direct costs of each master plan service level (not the GAP). Table 5 shows the impact of increased property tax rate for property owners.

### Table 4. Municipal Library – New Taxes to Fund Total Direct Library Costs

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Revenue Source</th>
<th>Service Level</th>
<th>Impact/Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Maintain Service Levels</td>
<td>Meet Community Demand</td>
</tr>
<tr>
<td>#3</td>
<td>Sales Tax Only (%)</td>
<td>0.275%</td>
<td>0.325%</td>
</tr>
<tr>
<td>#4</td>
<td>Property Tax Only (Mills)</td>
<td>2.620 mills</td>
<td>3.150 mills</td>
</tr>
<tr>
<td>#5</td>
<td>Sales and Property Tax Combination</td>
<td>Sales Tax (%)</td>
<td>0.150%</td>
</tr>
<tr>
<td></td>
<td>Property Tax (Mills)</td>
<td>1.160 mills</td>
<td>1.690 mills</td>
</tr>
</tbody>
</table>

**Notes:**

All scenarios assume that 0.333 mill Library Fund Mill Levy is maintained.

Municipal library scenarios do not include cost allocation which is $3.38 million in 2019; that amount is assumed to be covered by the General Fund.
Table 5: Municipal Library – Impact on Property Owners

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Property Tax (Mills)</th>
<th>Maintain Service Levels</th>
<th>Meet Community Demand</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2,620 mills</td>
<td>3.150 mills</td>
<td>3.330 mills</td>
<td></td>
</tr>
</tbody>
</table>

Residential Property Tax Increase

<table>
<thead>
<tr>
<th></th>
<th>Annual Property Tax on $850K Home ($)</th>
<th>$160</th>
<th>$193</th>
<th>$204</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Annual Property Tax on $1 million Home ($)</td>
<td>$189</td>
<td>$227</td>
<td>$240</td>
</tr>
</tbody>
</table>

Commercial Property Tax Increase

|                       | Annual Property Tax on $1 million market value | $760 | $914 | $966 |

(1) Property tax impacts exclude the Library Fund 0.333 mill levy.

Note: Municipal library scenarios do not include cost allocation which is $3.38 million in 2019; that amount is assumed to be covered by the General Fund.

District Funding Options and Impacts

There are three funding options for a library district, based on the library service areas with defined geographic boundaries that were selected to evaluate potential tax revenues that could be generated by the City of Boulder or a library district to fund library operating and capital needs.

Service area scenarios 2 and 3 are hypothetical boundaries for the purposes of the analysis. If there is interest in pursuing the formation of an independent library district, the actual geographic service area boundaries of a library district are determined by the establishing governmental entities, i.e. Boulder City Council and Boulder County Board of County Commissioners, or in the citizen-initiated petition. A final library district boundary must be aligned voting precinct boundaries for election purposes.

Service Area 1: City of Boulder Boundary

The boundaries of the district would be the same as the city’s boundaries. The tax impacts of this scenario are summarized in the table 6 below.
Table 6: Property Tax Impacts for City of Boulder Boundary

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Property Tax (Mills)</th>
<th>Maintain Service Levels</th>
<th>Meet Community Demand</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3.850 mills</td>
<td>4.380 mills</td>
<td>4.560 mills</td>
<td></td>
</tr>
</tbody>
</table>

Residential Property Tax Increase

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Property Tax (Mills)</th>
<th>Maintain Service Levels</th>
<th>Meet Community Demand</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Library Tax on $850K Home ($)</td>
<td>$236</td>
<td>$268</td>
<td>$279</td>
<td></td>
</tr>
<tr>
<td>Library Tax on $1 million Home ($)</td>
<td>$277</td>
<td>$315</td>
<td>$328</td>
<td></td>
</tr>
</tbody>
</table>

Commercial Property Tax Increase

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Property Tax (Mills)</th>
<th>Maintain Service Levels</th>
<th>Meet Community Demand</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Property Tax on $1 million market value</td>
<td>$1,117</td>
<td>$1,270</td>
<td>$1,322</td>
<td></td>
</tr>
</tbody>
</table>

Service Area 2: City of Boulder Planning Area (Boulder Valley Comprehensive Plan Boundaries)

In this scenario the legal boundaries of the district would be the same as the Boulder Valley Comprehensive Plan area. It includes parts of the Gunbarrel community that are in unincorporated Boulder County. If a library district is formed using this area, the final boundary must be adjusted to include complete voting precinct areas therein. The tax impacts of this scenario are summarized in the table 7 below.

Table 7: Property Tax Impacts for BVCP Boundary

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Property Tax (Mills)</th>
<th>Maintain Service Levels</th>
<th>Meet Community Demand</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3.290 mills</td>
<td>3.730 mills</td>
<td>3.880 mills</td>
<td></td>
</tr>
</tbody>
</table>

Residential Property Tax Increase

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Property Tax (Mills)</th>
<th>Maintain Service Levels</th>
<th>Meet Community Demand</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Library Tax on $850K Home ($)</td>
<td>$201</td>
<td>$228</td>
<td>$237</td>
<td></td>
</tr>
<tr>
<td>Library Tax on $1 million Home ($)</td>
<td>$237</td>
<td>$269</td>
<td>$279</td>
<td></td>
</tr>
</tbody>
</table>

Commercial Property Tax Increase

<table>
<thead>
<tr>
<th>Service Levels</th>
<th>Property Tax (Mills)</th>
<th>Maintain Service Levels</th>
<th>Meet Community Demand</th>
<th>Service Expansion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Property Tax on $1 million market value</td>
<td>$954</td>
<td>$1,082</td>
<td>$1,125</td>
<td></td>
</tr>
</tbody>
</table>
Service Area 3: Expanded boundary to align library patrons with funding base

Scenario 3 is the largest service area that does not impinge upon the service area of any other governmental entity (municipal or district library). Ninety percent of the Boulder Public Library patron base is represented within this boundary. It includes the City of Boulder, the Boulder Valley Comprehensive Plan Area, and several voting precinct areas in Boulder County. The tax impacts of this scenario are summarized in the table 8 below.

