

**INTERGOVERNMENTAL AGREEMENT CONCERNING THE BOARD OF COUNTY
COMMISSIONER'S APPOINTMENTS POLICY AS IT APPLIES TO LIBRARY
DISTRICT TRUSTEES**

THIS INTERGOVERNMENTAL AGREEMENT (hereinafter the "Agreement") is made and entered among the **ELBERT COUNTY BOARD OF COUNTY COMMISSIONERS** (hereinafter the "County" or "BOCC"), and the **ELBERT COUNTY LIBRARY DISTRICT, D/B/A Pines and Plains Library District**, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), acting through its Board of Trustees (hereinafter "Trustees" or "Library Board"); (hereinafter collectively the "Parties").

WITNESSETH

WHEREAS, the BOCC established the District pursuant to C.R.S., § 24-90-101, *et. seq.* in November of 2000; and,

WHEREAS, the BOCC adopted an Appointments Policy on December 20, 2017 (the "Appointments Policy") which purports to apply to all boards and commissions within the County, including the District;

WHEREAS, the BOCC and Library Board desire to clarify the processes, procedures, and mutual expectations of the BOCC's Appointments Policy given the statutory framework provided by C.R.S. § 24-90-108; and,

WHEREAS, the BOCC delegated the authority to the Library Board to recommend Trustees through the resolution establishing the District as provided in C.R.S., § 24-90-108 and therefore did not establish a continuing selection committee; and,

WHEREAS, C.R.S., § 24-90-108 defines the process for selecting and removing candidates;

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the parties have entered into this Intergovernmental Agreement Concerning the Board of County Commissioner's Appointments Policy as it Applies to Library District Trustees, and agree as follows:

AGREEMENT

1. This Agreement supersedes the Appointments Policy. The Appointments Policy shall not apply to the District. In the event of any inconsistency or conflict between the Agreement and the District's Bylaws, this Agreement shall control.
2. The BOCC and the Library Board agree that the Trustees are solely responsible for and entrusted with the authority to develop the process by which candidates are recommended by the Library Board to the BOCC for ratification or rejection. The BOCC shall not be involved in the recommendation process for Trustees or members of the Library Board other than to ratify or reject a recommendation.

3. The Library Board will provide a copy of the Library Board's current bylaws as an addendum to the annual report to the BOCC (as required by C.R.S. 24-90-109), and will provide notice to the BOCC as a member of the Sunshine List that it will be considering changes to the Bylaws before such changes are made by the Library Board.
4. The Library Board will provide its annual report to the BOCC by the last day of February of the year following the year for which the annual report is due, and the BOCC shall provide the Library Board an opportunity on the next scheduled BOCC meeting to present such annual report.
5. When a vacancy occurs, the Library Board shall notify the BOCC of the vacancy as soon as possible after a vacancy occurs. Upon notification from the Library Board that there is a vacancy or anticipated vacancy on the Library Board, the Library Board may at its own discretion request that the BOCC advertise the open position at the County expense on County media sites, in an effort to maximize the potential exposure and notification of such vacancy to potentially eligible candidates within the County.
6. The length of the terms of Trustees shall be determined by the District bylaws, pursuant to C.R.S. § 24-90-108 (3)(a).
7. All recommended candidates, including incumbents completing a term must be presented for ratification or rejection by the BOCC.
8. The Library Board will provide recommendations for any vacancy as soon as possible as required by C.R.S. § 24-90-108 (3)(b).
9. In addition to the Library Board's list of recommended candidates, the Library Board shall also provide the BOCC with the following:
 - a. A recommendation of a new trustee shall include a written explanation of the rationale for the selection of the recommended candidate.
 - b. A recommendation for the re-appointment of an incumbent shall include a letter of recommendation from the Library Board describing the incumbent trustee's contributions to the Library Board during his or her previous term.
 - c. For an incumbent who is seeking a third or fourth term, the Library Board shall provide a written explanation justifying the desire for and benefit of the nominee continuing to serve as a Trustee for an additional term.
10. The BOCC shall advise the Library Board of its rejection or ratification of the candidate within sixty (60) days after the Library Board notifies the BOCC of a recommendation. Failure by the BOCC to act within 60 days after the Library Board notifies the BOCC of a recommendation shall be considered a ratification by the BOCC.
11. Upon the BOCC's rejection of a nominee, the Library Board will submit a new nominee within sixty (60) days after the BOCC notifies the Library Board that a nominee was rejected, if possible.

12. Each candidate nominated shall be individually considered and voted on for ratification or rejection by the BOCC.
13. Once the initial appointment process is complete, a trustee shall not be subject to annual ratification of his/her appointment by the BOCC, but shall be subject to appointment by the BOCC upon the conclusion of each term.
14. Trustees may be removed by the BOCC only upon a finding of good cause as required by C.R.S. 24-90-108(5) during a public meeting that complies with the Colorado Open Meetings Law. Per C.R.S. § 24-90-108(5) and Colorado case law, "good cause" shall be defined by the Library Board's bylaws, but can be supplemented by Colorado law.
15. This Agreement constitutes the entire agreement of the Parties.
16. Nothing in this Agreement shall constitute a waiver of the available immunities and/or limitations found in the Colorado Governmental Immunity Act.
17. With its signature below, each party represents that it has the authority to enter into this Agreement and has gone through the appropriate process for approval of this Agreement.
18. No portion of this Agreement shall be deemed to create a cause of action with respect to anyone not a party to this Agreement, nor is this Agreement intended to waive any privileges, immunities to the parties, their officers or employees may possess, except as expressly stated in this Agreement.
19. In the event of a dispute over the terms of this Agreement, the parties agree that their exclusive remedy is limited to an action for specific performance. Neither party shall have a right to seek monetary damages for any breach of this Agreement.
20. This Agreement shall remain in effect for a term of six (6) years, unless the BOCC or Library Board shall give written notice of termination in writing to the other party.
21. All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth. Either party by notice so given may change the address to which future notices shall be sent.

a. **Notice to the Library District:**

Executive Director
651 W. Beverly Street
Elizabeth, CO 80107

With copy to:
Kim J. Seter, Esq.
7400 E. Orchard Road
Greenwood Village, CO 80111

b. Notice to the County:

Elbert County Board of County Commissioners
215 Comanche St.
PO Box 7
Kiowa, CO 80117

With copy to:
Elbert County Attorney
215 Comanche St.
PO Box 7
Kiowa, CO 80117

WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective June 1, 2018.

ELBERT COUNTY, COLORADO

BY: _____
TITLE: BOCC Chair
DATE: June 14, 2018

ELBERT COUNTY LIBRARY DISTRICT
D/B/A Pines and Plains Library District

BY: _____
TITLE: PRESIDENT
DATE: MAY 24, 2018