Table 8: Property Tax Impacts for Expanded Boundary

<table>
<thead>
<tr>
<th></th>
<th>Service Levels</th>
<th>Service Levels</th>
<th>Service Levels</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maintain Service Levels</td>
<td>Meet Community</td>
<td>Service Expansion</td>
</tr>
<tr>
<td>Property Tax (Mills)</td>
<td>3.110 mills</td>
<td>3.520 mills</td>
<td>3.660 mills</td>
</tr>
<tr>
<td>Residential Property Tax Increase</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Library Tax on $850K Home ($)</td>
<td>$190</td>
<td>$215</td>
<td>$224</td>
</tr>
<tr>
<td>Library Tax on $1 million Home ($)</td>
<td>$224</td>
<td>$253</td>
<td>$264</td>
</tr>
<tr>
<td>Commercial Property Tax Increase</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual Property Tax on $1 million market value</td>
<td>$902</td>
<td>$1,021</td>
<td>$1,061</td>
</tr>
</tbody>
</table>

INFORMATION ABOUT POLLING

Staff has contact information for several national polling firms that poll the public on local ballot issues. Staff could draft a Request for Proposal, solicit bids and work with the selected firm to develop a poll. We anticipate that the firm could conduct the poll in the early part of 2019. We would work with the firm to identify a recommended sample size but anticipate a 500-voter sample survey. This size of sample would enable us to break out standard demographics, including age, gender, income, education, etc.

The estimated costs for developing and conducting a poll of 500 voters is between $20,000 to $25,000. The poll could be paid for using the Library Fund

LIBRARY DISTRICT GOVERNANCE

Overview

A library district may be formed by resolution or ordinance by one or more existing governmental entities (“establishing entities”), or by initiative of citizens through a petition and election process. A library district is an autonomous government and subdivision of the state and is governed by a Board of Trustees appointed by the establishing entities. After appointment of
the Board of Trustees, the establishing entities and trustees must enter into an intergovernmental agreement describing their rights, obligations, and responsibilities to one another (IGA). The Board of Trustees may adopt bylaws, rules, and regulations for its own guidance and policies for the governance of the library as it deems expedient.

**Library District is an Independent Single Purpose Government**

A library district is a quasi-municipal corporation and political subdivision of the State and not a branch, department or service of the establishing entities. It obtains its own financial support through an *ad valorem* property tax levy authorized and approved in a TABOR Election. The taxes are collected on property with the library’s legal service area.

**Operational Governance**

The powers, duties and responsibilities of library district governing boards and their relationship to city and county governments is set forth in the Colorado Revised Statutes.

The establishing entities select the first Board of Trustees once the library district is established. Succeeding trustees are appointed by the establishing entities following procedure established by the Library Law and the IGA. The Board of Trustees is the sole, autonomous legislative body of the district, with the establishing entities retaining the power to appoint. Trustees are not in elected positions.

A district board of trustees will receive property tax revenues and spend the resulting revenues to further library purposes. The establishing entities may not place restrictions on the library’s use of funds, so long as the funds are being used legally and in the interest of the library. However, the establishing entities can ensure the continuation of services that an existing library may provide when it is merged into the district through the IGA. The IGA can be used to allow intergovernmental cooperation to perform functions that each unit is authorized to provide.

Library districts have power and authority to conduct its business in a manner consistent with other limited power districts, including legislative powers, acquisition, acceptance and disposal of property, employment, budget and tax collection and the ability to enter into contracts.
Table 9. Comparison of Governance, Funding, and Boundaries for a Municipal vs. a Library District

<table>
<thead>
<tr>
<th></th>
<th>MUNICIPAL LIBRARY</th>
<th>LIBRARY DISTRICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governing entity</td>
<td>City Council</td>
<td>City Council and County Commission</td>
</tr>
<tr>
<td>Library board*</td>
<td>Members appointed by City Council to serve on advisory</td>
<td>Members appointed by City Council and County Commissioners to serve on a Board of Trustees</td>
</tr>
<tr>
<td>Funding mechanism</td>
<td>See municipal options 1 - 5 above</td>
<td>See district service area options 1 - 3 above</td>
</tr>
<tr>
<td>Boundary</td>
<td>City of Boulder</td>
<td>BVCP area or the area to which service is provided</td>
</tr>
</tbody>
</table>

*State law prohibits ex officio status on the library board by a council member. There is nothing in the Colorado library law that prohibits a council member from being appointed to the library board in the same manner as any other resident of the library district.

OPTIONS FOR FORMING A LIBRARY DISTRICT

A Library District

A library district can be formed by resolution or ordinance of one or more existing governments (i.e., the city, the county, or both) (the “establishing entities”); or, by initiative of citizens through a petition process.

Establishing the District by Resolution/Ordinance. If a district is a desirable outcome, establishing the library district by resolution or ordinance allows greater control of the process by the establishing entities. This allows the establishing entities determine the appropriate boundaries of the district.

To initiate the process, public hearings are held by the establishing entities after published notice to discuss the purpose of the district, its powers; and the financial and other obligations of the establishing entities, if any.

The entity that wishes to propose a district is required to give 90 days’ written notice of the proposed establishment to other “governmental units” that maintain a public library so that they may determine whether to participate in the district.

Governmental entities that intend to establish a library district are required to adopt a resolution or ordinance that describes the district’s legal service area and provides that the electors must approve the proposed mill levy. The library district is established upon adoption of the resolution or ordinance.

The ordinance or resolution establishes that the establishing entities appoint the first board of trustees (5 or 7 members) to the library district. Within 90 days after appointment of the trustees, the establishing entities and trustees must enter into an intergovernmental
agreement describing their rights, obligations, and responsibilities to one another, if any ("IGA"). The IGA can be used to:

1. Establish a deadline for the district to obtain funding from its electors at an election authorized by the TABOR Amendment (i.e., at the November 2019 election);

2. Provide terms to transition library services from the establishing entities to the district including:
   a. Any conveyance by donation or sale of real and personal property used to provide library services;
   b. The transition of library employees from the establishing entity to the library district addressing earned leave, benefits, retirement funds, etc.;
   c. Interim funding, if any, for the existing libraries and the district;
   d. Whether the district will temporarily or permanently purchase or otherwise acquire administrative, maintenance, personnel, procurement, insurance, employee benefits etc. through contract with establishing entities;
   e. Establishing procedures for future library trustee selection and appointment within the confines established by the Library Law; and,
   f. Generally providing for a mutually beneficial relationship or separation as the parties’ desire.

3. If the district does not obtain funding within the time allowed, the IGA may require the district to dissolve leaving the municipal library to continue operations.

Establishing the District by Petition of Registered Electors. One hundred electors residing in the proposed library district “service area” can trigger an election to form a district by petition. The petition is required to be addressed to the county commissioners of each county proposed to be included in the district and must be filed at least 90 days before a TABOR election. The petition is required to have all the following elements:

   a. The petition must comply with C.R.S.§ 24-90-107(3)(a), including a request for establishment of the district, name of the district, the governmental units involved and contain a description of the “service area” and proposed mill levy.

   b. A bond must be filed to pay election expenses in the event the election is unsuccessful unless waived by the county.
Once in receipt of the petition, the establishing entities must pass a resolution or ordinance establishing the district or submit the question of establishment to a vote. Either way, a TABOR election will be required to establish the mill levy.

After a successful election, library trustees must be appointed, and an Intergovernmental Agreement is to be negotiated to address the same matters discussed for a library district that is formed pursuant to an ordinance or resolution.

**Intergovernmental Agreement (IGA)**

In any library district scenario, the City Council and the Boulder County Commission would negotiate the terms of an IGA with the library district. The IGA defines several aspects of the district structure and operations including:

- Library district board appointment and its powers, duties and responsibilities.
- Allocation of monetary and capital assets
- Transfer of municipal employees to the district
- Transitional funding and internal service provision
- Internal services (if any) provided by contract from the city

Governance concerns and operational parameters should be established in the IGA at the time the library district’s first board of trustees is appointed and prior to the district obtaining its own mill levy funding. The district is required to file an annual report with the establishing governmental entities and the Colorado State Library.

**Summary of Library Assets and Options for Transfer to a Library District**

The community’s library building and property assets include the Main Library, the George Reynolds Branch Library, the Carnegie Library for Local History, and upcoming north Boulder branch library. The Meadows Branch Library is a rented facility. Other community assets include the book and media collections; computer, business, and materials handling equipment; furnishings and fixtures.

There are options (below) regarding how library assets could be transferred from the city to a library district. The options selected would be part of the IGA.

- Deed library buildings, properties, and other assets to the library district at no cost, minimal annual cost, or one-time cost.
- Lease library buildings and properties to the library district at a determined rate such as, fair market value, original cost, or a different rate set by council.

Library monetary assets in the Library Fund and any other funds that have been collected for the library (e.g. Development Excise Tax, Impact fees, proceeds from the sale of the Blystat-Laesar House, and direct contribution from the Library Fund to Facilities Renovation and Replacement (FRR) would be transferred to the library district.
**Changes Required for The Charter of the City of Boulder, Colorado**

If a library district is formed, changes to the City Charter would be required later to update information about the library and remove the sections about the library commission. The charter sections that would need to be removed include:

- **Section 69 - Department of Library and Arts**
- **Section 130 - General provisions concerning advisory commissions.** Remove references to the library commission.
- **Section 132 - Library commission established.**
- **Section 133 - Powers and duties of library commission.**
- **Section 134 - Library fund.**

**Impact on city employees of the Boulder Public Library**

If a library district is formed, City of Boulder employees could be transferred from the city to the library district. If the library district contracts for services with the city, library district employees may retain identical benefits as they had as city employees.

Staff discussed with Public Employees Retirement Association (PERA) the impacts on employee retirement benefits if a library district formed. The conclusion was no changes are required to the employee or employer status and employees would retain all their vesting and coverage rights. Proper timing of the transfer is necessary to insure no break in service. Staff also researched impacts on employee benefits with the Social Security Administration. The conclusion was neither the employer (the library district) nor the employee would be required to contribute to Social Security.

**Background**

The law firm Seter Vander Wall P.C provided a report about the formation of a library district ([Attachment 1](#)). Staff and the Library Commission submitted questions about the report which the law firm answered ([Attachment 2](#)). The law firm compared library district formation by ordinance and by petition and provided information about the Poudre River Public Library District (Fort Collins), the Berthoud Public Library District and Jefferson County Public Library ([Attachment 3](#)).

**LIBRARY COMMISSION FEEDBACK**

(A summary of the Library Commission’s feedback will be included following its Nov. 14, 2018 special meeting.)
NEXT STEPS

Next steps will be determined based on council feedback and guidance at the study session.

ATTACHMENTS

1. Seter Vander Wall P.C. Library District Report
2. Seter Vander Wall P.C. Q and A on Library District Report
3. Seter Vander Wall P.C. Library District Formation and Case Studies
October 2, 2018

City of Boulder
City of Boulder Colorado Library Commission
1001 Arapahoe Avenue
Boulder, CO 80302

Attn: David Farnan, Director
Via Email: farnand@boulderlibrary.org

Re: Report on Library District Formation and Operations

Dear Mr. Farnan and Library Commissioners:

You have requested a report on the formation and operations of library districts under the Colorado Library Law, C.R.S. § 24-90-101, et seq. An outline of topics to address was provided by Mr. Farnan on August 11, 2018 (copy attached). Additional enquiries were made by Commissioners Teter and Koenig by email and at a meeting on July 27, 2018.

This report generally follows the outline provided by Mr. Farnan but I have restated and rearranged some topics for clarity. Responses to the Commissioners’ questions are incorporated in the outline where appropriate.

The information in Sections II. and III. is repetitive of information contained in the discussion of the library district formation process in Section I. However, we deemed repetition appropriate to ensure that we responded to your questions in the manner they were presented.

REPORT

I. Summary of Colorado Library Law on Library District Formation.

A. Municipal v. District Libraries. The City’s library and a library district differ in significant ways.

1. The Boulder Public Library is a “municipal library” which is a “public library” established by the City. See, C.R.S. § 24-90-103 (11).

a. It is governed by a Board (advisory in Boulder) known as the Commission. See, C.R.S. § 24-90-109 (2)(a).

b. It is funded as part of the City budget.
2. A “library district” is also a “public library.” It is established by one or more cities and/or counties, school districts, etc. See, C.R.S., § 24-90-104(6).
   a. It is governed by a Board of Trustees appointed by the establishing entities. See, C.R.S. § 24-90-108(2)(c).
   b. It is a “political subdivision of the state of Colorado” created by the establishing entities. The library district is its own taxing authority and is not a division or department of the city or other establishing entities and is not included in the establishing entities’ budgets.

B. Establishing a Library District. A library district can be formed by resolution or ordinance of one or more existing governments (i.e., the city, the county, or both) (the “establishing entities”); or, by initiative of citizens through a petition process.

1. Boundaries. The geographic boundaries of the district are determined by the establishing entities or in the citizen-initiated petition.
   a. Boundaries should provide sufficient tax base to support library services and include the area actually utilizing those services.
   b. Aggregating existing government entity boundaries to create the library district boundary is cost efficient because geographic, demographic and financial information already exists in the Colorado Department of Local Affairs and from other sources.

2. Establishing the District by Resolution/Ordinance. Establishing the library district by resolution or ordinance is cost effective and allows greater control of the process by the establishing entities.
   a. The establishing entities determine the appropriate boundaries of the district.
   b. A public hearing or hearings is held by the establishing entity(ies) after published notice to discuss the purpose of the district, its powers; and the financial and other obligations of the establishing entities, if any.
   c. 90 days written notice of the proposed establishment is given to other “governmental units” that maintain a public library so they may determine whether to participate in the district.
d. The resolution or ordinance must describe:

i. The district’s legal service area;

ii. identify and provide that the electors must approve the proposed mill levy.

e. The library district is established upon adoption of the resolution or ordinance.

i. The establishing entities appoint the first board of trustees (5 or 7 members) to the library district.

ii. Within 90 days after appointment of the trustees, the establishing entities and trustees must enter into an intergovernmental agreement describing their rights, obligations, and responsibilities to one another, if any (“IGA”). We utilize the IGA to:

(a) Establish a deadline for the district to obtain funding from its electors at an election authorized by the TABOR Amendment (i.e., at the November 2019 election);

(b) Provide terms to transition library services from the establishing entities to the district including:

1. Any conveyance by donation or sale of real and personal property used to provide library services;

2. The transition of library employees from the establishing entity to the library district addressing earned leave, benefits, retirement funds, etc.;

3. Interim funding, if any, for the existing libraries and the district;

4. Whether the district will temporarily or permanently purchase or otherwise acquire administrative, maintenance, personnel, procurement, insurance, employee benefits etc. through contract with an establishing entity; and,
(5) Establishing procedures for future library trustee selection and appointment within the confines established by the Library Law; and,

(6) Generally providing for a mutually beneficial relationship or separation as the parties’ desire.

(c) If the district does not obtain funding within the time allowed (we prefer 2-3 election cycles), the IGA may require it to dissolve leaving the municipal library to continue operations.

3. Establishing the District by Petition of Registered Electors. One hundred electors residing in the proposed library district “service area” can trigger an election to form a district by petition.

a. The petition is addressed to the commissioners of each county proposed to be included in the district and must be filed at least 90 days before a TABOR election.

b. The petition must comply with C.R.S.§ 24-90-107(3)(a), including a request for establishment of the district, name of the district, the governmental units involved and contain a description of the “service area” and proposed mill levy.

c. A bond must be filed to pay election expenses in the event the election is unsuccessful unless waived by the county.

d. Once in receipt of the petition, the establishing entities must pass a resolution or ordinance establishing the district or submit the question of establishment to a vote. Either way, a TABOR election will be required to establish the mill levy.

e. After a successful election, library trustees must be appointed and an IGA is to be negotiated to address the matters discussed in I.B.2.e. above.

II. Summary of Colorado Library Law on Library District Structure, Governance and Operations.

A. Governance Options in the Library District. The establishing entities select the first “Board of Trustees” once the library district is established. Succeeding
trustees are appointed by the establishing entities following procedure established by the Library Law and the IGA.

1. The Board of Trustees is the sole, autonomous legislative body of the district, with the establishing entities retaining the power to appoint. Trustees are not in elected positions.

2. Governance concerns and operational parameters should be established in the IGA at the time the library district’s first board of trustees is appointed and prior to the district obtaining its own mill levy funding.

3. A district board of trustees is guaranteed to receive its property tax revenues and may spend the resulting property tax revenues to further library purposes. The establishing entities may not place restrictions on the library’s use of funds, so long as the funds are being used legally and in the interest of the library. However, the establishing entities can ensure the continuation of services and some control through the IGA.

B. The Library District is an Independent Single Purpose Government. Structurally, the library district is a quasi-municipal corporation and political subdivision of the State and not a branch, department or service of the establishing entities. It obtains its own financial support through an ad valorem property tax levy authorized and approved in a TABOR Election.

1. Its “Legal Service Area” means the geographic area for which a public library has been established to offer services and from which, or on behalf of which, the library derives income. This includes areas served pursuant to contract. C.R.S. § 24-90-103(4.5). The “Legal Service Area” is the same as its corporate boundary. The size of the legal service area is at the discretion of the establishing entities if established by resolution or ordinance. The petition will identify the legal service area if established by petition.

2. Library districts are funded by a mill levy approved by the electors within its boundary. As an autonomous political subdivision of the state it will have complete control over legal spending of its tax revenues. However, some control and mutual financial benefits can be determined and fixed in the IGA.

3. The library district will be subject to TABOR to the same degree as the City and County.

C. Operational Governance. The powers, duties and responsibilities of library district governing boards and their relationship to city and county governments is set forth in the Colorado Revised Statutes.
1. C.R.S. § 24-90-109 delegates the power and establishes the duties of a library Board of Trustees along with any implied powers derived from the express powers below described below:

a. To adopt bylaws, rules, and regulations for its own guidance and policies for the governance of the library as it deems expedient;

b. Have custody of all property of the library, including rooms or buildings constructed, leased, or set apart therefore;

c. Employ a director and, upon the director’s recommendation, employ such other employees as may be necessary;

d. Submit an annual budget to legis. body and certify a mill levy;

e. Have exclusive control and spending authority over the disbursement of library funds;

f. Accept such gifts of money or property for library purposes, as it deems expedient;

g. Hold and acquire land by gift, lease, or purchase for library purposes;

h. Lease, purchase, or erect any appropriate building for library purposes and acquire such other property as needed;

i. Sell, assign, transfer or convey real or personal property which may not be needed in the foreseeable future;

j. Borrow funds for library purposes;

k. Authorize the bonding of persons entrusted with library funds;

l. Conduct annual audit of district financial statements;

m. Adopt a policy for the purchase of library materials and equipment on the recommendation of the library director;

n. Hold title to property given to or for the use or benefit of the library;

o. Have the authority to enter into contracts;
p. Maintain a current, accurate map of the legal service area and provide for it to be on file with the State Library;

q. Receive copies of all school district collective bargaining agreements submitted and create a repository of same available to the public for inspection;

r. Make an annual report to the establishing entities and provide response to State Library survey;

s. The Board may allow nonresidents to use library materials and equipment;

t. The Board may request that the establishing entities authorize an election be held to alter the maximum tax levied to support the district. The City shall cause the vote to be held.

III. Colorado Case Studies. We have formed library districts in rural communities and the metropolitan area. The variety of issues and processes varies widely and is very difficult to generalize because much of the process depends on the separate needs or desires of the parties involved.

A. We have utilized both the petition and the resolution/ordinance process. The petition process is adequate for smaller rural communities; but, we have always used the resolution/ordinance process for larger library districts. Arapahoe Library District, Rangeview Library District (Anythink), and Poudre River Regional Library District utilized this process to move from county and city service to the district model. Under the terms of IGAs, Rangeview (Anythink) separated from Adams County within approximately 5 years; however, Poudre River has maintained a close relationship under its IGA with Fort Collins since 2005. Both of these arrangements have been beneficial to the parties involved.

B. You have specifically enquired as to options for distribution of assets under C.R.S. § 24-90-107 “library’s real and personal property, personnel, and the provision of administrative services during the transition.” The distribution of assets is the subject of negotiation.

1. Almost all of the establishing entities have conveyed real and personal property to the library district without charge. However, some buildings have been leased by the district and some have had title restrictions that require payment if the property ceases to be used to provide library services, or upon sale. The statutes do not preclude the parties from negotiating a long-term purchase option.
2. As for personnel, we have discussed leasing city employees but did not implement that procedure. In the most efficient process we have used, the library district made employment offers to all city/county library employees that offered the same benefits and salary, accumulated leave and vacation pay. Simultaneously, the city/county issued notices of termination.

3. As for administration, Poudre River continues to utilize and pay the city for many administrative and contracting services, janitorial and maintenance, personnel (until very recently), financial services etc. Rangeview (Anythink) and Poudre River continue to contribute to the county and city retirement programs despite the fact that they are independent in many other ways.

4. In short, all of the transition items have been worked out in other districts and, because of the mutual benefits available, some “transitions” continue after more than thirteen years.

We are looking forward to discussing these matters with you and we have reserved the evening of November 27 to engage directly with the Commissioners and Council. In the meantime, please let me know what additional information you would like.

Sincerely,

SETER & VANDER WALL, P.C.

Kim J. Seter

Cc: Commissioner Teter
   Commissioner Koenig
   E. Dauer, Esq.
   M. Barrasso
MEMORANDUM

TO: City of Boulder, City of Boulder Colorado Library Commission, David Farnan


DATE: October 15, 2018

RE: Response to Questions Regarding Report on Library District Formation and Operations

You requested a report on the formation and operations of library district under the Colorado Library Law, C.R.S. § 24-90-101, et. seq. with responses to specific questions. We provided responsive correspondence on October 5, 2018. The following is a list of questions generated from your review of the correspondence followed by our responses in italics.

1. If a library district is initiated by a citizen petition, does the Board of County commissioners have any discretion about whether to place it on the ballot or not? Could they choose to place only the formation question and not the tax question on the ballot?

   C.R.S. § 24-90-107 (3)(d) provides that upon receipt of the petition, the legislative body or bodies shall either establish the District through an ordinance/resolution or submit the question of the establishment of the District to a vote at the earliest election permitted by law. Upon adoption of the resolution/ordinance or the successful formation election, the law requires that the establishing entities provide for the district’s financial support by January 1 of the year following the election or the passage of the ordinance/resolution.

   Accordingly, (1) the county commissioners must certify the formation question upon receipt of a proper petition; and, (2) the establishing entities must then provide financial support by some means, typically this would be accomplished by a tax question rather than through the entities’ budgets.

2. I.A.2.a.: With regard to the establishing entity and board of trustees. Is there a difference if it is formed by city/county or petition?

   There is no difference in the appointment process or composition of the Board of Trustees, whether it is formed the city/county or by petition. A petition, like the establishing resolution, must identify the establishing entities. The establishing entity or entities then have the duty and authority to appoint the Board of Trustees.
3. Can a combination of city council and county commissioners be established as the board of trustees?

A combination of the city council and county commissioners cannot be established ex officio as the board of trustees.

There is nothing in the Library Law or Colorado law that prohibits an individual resident of the district who is also a commissioner or city council member from being appointed to the library board. However, the appointment process established in the Library Law would not allow the establishing entities to provide that any trustee position is filled by a commissioner or city council member by virtue of holding (ex officio) that county or city office.

4. B.1 Boundaries. What section of Colorado library law spells this out? Or is there a specific case wherein a boundary has been drawn that did not overlap a county line, or school district or some other previously established boundary?

The Library Law utilizes the phrase “legal service area” instead of legal boundary. Petitioners or establishing entities may draw any legal service area for the library district they deem appropriate.

Statutes define the library’s legal service area as the geographic area for which a public library has been established to offer services and from which, or on behalf of which, the library derives income. The area in which the district will offer services and the area needed to derive sufficient income are the considerations that should determine the library district boundary.

Once an appropriate boundary is determined, we recommend looking at established entity boundaries to avoid the cost of mapping and the time needed to acquire population, voter and other data. There are many small governments, special districts and administrative areas already overlapping one another in Colorado. Each has established boundaries for which a great deal of information already exists. The boundaries of these entities can be pieced together to approximate the boundary that you deem appropriate for the library district.

Library districts have been formed that do not overlap another entity or that overlap portions of many different entities. The Arapahoe Library District boundaries contain a portion of Adams County and the City and County of Denver, and exclude portions of the City of Aurora. Poudre River Regional Library District generally overlaps the boundaries of a fire district but excludes portions of the fire district that are in the Estes Valley Library District. Rangeview Library District includes all of Adams County but excludes portions of Westminster that are in the county. There are many other examples.
5. Case studies: Are there libraries in Colorado that have determined a district was not in their best interest and maintained as a municipal library?

The Jefferson County Public Library explored the possibility of forming a district, but the board of county commissioners chose to keep the library as part of the county. There have been enquiries from other entities but JCPL was the only entity we are aware of that formally determined not to convert the county library to a district. We can discuss that with you at our meeting on October 18th if you wish.

6. 2.A. Since the county and city would appoint the board members. Can they appoint a council member or county commissioner to be on the board? [In accounting rules interlocking boards or commissions is one of the main determinates of if a governmental organization must be reported on as a component unit and is included in the CAFR of the appointing organizations. The reason I mention it is accounting requirements are separate from legal requirement. It has been several years since I have been involved in this type of discussion, so I do not know for sure that my concerns are correct (that is, the accounting requirements have changed). It would be best to have this researched and determined up front with the independent auditors of the city and county.]

See response to No. 3 as to the appointment of city council members and commissioners. The library district is a quasi-municipal corporation and political subdivision of the state of Colorado. It is not a component unit of the establishing entity or entities.

7. II B. 3 states TABOR is the same as the city and county. I would suggest we spend more time on this and make sure there are no TABOR issues. The city is home rule and the county is statutory. On the revenue side voters have de-bruced property tax for both entities so it should not be a concern - just something we need to be aware of and follow up to make sure there are not unknown issues due to differences between the two governments.

The district is subject to TABOR as an autonomous government and subdivision of the state. The district must submit its own ballot question to De-Brue its own revenues. Under most conditions, the district will not assume the voter authorizations of its establishing entities and its mill levy, revenue and TABOR concerns have no affect on those of the city or county.

8. II C 1 q - Receive copies of all school district collective bargaining ...... Not sure why they would need to receive school district collective bargaining contracts. Should it be city collective bargaining agreement?

C.R.S.§ 24-90-109 lists the powers and duties of the Board of Trustees. Specifically, C.R.S.§ 24-90-109 (1)(q) provides that the Trustees shall “receive the true and correct copies of all school district collective bargaining agreements submitted pursuant to the “Colorado School Collective Bargaining Agreement Sunshine Act”, Section 22-32-109.4, C.R.S., and create an electronic or physical repository for all of said current
collective bargaining agreements at the library that is available to the public for inspection during regular business hours in a convenient and identified location.”

9. Case studies: are you aware of any Colorado libraries that transitioned from Municipal to District wherein a sizable portion of the employees were members of a municipal employees’ union?

No. This would simply be another organization to consult during the preparation of the Intergovernmental Agreement.

10. Timing of starting up a district: Is this January 1 following a successful election to either establish a district or to fund a district (that has already been established by resolution)?

When formed by petition, January 1 following the election is the deadline to fund a district after a successful formation election. See C.R.S. § 24-90-107(3)(g). This is easily accomplished because a mill levy question would be included in the November election.

When forming by resolution or ordinance, the legislative bodies shall establish the public library and provide for its financial support beginning on or before January 1 of the year following the adoption of the resolution or ordinance or, if any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors is to provide the financial support, following elector approval of that levy. C.R.S. § 24-90-107 (2)(d).

Therefore, there is not a deadline in the statute to hold a TABOR election to set the mill levy. However, the law seems to imply that establishment and funding should be accomplished within a reasonable timeline, where possible. We have interpreted this to mean that an establishing entity may “provide for its financial support” by certifying a mill levy election for the library district.

11. If a petition is submitted to the County Commissioners, and they decide to create a district by resolution, is there a deadline for the Commissioners to take action in either adopting the resolution or putting the question on the ballot?

After submittal of a petition, the deadline to place the question of district formation on the ballot is the date of the next biennial general election or the first Tuesday in November of odd years, whichever is earliest. C.R.S. § 24-90-(d)(II). In the present case, November 5, 2019.

It is unclear whether the above deadline would apply to an election setting the mill levy, but, when reading the statute as a whole, it suggests that the establishment of the district and the mill levy should be accomplished forthwith. Further, we would advise against holding two separate elections (formation and funding) based upon the cost of holding two separate elections and the problems created if one question passes but the other does not.
12. It's clear from the memo that once a district is created by resolution, there is no firm deadline to set an election for funding. If the County and City agree to establish a district by resolution but delay action to put funding on the ballot do petitioners have any recourse?

*This is a correct observation. See question 10 for further clarification. The district board can request a mill levy election. We have addressed a reluctant board of commissioners in the past and it was determined that the certification of the mill levy question is a ministerial act that must be performed by the commissioners. It is not within the board's discretion.*

13. Do the establishing entities have any say in future funding for the library district once it is established and successfully funded? See memo II.C.1.t which seems to suggest that approval from the City is needed for "alternations" to the tax levied. (Page 7)

II.C.1.t references C.R.S. 24-90-109(4). *The Board of Trustees of a district have the authority to request of the BOCC that an election be held to alter the maximum tax levied to support the district, in which case, the BOCC shall cause the vote to be held.*

The BOCC action is a ministerial act that does not permit the BOCC to exercise discretion whether to place a mill levy increase question on the ballot. See also 24-90-112(1)(b)(III).

14. We were concerned by I.A.1.a. saying that the BPL is "governed by a Board (advisory in Boulder)…" and we noticed that the authority of a Library Board per CRS is very different than what is described in charter as the authority of the Library Commission. Some clarity around CRS vs. the city’s charter (and if charter changes would be required) would be helpful and also consider modifying the language in the memo – the City Council functions more like the Board (per CRS).

*We noted some discrepancy but were not engaged to address such concerns. We will obtain a copy of the charter and other documents establishing the municipal library and can address these concerns in the future.*

15. Regarding the process for forming a district by ordinance/resolution or petition, it would be helpful to have timelines developed. What happens if multiple governmental units need to agree - city and county - and deadlines aren’t met and there isn’t mutual agreement to extend the deadlines.

*We will prepare a draft timeline for distribution at the meeting on October 18th for discussion. These concerns should not sidetrack the effort at this time.*
In one instance we engaged in a petition process while negotiating the ordinance/resolution and IGA in order to provide an incentive and demonstrate a political will to timely complete the necessary steps.

16. If initiated by petition, the only funding mechanism is the mill levy? Is there no obligation by any governmental unit to apply/dedicate other assets?

The primary funding mechanism is the mill levy. The District may also receive specific ownership taxes, apply for grants etc. The statutes also provide that a “dedicated mill levy” of the establishing entity[ies] can be transferred to the library district. I have legal concerns about this process but it is provided for in the statutes.

17. If formed via a petition - is the County compelled to be the "governmental unit establishing the library district"? Does the city have the choice whether to participate or not?

The petition is required to identify the governmental unit(s) establishing the library district. C.R.S. § 24-90-107(3)(a). The Petition would be addressed to the BOCC, but the governmental units establishing the district would be limited to those named in the petition. The city could choose to participate if not named.

18. Can they provide more detail on how boundaries are established when formed by resolution/ordinance or petition? Who can participate in influencing those boundaries?

Please see response to No. 4. The petition promoters or the establishing entities would participate in the process. They could allow for participation by anyone they choose.

19. It appears if there are multiple governmental units establishing the library district that most of the details are worked out through the IGA – can we have more details around this process, who typically participates in the negotiations, how long it has taken to come to agreement?

This observation is correct. The negotiation of the IGA will essentially determine whether and how the district formation will go forward. The participating entities here will be the Library Commission, City Council and governing body of any other establishing entity. Once all of the issues that need to be addressed are determined, it has been relatively easy to obtain consensus in the past. We have always taken the lead in the process incorporating all of the establishing entities. This will be a 6-7 month process.

20. We agree with Bob’s comment that we need to better understand TABOR implications and whether a district can “de-bruce” as the city has.

TABOR applies to Districts in the same manner as the City. The proposed District may “De-Bruce” upon the passage of an election question authorizing same. We would likely draft the initial debt authorization question to include the language to “De-Bruce.”
21. In II.B.2. it states that “…some control and mutual benefits can be determined and fixed in the IGA.” Are there examples of cases where control over mutual financial benefits are shared?

   We are not certain what “mutual financial benefits” might mean; however, several of our libraries obtained their own mill levy which then reduced the burden on the city/county budget. In addition, some districts pay the city/county for services like janitorial, building maintenance, personnel, accounting, procurement etc. Each of these arrangements was negotiated with knowledge of the cost of obtaining the services from other sources and was deemed beneficial to all parties. Some of these arrangements were temporary and in others they have endured for 15-20 years, so far.

22. Do you have sample copies of any of the IGAs mentioned in the memo that you could share with us?

   Yes. We will bring copies with us to the meeting on the 18th and can walk through them with you if there is no objection from the clients involved.

23. I.A.1.b. refers to 24-90-109(2)(a) and I couldn’t find a (2)(a) in that section of CRS.

   The correct citation is C.R.S. § 24-90-108(2)(a).

24. I.A.2. refers to 24-90-104(6) and I couldn’t find a (6) in that section of CRS.

   The correct citation is C.R.S. § 24-90-103(6).
MEMORANDUM

TO: David Farnan, City of Boulder Library Commission, City of Boulder City Council
DATE: November 29, 2018
RE: Library District Formation- Ordinance/Resolution v. Petition

Library Districts may be formed by resolution or ordinance (“resolution”), or through a petition and election process. The following chart compares the processes. We have also provided brief “case studies” of our experience forming the Poudre River Public Library District and the Berthoud Library District.

**ORDINANCE/RESOLUTION**

- Resolution is considered and adopted by each establishing entity. The District is established when the Resolution is adopted.

- The Resolution must describe the district’s legal service area (“boundaries”) and provide for electors to approve the proposed mill levy.

- Does not require an election to form the entity, only a TABOR election for the mill levy.

**PETITION**

- 100 eligible electors residing in the proposed library district service area may submit a petition addressed to the county commissioners to form a District.

- The petition must include a request for establishment, name of the district, the governmental units involved (“establishing entities”) and contain a description of the boundaries and proposed mill levy.

- Upon receipt of the Petition, the establishing entities may adopt a Resolution establishing the District (See, column to the left) or submit the question of establishment to a vote.

- The establishing entities may require an election to form the District and a TABOR election.
• Upon establishment, establishing entities appoint first board of trustees (5-7).

• Written IGA between establishing entities entered into 90 days after trustee selection (may be extended through agreement).

• The IGA describes the terms to transition of library services to the district including transfers of real estate, library employees, administrative, maintenance, procurement, insurance, employee benefits interim funding; future trustee selection methods; and interim funding, if any.

• Upon establishment, establishing entities appoint first board of trustees (5-7).

• Written IGA between establishing entities entered into 90 days after trustee selection (may be extended through agreement).

• The IGA describes the terms to transition library services to the district including transfers of real estate, library employees, administrative, maintenance, procurement, insurance, employee benefits interim funding; future trustee selection methods; and interim funding, if any.
Poudre River Regional Public Library District was originally a municipal library. A petitioner’s committee was formed to promote a district to increase funding and services by spreading the cost over the entire user base, extending far outside the city.

The committee worked with library user data, library service need information, voter data and demographic data to develop a proposed district boundary. The city and the county commissioners were approached at the same time with a request to form the district by resolution to simplify the campaign and election process.

The city and county chose to establish the district by resolution with a condition that it would be dissolved if it did not obtain funding from the voters by a specified date. An interim intergovernmental agreement was entered into with the city to ensure that representations to the voters in a mill levy campaign as to the future of the library facilities was accurate.

The mill levy was approved by the voters within the proposed district which was much larger than the city boundaries.

An intergovernmental agreement (“IGA”) was entered into that included a process for transferring real and personal property to the library district along with employee rights and obligations, retirement funds, etc.

The IGA provided for the district to purchase many services from the city including personnel, training, building and grounds maintenance, contracting, contract administration, procurement and accounting. Some these services have been taken over by the district but others continue to be provided by the city on an hourly or annual fee basis. The IGA remains in place for these services.

The District has remodeled and expanded its facility in Library Park in downtown Ft. Collins, added to its collections and services, purchased and remodeled an administration building, entered into an agreement with Front Range Community College for a shared library facility and constructed a new library on the south end of the city. It is engaged in a facilities study to determine a fourth branch location to be constructed in the next two years.
**BERTHOUD PUBLIC LIBRARY**

Berthoud was formed through a petition process utilizing the city boundary as the district boundary. The formation and the mill levy questions were asked at the same election. After some confusion it was determined that the district formation had been approved but mill funding had failed.

The library district successfully sought funding at a subsequent election. The city continued to fund and operate the municipal library until district revenues were realized from the new mill levy. There may have been some repayment to the city thereafter, but I do not recall.

A simple IGA was utilized to transfer the single library building and assets to the library district, and it then began operations on its own.

The city council continues to ratify appointments to the library district board.

**JEFFERSON COUNTY LIBRARY**

We have been asked to comment on the failed attempt to form a library district for Jefferson county. This comment is solely from our perspective. We are not aware of the discussions that may have taken place outside meetings in which we were involved.

The county library board of trustees requested the formation of the district by resolution.

The County already had a mill levy dedicated to the library. I believe it is approximately 3.5 mills. However, the election question that approved the dedicated levy said the county could use “up to” 3.5 mills solely for library purposes. Accordingly, the dedicated levy was part of the aggregate county levy and part of its TABOR calculation for levy and revenue limitations.

The expectation was that the dedicated levy would support the library district until it obtained its own levy at which time it would lapse or continue to be paid to the district. In either event, it was solely available to the county for library purposes.

Library Trustees believed the library portion of the county levy was utilized by the county as the variable to adjust for TABOR limitations. The ability to utilize the library levy in this way became an issue in the formation of the district and appeared to be the greatest concern about the formation of a district.

There was no effort to form the library district through the petition process and the county commissioners declined to approve a formation resolution.